

# TALMUDIC JUDAISM

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## **Preface**

Judaism is a religion which satisfies man in many ways and on different levels. It is the purpose of these essays to show how Judaism appeals to the intellectual and creative part of man's nature. If I have over-emphasized the rational element in Judaism it is because I have found this element so often overlooked. It is my intent to bring into sharp relief the unique character of Judaism in this regard.

Jewish religious and cultural life has through the centuries been rooted in the Talmud. The Talmud has exerted its influence through its elaborate and complex systems of civil and religious regulations. This influence has extended beyond the practical religious sphere and has engendered a particular intellectual attitude among the people. It has further been responsible for establishing among its close adherents an appreciation of a very special type of religious thought. But what exactly is Talmud? To begin with, the Talmud is described as the Oral Law. The sages of the Talmud maintained that together with the Bible, Moses received a very elaborate body of knowledge whose purpose was to render the Biblical injunctions intelligible. This latter work was not permitted to be committed to writing. Only one consideration could override this prohibition, and that is the danger of losing the body of knowledge itself. Accordingly, Talmudic scholars have convened at different times to issue permits for committing to writing various parts of the Oral Law that were considered endangered. It is interesting to note, however, that while its substance has been put into writing, the Talmud's unique methodology has remained "oral", being transmitted verbally from one group of scholars to another. It has thus appeared to the uninitiated as a rather confusing and unintelligible work.

It is the purpose of this paper to shed some light on the basic tenets of Talmudic reasoning so that its integral role in the scheme of Judaic thought be appreciated even by those who are not necessarily Talmudic scholars.

The most prominent difficulty one encounters in approaching Talmud, and by far the greatest obstacle to its comprehension stems from a failure to grasp the basic nature of its analysis. This failure is a natural result of attempting to construe Talmud through the framework of common religious notions, rather than searching to discover its own specific principles. Contemporary religious ideas are wholly irreconcilable with the basic method of Talmudic investigation. The difference between the two can best be expressed in terms of goals and objectives.

From time immemorial the value of a religious performance has rested in its ability to endow the faithful with a certain religio-emotional experience. Let us take Christianity for example. To the Christian the overriding concern is to engender certain religio-emotional states and experiences. Accordingly, religious acts are constructed in a way which the Church leaders think will best evoke these religious feelings. When approaching Talmud one expects to find the same criterion

at work. Rather than realize that his expectations are not to be fulfilled, the would-be investigator tries to make the Talmud conform to his own preconceived notions. A typical example of this approach can be taken from Max I. Dimont's book, *Jews, God, and history*. In it Dimont attempts to give a demonstration of what a Talmudic Responsa is:

"Let us illustrate how the Responsa worked with an example from life today. Let us suppose that the yeshivas of Babylon still exist and that a Jewish community in suburban St. Louis has asked one of them to solve the vexing problem of 'the automobile, the suburb, and the synagogue.' This is the dilemma. The Torah forbids work on the Sabbath. In 1900 AD a yeshiva court ruled that driving a car is work. Now, many years later, the suburbs have developed. The synagogue no longer is a few blocks away, but miles out in the country, and the distance is too formidable to walk. The congregation is faced with the prospect of an empty synagogue or committing the sin of driving to the place of worship. What should be done?"

The question is turned over to the yeshiva and the problem placed on the docket. When the case comes up, the yeshiva court will begin a hearing much as the Supreme Court reviews a case. The argument might go something like this: Certainly God did not intend to have empty synagogues, nor to have His commandments broken. But who said that driving to the synagogue was work? Certainly not God or Moses. To force the aged to walk for miles in the hot sun or in the cold of winter is a peril to health. Attending services should be contemplated with joy, not with fear and trembling. Did not the sages say that 'he who takes upon himself a duty that is not specifically required is an ignoramus'? And furthermore, did not Rabbi Judah ben Ezekiel, back in the third century, say that 'he who would order his entire life according to strict and literal interpretation of Scripture is a fool'?"

The yeshiva court would then begin a search for precedents, just as lawyers arguing a brief before the Supreme Court would search for precedents favorable to their case. After due deliberation, the court might decide that in their opinion the court back in 1900 had erred, and that driving a car to the synagogue is not work but pleasure, much in the same way that the United States Supreme Court in the 1890s held that equal but separate facilities for Negroes was constitutional, but in the 1950s reversed itself, holding that it was unconstitutional. Once a verdict is reached, it is sent to the other yeshivas, where similar hearings are held and a joint agreement disseminated through the Responsa to every Jewish community."

In fact, no such Talmudic Responsa worthy of the name has ever been written.

What are the Talmudist's criteria for decision-making and how does his approach differ from the foregoing? An illustration from the world of physics may help clarify this point. Let us take the problem of falling bodies and compare two approaches. We notice that when we release an object from our hands it falls to the ground. What is the explanation of this phenomenon? There are two distinct paths we may follow. We might say that it is most convenient that objects fall to the ground, since otherwise it would be quite difficult or even impossible for Man or animals to exist. Floating objects would get in our way and Man would have to invent methods of securing the objects he desired and preventing those he didn't from invading his premises. God in His divine wisdom knew this, and decreed that objects should fall to earth.

We might, however, give a different analysis of the situation. We might say that we observe bodies fall to earth. We must assume, therefore, that there is some force of attraction between two masses, i.e., gravity. The reason why we don't notice the earth move towards the body is that there is so much more earth than body.

The first approach is concerned with understanding the "why" of the situation, i.e., why bodies fall to earth. The second, on the other hand, is concerned only with the "what" of the situation, i.e., what is it that is responsible for the falling of bodies. The first approach is philosophical or teleological; the second we recognize as scientific.

Now while modern Man recognizes the validity of the "what" approach when it comes to understanding the physical world, when it comes to religion he thinks only in terms of the "why". Here at last, he feels his curiosity of the "why" of things should be satisfied. It is precisely on this point that the Talmudist differs. The farthest thing from the Talmudist's mind is an attempt to ascertain God's will. Such an attempt would be considered presumptuous and as absurd to him, as it would be to the physicist to explain gravity by introducing God's will. Such considerations are philosophical and not within the realm of Talmudic analysis.

How does the Talmudist resolve his problems if he cannot base his decisions on any inner divine intuition? He uses the same faculty the physicist uses in understanding the universe - his intellect. Just as the scientist studies nature, makes observations, and then proceeds to draw universal laws from these observations; so the Talmudist studies the data of the written and Oral Law, draws his universals from them, and then proceeds to utilize these principles in the resolution of his problems. Just as a scientist tests his theories against experimental data so too, the Talmudist tests his theories by checking their results against Talmudic data from other areas that may be effected directly or indirectly\*.

### **Talmudic Analysis**

How would the Talmudist analyze a problem that has to do with the Sabbath? He would survey carefully all the facts he has before him. First he would examine the Biblical injunction which states that one shall do no work on the Sabbath. The term "work", however is vague and ambiguous, so he would have to search for its precise meaning in the Oral Law. He would note that there are 39 categories of creative activities listed in the Oral Law as comprising "work". He would discover that "work" has nothing to do with physical exertion. A person could exercise vigorously all Sabbath, lifting weights for hours on end, without violating the Biblical injunction regarding the Sabbath, while throwing a splinter of wood into a fire would involve a major violation.

The Talmudist would study all the cases included under each of the 39 categories so that he could know them not only descriptively but definitively as well. Plowing, for instance, is one of the 39 forms of work. But the definition of plowing is not the same as the description. Raking leaves also come under plowing. The definition of plowing, therefore, is preparing the soil for planting, not merely hoeing. Fertilizing the ground would also come under plowing. Again, we have planting as one of the 39 categories of work. Pruning a tree, according to the Oral Law, is also prohibited under the category of planting. The definition of planting, therefore, is not

placing a seed in the ground as one would think from its description. but rather the stimulation of growth. As pruning stimulates plant growth, it comes under the category of planting. Watering the lawn, therefore, would involve a double violation as the watering process softens the soil making it more conducive for growing and it also stimulates plant growths. It can be seen, therefore, that the definition may be far removed from the description since it is based on finding a universal that includes all cases of a particular prohibition. Each of the 39 categories must be known by their universals in order that the Talmudist may decide as to whether a particular action is to be classified under one of them. Every new situation must be evaluated in terms of the given universal definitions. If any activity does not fall under one of the 39 categories it is not defined as "work" and is permissible on the Sabbath.

Dimont's case wouldn't even warrant a serious Responsa since operating an automobile involves combustion and combustion is clearly one of the 39 categories of prohibited work on the Sabbath. What is worse about Dimont's presentation, however, is that he presents a totally distorted view of the process of Talmudic analysis. The Talmudist cannot be guided by his personal feelings about the matter. He never thinks in terms of how God would view a situation. He has at his disposal only the authorized Talmudic data and pure logical analysis; through deduction and induction he arrives at his conclusions. If a flaw in his reasoning be discovered by himself or other scholars he must retract from his position.

Not only the negative but also the positive commandments are arrived at in the same fashion. We have, for instance, a commandment to eat the Pascal Lamb on the Eve of Passover together with unleavened bread and bitter herbs. This commandment was prescribed for a time when the Holy Temple is in existence. Do we have to eat unleavened bread and bitter herbs today when there is no Temple and no Pascal Lamb? This question is dealt with in the Talmud. The theoretical analysis of the problem is as follows. Do we consider the eating of the unleavened bread and herbs as a separate commandment in its own right or merely as an accident or attribute of the Pascal Lamb, i.e. the Pascal Lamb is to be eaten with the accompaniment of unleavened bread and herbs? If the first formulation is correct, then even today when there is no Pascal Lamb the unleavened bread and herbs would be obligatory. Whereas, if the second is correct then there would be no purpose in eating the herbs and unleavened bread as there is no Pascal Lamb.

The Talmud adduces evidence to support the different possibilities. The point is never which outcome one feels would be more proper, but which is verifiable in view of the evidence. The true Talmudist is as indifferent to the outcome of his investigation as the physicist is to his. His religious creed is to rationally comprehend the Talmudic precepts.

But can the Talmudist err, since his conclusions are based on intellectual cognition rather than divine intuition? The answer is that insofar as he employs the faculty of human reason he is as subject to error as any other investigator. Insofar as his religious goal is concerned, however, he cannot fail since he is not committed to any particular outcome, but rather, to the results of his investigation; be they correct or incorrect in actuality, he is obligated to follow the most knowledgeable position that human reason can ascertain at the time. This to the Talmudist is God's will—to rely on his reason in interpreting the given data he has received. As a matter of fact, only reason may be used in Talmudic arbitration. Even if a great Prophet should inform a court of Talmudists discussing a particular matter that he knows through prophecy which view is

correct. his statements would not be admissible as evidence. The Talmud illustrates this idea with a story in which God himself declares a decision made by the human court to be incorrect in actuality yet accepts it since it was arrived at in complete compliance with the human system of Talmudic investigation.

Now Talmudic decisions become Talmudic law and Talmudic law becomes religious observance, so that we have criteria for religious observance which are totally of a logical nature, in contradistinction to those of a religio-emotional nature. Let me give an example. There is a commandment to hear the sound of the shofar on the New Year. But the sound of the shofar is a very specific sound. The length and character of each sound and the number of sounds has been determined by lengthy Talmudic discussion. Now a person may be filled with religious fervor and emotion while listening to the shofar on the High Holy Days and yet not fulfill the commandment if the sounds produced were lacking in one minute technical detail. On the other hand, one may listen to the proper sounds in an uninspired manner and yet fulfill the commandment.

### **Philosophy of Talmudic Judaism**

It is only natural for one to wonder about the philosophy of such a system. What kind of religious system is it, that has as its center technical performances which are dictated by theoretical and logical considerations? Why must each commandment be constructed with the precision of an abstract formula? Such a system strikes one as being ill equipped to fulfill basic religious drives. The emphasis here seems misplaced. The answer actually derives naturally from the phenomenon itself. The sages of the Talmud conceived of Judaism in a very unique way. To them it was a religion of the mind. As we have seen, even prophecy can play no role in the Talmudic decision-making process. Only the dictates of reason must be followed. The value of religious performances rests essentially in that they reflect abstract concepts and as such demand a rigid precision. Ignorant performances no matter how well intentioned are of no value Halachically, in the event that one is not a scholar himself, he must base his performances upon the scholarship of others.

The all encompassing nature of Talmudic Law makes it impossible for man to avoid coming in contact with it constantly. The thinking individual thus always encounters questions, ideas and Halachic concepts in his daily activities. His milieu becomes one of thought and in the appreciation of the beauty of that thought Man comes close to God.

To the uninitiated onlookers the life of Halachah seems controlled and tedious. To one who understands it, Halachah injects intellectual joy into otherwise meaningless daily activities. The perfected Jew eats and drinks like everyone else but Halachah raises questions and brings forth ideas which can make a meal an intellectual adventure.

It is impossible to describe what it is like to experience the joy of Talmudic thought. Only those who have partaken of it can know what the Psalmist meant when he said, "Your laws have been as music to me"; "If it wasn't for your law, my plaything..."; "They are more desirable than gold... and are sweeter than honey and the finest nectar." The love of Talmudic thought leads one to a

desire to commune with the source of the beautiful world of ideas, as Maimonides quotes in the name of King David, "My soul thirsts for the Almighty, the living God."

This, then, is the uniqueness of Talmudic Judaism. Intellect, usually the adversary of religion is here its ally and stronghold. Even prayer which is the service of the heart has strict Halachic formulae as to how exactly it should take place. A mere outpouring of human emotion is not only invalid Halachically but may even involve serious infractions. The preamble to prayer is "Know before whom you stand". Prayer must be preceded by proper knowledge of God. The Halachah conveys to man correct notions about the Creator so that when he prays to God his mind is properly engaged.

It is not the purpose of Halachah to remove human emotions from the religious experience. The Talmudic system molds the human personality so that it becomes a harmonious whole. Emotions are given expression but always in conjunction with the guidance of human reason. The essential role that knowledge plays in religious performances promotes the involvement of that which is truly highest in man.

### **Addendum**

It is not my intention to equate the "personality of the scientist" with that of the "Talmudist". (Neither do I wish to lend credibility to Talmud via this analogy. Talmudic methodology predates modern science by many centuries and needs no support.) I use the term "scientist" in the Maimonidean sense as an illustration of man using his intellectual abilities to unlock the secrets of nature. Similarly, the Talmudist uses his investigative powers to uncover the theoretical structure behind the Law.

An additional word might be in order about this comparison. The scientist gains knowledge from experience in two ways: new information questions existing theories and new theories are then tested by experimentation from reality. For the Talmudist the situation is not analogous. Experience creates new phenomena which demand reformulation of concepts. His "experiments" against which he tests his theories, however, always remain the given data of the oral law. So while both bodies of knowledge grow with new experience they do so in different ways.

### **End Notes**

<sup>1</sup> According to Maimonides this prohibition was only on a public level. Scholars had in fact always kept private notes (see intro. to code).

<sup>2</sup> We are concerning ourselves with the major part of the Talmud which deals with the analysis of religious law and not the Aggadic section which is philosophic in nature. Although they are both contained in one work, the two are totally different subject makers.

<sup>3</sup> I am using the Newtonian Model rather than the Einsteinium as it is better suited for illustrative purposes

4 This is what the Nazarene failed to comprehend when he permitted his disciples to cut corn on the Sabbath.

\* see addendum

5 There Is a body of Oral Law relating to every Biblical Commandments

6 Tractate Moed Koton. 2b

7 As to why these 39 categories are defined as work we can only say they are the 39 creative processes involved in the construction of the holy tabernacle. Why that was chosen to represent work is a "why" question and is in the realm of philosophy rather than Talmud.

8 Only matters of life and death can override a Sabbatical injunction.

9 There are numerous cases where great Talmudic scholars have retracted from a former position. (As examples see Rashi Tractate Chullin 116b, Maimonides' responsa quoted by Migdal Ohz Laws of fringes Chap. 2, also R"l Abodah Zarah 22A. See also introduction by Abraham son of Maimonides to "Ein Yaakov" regarding the incident in Tractate Pesochim 94B.)

10 End of Tractate Pesochim.

11 See introduction by Rabbi M. Feinstein to his first volume on Orach Chaim, Igrot Moshe.

12 End of Tractate Baba Metziah 59b.

13 As Rashi states in Deuteronomy 6:6 in the name of the Siphre "and what is this love (of God) which is here commanded? The next verse tells us 'These words which I commanded thee shall be upon thy heart.' for through these words, i.e. (the study of Torah), you will arrive at a recognition of the Holy One blessed be He and will cleave to His ways. (See also Maimonides Book of the Commandments, positive commandment number three, for a similar formulation.)

14 Psalms 119:54.

15 Ibid. 119:92.

16 Ibid. 19:11.

17 Ibid. 42:3.

18 The term prayer derives from the verb Pilel which signifies thought. (See Rashi Genesis 48:11, also Onkelos on same.) Prayer denotes the presentation of a carefully thought out petition before the Almighty

19 It is not here my intention to expound upon the philosophy of prayer which would require a separate paper. I merely wish to point out that the concept of prayer in Talmudic Judaism is quite different from what is commonly conceived of as prayer.

20 See the incident with R. Chanina, Tractate Berachot 33b.

21 It is interesting that according to Nachmonides there is no Biblical injunction to pray daily, while the study of Torah is a constant obligation.

22 There are indeed many commandments in which emotions play a major role such as rejoicing on the holidays and laws of mourning. These are, however, always framed in a logical system of Halachah.