

"ORTHODOXY AND FUNDAMENTALISM"

In the lexicon of religious polemics of this decade, a place of special distinction must be accorded to a relative newcomer: "Fundamentalism." Once upon a time, this word merely denoted a certain Christian sect. Today, however, it is fashionable to use this particular word in order to defame Orthodox Judaism. Anti-Orthodox controvertialists, tiring of such dated cliches as "old-fashioned," "reactionary," and "behind the times," have taken to "Fundamentalism" as a fresh and sophisticated epithet which sounds as elegant as it is supposedly devastating. Let an Orthodox Jewish leader express dissent from the cherished dogma of current Jewish bourgeoisie liberalism, and he is dismissed with a wave of the hand: "Why, that is Fundamentalist!" To my dismay, I find that even some of my Orthodox colleagues to the left of me have a tendency to apply the term pejoratively to some of our brethren to the right of us.

Now, if the use of this term is meant to indicate that we Orthodox Jews take our Judaism seriously, that we are vitally concerned with our commitments and loyalties, then we plead guilty to the charge -- and with great pride. But if by "Fundamentalism" is meant what Fundamentalism really was, as a religious movement and spiritual orientation, then it simply is not true. The phrase may be fashionable, but it is flippant and false.

Fundamentalism was originally a sixteenth century Protestant sect which accepted the Bible as literally true in every single

word, and considered the written word, strictly construed, as the exclusive religious authority. It recognized no possibility of metaphor, no chance for a deeper-than-literal sense to the scriptural text, and denied the existence of any tradition of interpretation of the written Bible.

Were there ever any such opinions in Judaism? Yes, there were. Two thousand years ago there were the Saducees, who accepted only the Written Torah. In the Middle Ages there arose the Karaites, a name which derives from the Hebrew mikra, Scripture, and which designates a movement which views the Bible in its literal sense as the sole authority of Judaism, to the exclusion of any oral tradition. But the whole of traditional Judaism is against Karaism. Our Judaism was at one time involved in a life-and-death struggle against Karaism, and our survival bespeaks our opposition to and triumph over this movement. We do not necessarily accept every word of Scripture in its literal signification. Furthermore, we read the Bible, the Written Torah, only through the eyes of the Talmud, the Oral Torah.

For instance, Scripture tells us that if one man injures another and removes his eye, then his punishment is ayin takhat ayin, "an eye for an eye." Taking that verse literally, this would imply that we must physically remove the eye of the man who committed the tort. However, the Oral Law interprets that phrase to mean not physical removal of the organ, but compensation, a payment equivalent to the value of the eye. Furthermore, the Rabbis tell us that in

three places the Halakhah, which is the essence of the Oral Law, explicitly opposes the plain sense of the Scripture: ha-halakhah okefet et ha-mikra.

So that Orthodox Judaism is anything ^{but} Fundamentalist! Of course, this does not mean that we reduce all of Torah to a very fine and noble religious heritage from which we may choose according to our taste. We by no means mean to imply an eclectic approach to Judaism, whereby we may accept anything which appeals to us and reject that which, according to our momentary whim, does not seem to accord with contemporary cultural prejudices. What we do mean to say is that the Oral Law is the only interpretation we accept of the Written Law, that Halakhah predominates, and therefore we are not Fundamentalists at all.

Now, there is one consequence of the non-Fundamentalism of Orthodox Judaism that is not overly obvious. It is a principle that is a bit subtle, but extremely vital to a proper understanding of Judaism. That is, that in Fundamentalism there is a feeling that the mitzvah describes an absolute quality of the world itself, the objective material universe, whereas Judaism holds that the mitzvah is directed to man, as a subjective discipline, and is not a description of the objective world. Were I to express the same concept in halakhic terminology, I would say that in an ultimate sense all the issurim, prohibitions of the Bible, relate to gavra rather than heftza, to men rather than to objects.

For instance, the Torah prohibits shaatnez, the mixing of wool and linen. The Fundamentalist would not only accept this literally -- in this case, we do too -- but insist that the shaatnez is itself an abhorrent object, that somehow it possesses a quality of evil that makes it repulsive. Whereas Judaism considers that this shaatnez in and of itself is no different from any other textile or garment, it is we who are called to the divine discipline by refraining from wearing a garment made of shaatnez. (Indeed, were there anything indigenously evil about a mixture of wool and linen, we would be prohibited not only from wearing it, but also from preparing such a mixture.)

It is for this reason that Rav declares, in a passage cited in the Midrash, that in essence the laws of kosher slaughtering have no innate significance insofar as the meat itself is concerned: ve'khi mah ikhpat li shohet min ha-tzavar o mi she'shohet min ha-oref, what difference does it make if we slaughter by slitting the throat, which is the kosher method, or kill the animal by breaking its neck (assuming that both methods are equally painless)? Lo nitnu mitzvot ela litzrof bahen et haberiot -- the Commandments were given only to purify thereby the human being who observes them. The mitzvah, then, does not tell us that certain objects in the world are better or worse than other objects. Inanimate things are neither good nor evil; it is man who becomes good or evil depending upon how he responds to the divine command.

Even better illustrations are offered to us by a dis-

tinguished lady in the Talmud (Hullin 109b). Yalta, the wife of Rabbi Nahman, observed to her husband: koi mah d'asar lan rahmana, shara lan kavateih, whatever the Torah has forbidden to us, it also permitted us something similar. For instance, to cite some of the examples cited by Yalta, the Torah forbade the consumption of blood, yet it permitted the eating of the liver, an organ which is so filled with blood that it can never be emptied of its contents; or, the Torah forbade eating the flesh of the hazir, but it permitted eating moha de'shivuta, the brains of a certain fish, which tastes just like the meat of the hog; or, the Torah forbade basar be'halav, eating milk and meat together, yet it permitted us to eat the kehal, the udder of the cow even if it was cooked together with its milk content. In all these cases, we see that the Torah did not imply any innate obnoxiousness of any particular object, or its taste, but rather it directed its remarks at man, at the Jew, addressing his subjective response ^{winess} to the divine command. No object in the world is absolutely reprehensible. There is no taboo or magic with which the Torah is concerned. It is the human being who must submit to God's will. The Jew should not recoil in horror from an object that is forbidden by the Torah, but he should be taken aback at his own weakness when he begins to lose his self-control. There is nothing wrong with tarfut as such; there is everything wrong with those who eat tarfut. There is nothing wrong with hillul shabbat; there is something terribly the matter with those who are mehalelei shabbat.

That is why the Oral Law points out exceptions to rules, exceptions sanctified by the Torah itself.

In a remarkable passage, the Zohar locates the same idea in the Ten Commandments themselves, of which we read in today's portion which describes the revelation at Sinai. Let us take two of the examples offered by the Zohar: lo tirtzah and lo tignov, the prohibitions against murder and stealing. Ordinarily we accept these as absolute prohibitions. Yet the Zohar teaches us that that is not so. The Zohar points to the cantillations, the musical notes which so often teach us a great deal about the meaning of a verse. Under the word lo in each of these two commandments, the note is a tipha, which serves as a kind of comma, as if the Torah said to us: lo, tirtzah and lo, tignov -- "thou shalt not -- kill!", and "thou shalt not -- steal!" How strange! Thou shalt not kill, and thou shalt not steal; but sometimes: kill and steal!

Yet that is just what the Zohar maintains is the judgment of Torah. Even the prohibition against killing is not absolute; sometimes we must take a human life! As an example, the Zohar mentions capital punishment. Now, it is true that the tendency of the Jewish tradition by and large is to minimize the instances deserving capital punishment, but not to eliminate them completely. As an Orthodox Jew, I have long been in favor of the movement to restrict capital punishment to all but a very few instances -- but not to remove it completely from the law books. Thus, I was unquestionably

in favor of the hanging of Eichmann when he was captured by Israel. That is why, as an Orthodox Jew, I can applaud the humane sentiments of the ex-governor of Maryland who this week came out publicly for doing away with capital punishment; but I cannot agree with him that it should be done away with altogether. I would keep it for such unusually heinous crimes as genocide or mass murder. That is why too, I can appreciate his lofty instincts when he maintains that life and death are only of the Lord and man may therefore not condemn a fellow man to death -- but I do not agree with him. The Torah has told us that there are times when the power over life and death is given by God to the human court, provided that it acts with justice and righteousness. Our reason for restricting capital punishment is not the idea that man never has the right to take life -- that is what the Zohar means when it emphasizes the tipha under the word lo in lo tirzah -- but because of the possibility of a mistake and the murder of an innocent man. To use other examples, in addition to the one quoted by the Zohar, one may cite self-defense, where we are not only permitted but required to defend our lives and the lives of our family by killing one who threatens our lives. Similarly, this would include the right and the duty to bear arms for one's country when it is under attack, for this is the concept of milhemet mitzvah. It is Judaism that gave the world its highest and noblest expression of universal peace, but Jews do not embrace pacifism. Our ultimate goal remains always that of shalom; but under conditions as they exist now, we cannot ask any human being or any country unilaterally

to declare for peace even at the expense of his or its own survival. We accept the Torah absolutely -- including the fact that the Torah did not legislate absolute principles without exception.

Of course, it should be clear that we do not mean that it is we who make the exceptions to the Torah's ^{laws,} rules, that we play the game of religion by making up our own rules; rather, that the Torah itself, as a "Torah of life," saw fit to state general principles and then to state the exceptions as well.

The second example the Zohar offers is that of lo tignov, "Thou shalt not steal." Here too the Zohar finds exceptions implied in the general statement, as if the "thou shalt not" and the "steal" are sometimes separated. What does this mean? In the Jewish tradition, the concept of stealing is broadened beyond that of taking material objects which belong to someone else. It includes the concept of genevat daat, stealing the mind or the knowledge or the confidence or the awareness of another person. Therefore, lo tignov means not only to steal material things, but also to deceive or delude another person. Yet, the Zohar tells us, at times it is not only permissible but mandatory to deceive another human being. For instance, if a judge has before him witnesses who are technically valid, but he knows by a sure instinct that they are perjurers and they may condemn another man to death or other form of suffering, he is duty bound by the law to conduct a vigorous cross-examination, and in fact to be devious and deceiving in the course of this examination, in order to expose any conspiracy by the witnesses, should

they indeed be false, and thus save the life of an innocent defendant. The same might be said, in addition to the example cited by the Zohar, of a man who is hungry and finds his children starving, and is prevented by the laws of the country from receiving any form of sustenance -- who can blame him for stealing?

This principle holds true not only for Torah or religious law in a narrow sense, but for law in general, including the secular and civil law as well. Just as a mitzvah has as its purpose the advancement of the relations between man and God, so the civil law is made to ensure the progress of society. Therefore, just as the Torah is non-Fundamentalist and legislates exceptions, so must the laws of the country.

In a broader sense, this means that while law must be respected if society is to survive, at the same time we must recognize that there are times when lawlessness has some justification; or, if not justification then at the very least it is sometimes deserving of our sympathy and understanding. That is why I feel that in the current public outcry against lawlessness that has overtaken our country in recent years and months, we must discriminate between the various kinds of disobedience of the law. I believe, therefore, that we ought to condemn severely and unreservedly the lawlessness of certain unions which seek to choke the entire community by extortion and blackmail. There is no excuse for such conduct by a union, as part of a community (the labor segment of society) which has, in concord with other parts of our pluralistic society, come to an agree-

ment as to laws which are just for all, and which now reject those very laws in order to grab a bigger share of the economic pie. At the same time, I would denounce, but with much less conviction and much less passion and much less certainty, the lawlessness of those elements in our society who protest the foreign military adventures of our country. I do not excuse them; our laws are the laws of a democratic society, and they must be respected. But where citizens genuinely feel that the law requires them to deny their consciences and pervert their own moral stature, then I certainly do not put them in the same category with a union which is lawless for a profit motive.

Similarly, I would denounce without qualification hooligans who take advantage of the civil strife and social unrest of our decade in order to rob and steal and plunder and rape and murder. But I would look with much more compassion upon those minority groups in our country, be they Negroes or Puerto Ricans or any others, who feel that they have no recourse but to exercise certain kinds of civil disobedience. I believe that such groups have not exhausted all legitimate means to air their grievances. I think we ought to counsel them to have patience -- although that is much easier for us who have already arrived at the other side of the social fence. We must recognize that law has often disadvantaged these groups; that the law of the country is made by man and must be changed by man to correct deficiencies in the social structure, and therefore my condemnation of their lawlessness carries with it less self-righteousness, less

vehemence, less heat, and perhaps a bit more light. It means that we have got to improve our laws, in addition to using force in stopping lawlessness. Otherwise we encourage the disadvantaged groups in society to come to the conclusion already anticipated in the bitter pessimism of Kohaleth, mekom ha-mishpat shamah ha-resha, "in the place of judgment (or law), there you will find evil" (Eccliastes 3:16).

(So that two such basic commandments as the prohibitions against murder and stealing, according to the Zohar, have built-in exceptions. Certainly this is not a Fundamentalist interpretation. One must add, however, that even this rule that all rules have exceptions -- this too has an exception! The Zohar tells us that the ninth commandment is absolute: lo taaneh be'reiakha ed shaker, thou shalt not bear false witness against thy neighbor. Here, the first two words of the commandment are marked by the musical notes merkha and tipha, which means that they are connected: as if it were written, "Thou shalt never testify falsely against a neighbor." The creation of a "credibility gap" by spreading falsehoods is always inexcusable.)

Judaism, therefore, is certainly not Fundamentalist -- in any sense, except the sense that our conviction and our commitment are unshakeable. For we have two Torahs, not one Torah. And we consider the Written Torah, the torah she-bikhetav, as understandable and authoritative only by means of the Oral Torah, the torah she-be'al peh. We are not Bible-centered literalists. We are people of torah she-be'al peh, which is the Word of God as His divine norms are applied to ever new situations.

In the introduction to the giving of the Torah and the Ten Commandments, the Sidra tells us: mosheh yedaber ve'ha-Elokim yaanenu be'kol, Moses would speak and God would answer him with a voice. The Netziv tells us that this verse has special significance. It means that not only the Ten Commandments and the Written Torah came from God through Moses, but the Oral Law as well, that which mosheh yedaber, which Moses spoke as well as that which he wrote. This Oral Law too issues from the Almighty; it is uttered not only by the voice of Moses, but ve'ha-Elokim yaanenu be'kol, its force and authority derive from God Himself.

Note that phrase mosheh yedaber is written in the future, not in the past; "Moses will speak," not "Moses did speak." Not only did Moses once speak to the Children of Israel a long time ago, but he shall speak, always, whenever Jews loyal to the Torah of Moses study or enact the mitzvot contained therein, for then they carry on the dialogue of Moses with God.

And when we do so, and when we confirm our loyalty to both Torahs, the Written and the Oral, the Almighty answers us "with a voice," with the strength to carry on and proclaim the message of Judaism, which is the message of God, to an as yet unredeemed world.