

"THE LIMITS OF INDIVIDUALISM"

The question of the individual versus society, especially that of the rights of the individual as they come in conflict with the demands of society for security, is an extremely complex one. Yet, it is urgent that it always be restudied, lest the extremists of either side upset the delicate balance between them, a balance on which democracy, culture, civilization, and religion all depend.

If we be permitted to simplify for the purpose of clarification, the problem can best be defined by the extremes. On the one side we have absolutists and collectivists of all shades. They are the ones who maintain that the rights of the community must prevail over those of the individual, whether the collectivity is that of the state (as in Fascism) or the proletariat (as in Communism) or the Church or any other group. The individual is relatively, or even absolutely, insignificant. Their claims for society, whether of country or class or church, are totalitarian.

On the other side, are the anarchists and romanticists and others who hold that the individual human being is the sole value, and in fact, the sole source of value. They look upon society as negative, or as inhibiting, and destructive. They follow the Rousseauan theory that man innately is a noble savage, who is corrupted by society. This is a point of view which leads, ultimately, to anarchy and chaos as a way for the individual to establish his own right and individuality. Libertarians and humanists certainly

do not go all the way to this extreme, but they generally favor the rights of individual men over those of the community or the collective.

Most recently, an important thinker in this country has attempted to upset this balance on the basis of his own psychological and philosophical theory. Professor B.F. Skinner, known to the reading public as the author of Walden Two and professor of psychology in Harvard University, has published excerpts of his forthcoming book, entitled Beyond Freedom and Dignity. In this book, Skinner carries further the arguments we had previously made. He denies free will to human beings, and considers human dignity as an illusion -- and a dangerous one too. He is the great proponent of a psychological theory known as Behaviorism, according to which man has no inner core of freedom which decides between different alternatives. He is but the result of heredity and environment alone; his actions and behavior are the product of the push and pull from within and from without. Man, according to him, has no autonomy, no inner mastery over his life, his choices, and his decisions. This is what "The Science of Man" has brought us to -- the theoretical foundation of "Behavioral Technology" and "Behavioral Engineering," which is merely an alias for thought-control. If the Behaviorists have their way, and they form an alliance with the "Genetic Engineerers," we are all in danger of being manipulated by benevolent despots who are out to create a race of happy zombies.

What does Judaism have to say about this problem? It is clear that it follows neither extreme. But most certainly it must come

down against Skinner and the Behaviorists. (I strongly recommend the works of the late and lamented Joseph Woode Krutch, a distinguished naturalist, humanitarian, and a man of letters, who has written convincingly against the whole school of Behaviorism.)

Judaism has always advocated the freedom of man. Politically, almost every major holiday is *יום חרות*, in memory of the Exodus from Egypt. Psychologically and morally, it is inconceivable to have Torah without freedom. The whole concept of teshuvah or repentance, so dominant during this month of Ellul, is based on the idea of freedom; only if man is free to change his course, can he repent. Judaism has also shown a tremendous sensitivity to human dignity. Both freedom and dignity of man derive from the *צלם אלהים*, the Image of God in which man was created: Man images -- resembles, or reflects -- the Divinity, and therefore he also reflects the divine freedom and the divine dignity. The Halakkah operates with the concept of *כבוד ה' וכו'* -- human dignity.

An interesting insight into this concept of human dignity, which we find not explicitly but implicitly, has been located by one of our later commentators in one of the laws mentioned in today's Sidra. We read this morning of the Law of Divorce: if a man finds *עריות* (literally: something immoral) in his wife, then he must write her a bill of divorcement. The Rabbis, early in Jewish history, were divided over the meaning of *עריות* as the grounds for divorce. Bet Shammai maintained that it must be taken

literally: only immorality of the wife constitutes proper grounds for divorce. Bet Hillel held that the words are to be understood metaphorically, and hence anything which accounts for incompatibility between husband and wife, even if it is minor or trivial (in the language of this school: (הַקְדִּיחוֹת תַּלְפִּיחַ), is sufficient grounds for divorce. R. Akiva went even further. He maintained that the grounds for divorce are almost limitless -- הַיָּחִיד הַיָּחִיד, even if he found a more beautiful woman whom he desires to marry, he may divorce his first wife. The commentators of later generations were uniformly shocked by R. Akiva's statements. Is he, then, insensitive to the protection of Jewish women? Does he mean that a wife may be divorced almost without rhyme or reason, merely because the husband took a fancy to some other woman whom he finds more beautiful? This is especially puzzling in the case of R. Akiva, who, in addition to being the greatest scholar of Judaism of all the ages and one of its foremost saints, was also a man who was exemplary in his profound devotion to his own wife. The author of "תַּלְפִּיחַ תַּלְפִּיחַ" offers us a marvelous insight as he reads between the lines of the Rabbis. R. Akiva and Bet Hillel, he says, both relied upon the Torah as an educational force in family life. They felt that in the course of the ages it will create conditions whereby people will not break up their homes because of silly and trivial reasons. They were more concerned that when a woman is divorced she not be branded, that we not condemn her to live under a cloud of suspicion of immorality. If the major grounds that

Judaism admits for divorce are those of immorality, then every divorcee would be presumed to be immoral. The way Bet Hillel and R. Akiva formulated the law, we must accept that it may equally be the fault of the husband, or the fault of both, or the fault of neither one. The individual's welfare, her rights to dignity and happiness, are protected by the Halakkah in interpreting and applying the Scriptural Commandment.

However, it is also true that the claims of the collectivity must not be lightly dismissed. Man's freedom is not absolute. His dignity must often yield to a higher dignity, to other values. When they are in conflict, we must seek a balance between them. The location of this balance between the claims of the individual's freedom and dignity and the claims of society -- that is the business of law, and it is especially noticeable with the Halakkah. The Halakkah was made both for the People of Israel in general and for Jews individually, seeking to enhance the dignity and security of each. But when they are in conflict, sometimes the individual must suffer in order to protect the total population -- the integrity of their lives, their security, their institutions, and their moral health. It has been recognized from Plato through Maimonides and until this day, that every law creates anomalies on its margins. A law was made to cover the majority of situations; but there are always unusual circumstances, there are always differences, and therefore there will always be some innocent and just people who may and usually do suffer. But if we abandon the entire concept of law, then everyone

will suffer. In mediating between the claims of *חברה* and *איחוד*, of individual and community, we cannot always provide for the full satisfaction of each. We must seek the maximum accommodation, but it can never be perfect. In such situations, we must try the best to minimize pain and moderate discomfort, but the occasions of anguish caused by law will always happen.

This is true, perhaps especially, of the law concerning mamzerut or illegitimacy about which we read in today's Sidra. The Torah teaches that a mamzer (which, in Jewish law, means a product of either an adulterous or an incestuous union) is not permitted to marry anyone else except for another illegitimate person or a proselyte:

ה' אלהינו יצאנו ממצרים ויהי לנו חוק ומועדה. It is this law that is the subject of such bitter controversy in Israel today.

Now, this is an onerous burden that the Torah has placed upon the unfortunate mamzer. I might, however, mention that other than this marital limitation, no infirmities whatever apply to the illegitimate person. If Jewish society sometimes looked down upon him, it was deadly wrong: the law maintained that his status was not in the least to be affected by the taint of his parents. Judaism taught that *החכם קודם לכהן* -- that an illegitimate scholar receives precedence, in our esteem and affection and respect, over the very High Priest who is an ingnoramous.

Nevertheless, all this having been said, we are indeed faced with a real moral problem: why should the children suffer because of the

parents? But we must learn to live with such problems. The alternative is unacceptable: the abrogation of the law would upset the balance between society and individual. Were we to repeal the law of illegitimacy -- and it would be illegitimate of us to do so according to the Halakkah -- it would immediately encourage Jews to marry without gittin (Jewish divorce). Such a remarriage is considered by Jewish law as adultery. I have little doubt that amongst large sections of the population of Israel that is just what would occur if people were not afraid to impose burdens of mamzerut upon the progeny of their remarriage. But this would lead to the breakdown of family life and morality as Judaism knows it and requires it. If one believes, as do some radicals in our days, that the "nuclear family" should be destroyed and replaced by some kind of commune, then we have no argument with him. But if we believe in the family, not only for its own sake but because this is the core of Jewish continuity, then, in order to protect the entirety of Judaism, we must keep the law of mamzerut even though some certain individuals may suffer as a result of their parents' malice.

What, then, must we do? The first thing is -- keep quiet. There is no mitzvah to publish and publicize the identity of those tainted by mamzerut. The Rabbis taught that *אביו של אביו*, that one who was illegitimate and who married (illegitimacy is carried over to the next generation) and who was absorbed into other, legitimate families, we do not look for them, but we assume they were "assimilated" and we do not harbour suspicions of illegitimacy against others.

Certainly, there should never be any glee at the discovery and exposure of mamzerim; that would be dreadfully immoral. By all means, these innocent victims of circumstances beyond their own control deserve our greatest compassion. It is told of the Rabbi Hayyim Soloveitchik, the great Sage of Brisk, that he raised young and abandoned mamzerim in his own home, in order to teach his people what compassion meant.

The second thing is -- a moral duty that is laid upon the great scholars and rabbis of Israel to make every conceivable effort to find legal relief and halak^hic remedies for such unfortunates -- the kind that is presently being essayed by Rabbi Goren, the Chief Rabbi of Tel Aviv.

The Halakkah, then, affirms both values, and because reconciliation is never perfect, it must decide each case on its own merits. To make rash and reckless blanket judgments is foolish and dangerous. This is a time neither for self-right^eeous legalims nor for thoughtless sentimentalism prodded on by a sensationalist Israeli press and political pressures -- which sometimes filters into the Anglo-Jewish press.

Such is the nature of Judaism that it attempts to accommodate these conflicting interests through law.

Yet if I were forced to say which does Judaism choose between both antithetical views, philosophically and morally, I would say that Judaism comes out clearly against Skinner and the Behaviorists and on the side of the libertarians and humanists.

The teaching that man was created in the Image of God means

that man is given, innately, both freedom and dignity.

This freedom, this dignity, may not be limitless. Psychologically, no one is absolutely free; legally, freedom must often be curbed. But to consider that man is "beyond freedom and dignity" is to preach his enslavement, his reduction to an automaton. And this results in neither a man nor a society worth saving.

Judaism rousinglly affirms that man's dignity derives from his God-given freedom. And on this freedom Maimonides has the following to say in his Laws of Repentance:

אברהם למה לקר גדות הוא צמח רה והלכה (הגבורה של)
"ואלה חמתי עק היום את החיים אלא האב את הגדול אלא הנע."

"This matter of freedom is a great principle, and it is a pillar of all of Torah and Commandments, as it is said: 'Behold, I have given you this day life and the good, and death and the evil.'

(וְאַתָּה תִּבְחַר חַיִּים) - 'And you shall choose life.'

This life will both give you freedom and dignity.