

"A Vote, Not a Veto"
*A Reconstructionist Approach
to Halachah*

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If *halachah* means the adherence to talmudic law as filtered through our medieval codes and as presently interpreted by rabbinic authorities, then Reconstructionism, like Reform, is not a halachic movement. Some even describe it as "posthalachic," that is, as a movement which argues that the entry of Jews into the mainstream of modern Western (secular) society has forever erased the authority of rabbinic law. In this view, even Orthodox Jews *voluntarily* choose to submit to halachic authority, since the Jewish community is no longer a closed system with the power to sanction those who violate its precepts. Furthermore, while the Reform movement is non-halachic and only makes recommendations about how its followers should practice Judaism, the Conservative movement strongly urges the following of *halachah*.

We live in a time that, in Jewish terms, is postlegal, when the edicts of the past have necessarily become the wisdom of history. We can still look to *halachah* for guidance, but we cannot be required to submit to it unquestioningly.

Reconstructionists follow the famous phrase of the movement's founder, Rabbi Mordecai Kaplan: "The past has a vote, not a veto." Essentially, this means that *halachah* possesses a definite historical authority for us, though not a legal one. Reconstructionists see *halachah* as the repository of our people's historical wisdom in applying the genius of Judaism to diverse circumstances through the ages. The law is halachic not because any God made it so, but because it reflects the social history of the Jewish people. Our reading of history assumes that in previous centuries our local and regional rabbinical authorities constantly adapted Jewish law to meet the needs of their constituents, with whom they were intimately familiar, although this evolutionary process was never explicitly discussed. As a result, their codes and responsa reflect a sensitivity to the Jewish conditions of their time. Thus, much of our present Jewish custom and practice, including an evolving ethical wisdom, began with the will of the Jewish people and filtered upward to the rabbinic authorities, where it has been standardized in halachic writings.

Today, much of the thinking and practice of the past remains relevant. Indeed, if we were to divest ourselves of so much of what is seen as official halachic practice, we would essentially abandon the great ritual and moral framework that makes us Jewish. To this extent, the *halachah* exercises a strong "vote" with regard to the decision-making process of the Reconstructionist Jew.

this is to say, we choose to observe much of the *halachah* not because it is "law" per se, but because it is the reservoir of custom and belief which we Jews created and which distinguishes us as the Jewish people.

To our way of thinking, however, much of our inherited *halachah* does not reflect our present situation. In an age of democratic societies and critical scholarship, the authority of the rabbis past or present simply cannot go unchallenged. Just as lay people exercised unofficial influence on *halachah* in ages past (mostly unconsciously), so modern Jews want to exert a conscious and deliberate influence on Jewish life today. Acknowledging this need, Reconstructionists ideally follow a decision-making process that is both communal and individual, both rabbinic and popular, both historical (giving the past a "vote") and contemporary (not letting the voice of the past "veto" decisions which we ourselves necessarily make from our own experience). Our movement asks Jews to approach any given issue, whether an ethical dilemma like abortion or a ritual matter like *kashrut*, by going through a three-step process in the company of one's rabbi and Jewish community (e.g., synagogue board or *chavurah*). These steps comprise the following:

1. We examine our own intellectual and emotional preconceptions before looking up the halachic opinion. This way we know what we actually think and feel. To begin with "official" halachic positions without knowing our own independent beliefs is to fall into the potential trap of re-reading the tradition to say what we want it to say in order to justify our own position.
2. We examine the breadth of *halachah* on this issue (including the opinions of Conservative, Reform,

Reconstructionist, and other contemporary respondents). This is best done under the guidance of an able teacher of Judaism. Here is one of the key roles of Reconstructionist rabbis. They are expert guides to the tradition rather than its enforcers. Important in this process is the possibility of discovering a range of halachic opinions from different periods, from eighth-century Baghdad to nineteenth-century Vilna.

3. We compare the two sets of conclusions. To the extent that they are dissonant, we must push further. We ask ourselves whether our own values are historically Jewish or derived from other sources. We must look at the *halachah* in light of what we take to be inherently Jewish values to see whether the *halachah* indeed follows those values. (In some cases we may conclude that, for whatever reasons, *halachah* clashes with deeper Jewish values.) This questioning continues until we come to some satisfactory conclusions for our Jewish community. We may also wish to consult the opinions of like-minded communities.

Ultimately, each individual may decide on his or her own course of action. But more often than not, individual Jews working through an issue as a community decide as a group what is proper. This decision is often traditional in tone, even if it is not the fully halachic position. Moreover, it is a decision which directly reflects the influences of rabbi and laity working together to formulate a Jewish practice that is wedded to both the value of tradition and the demands of contemporary belief. This method is the halachic process *reconstructed* by and for committed Jews. It is neither authoritarian nor totally autonomous. It is communal, covenantal, and, one hopes, workable. It is exactly this sort of "living *halachah*" that is the heart of the Reconstructionist approach to Jewish life.