

The Way of Halakha - Torah Law



By HaRav Ariel Bar Tzadok

It was prophesied that in the days prior to the coming of Mashiah that there would be a drought of knowledge, that Torah itself would be forgotten, G-d forbid. In light of the many religious organizations and schools today, one might very well wonder how this prophecy could ever be fulfilled. Yet, one who is in the religious community today, especially within the Rabbinate knows all too well, with much remorse how very close we are to this prophecy being fulfilled.

While numerous people are studying Torah the question arises, what are people actually learning? This is especially true concerning the study and knowledge of Halakha, Torah law. Throughout the centuries, Halakha has been a flowing river twisting and turning according to the needs, times and places of the various Jewish communities throughout the Galut (Diaspora).

Deciding how a Torah Law is to be applied cannot be learned simply by opening a book of law, reading the words and then doing what is written. Indeed, the major criticism to the writing of the Shulchan Arukh was just this, that people would think that all you had to do was read a book and that you would know everything you needed. All true students of Halakha know just how untrue this is.

Today Gemara study is "all the rage." Daf Yomi classes are to be found everywhere. Gemara study, now with modern translations and commentaries, once the private reserve of the Sages, has become an open forum for all comers. We might all agree that this is a tremendous development, yet, even to this, there is a set back. For while



many people are studying Gemara, they are, nonetheless, only discussing the concepts of Halakha. The daily Daf Yomi classes do not emphasize (and many avoid altogether) any mention of practical Halakhic observances and its variant forms (minhagim).

Indeed, HaRav Ovadiah Yosef has gone on record, in his Yalkut Yosef (Kitzur Shulkhan Arukh, 245-6:6, page 820) as stating that Gemara study should be delegated only to professional Rabbinic students and not studied by the masses. Laymen who only have a limited amount of time to study daily (which Rav Ovadiah defines as being three to four hours) should study only Torah Law from the works of the Poskim (Halakhic commentaries). He calls these the foundation and essence of our holy Torah.

He further states that a layman does not fulfill his obligation to study Torah by studying Mishna and Gemara because one does not learn Halakha from the Talmud (a quote from the Gemara Niddah itself). He encourages laymen to study with a competent Halakhic authority who can teach Torah Law and explain it properly.

I have heard it said in Rav Ovadiah's name that one who attends Daf Yomi classes without having equal knowledge of Halakha should consider his efforts a Bitul Torah, a mistaken investment of time and effort. Now, G-d forbid, no one should ever speak against the study of Gemara; nevertheless, there is an order and method to Torah study.

Halakha must precede the study of Gemara, in similar vein how Gemara study must precede Kabbalah study. This is the actual and factual meaning of Torah being called PaRDeS.

Mind you, PaRDeS begins with Pshat and this is the study of TaNaKh. Remez is Mishna and is actually what we call Halakhot Pesukot (ordained laws). In ancient times this was the Mishna of Rabi Yehuda, today it includes all the codes, be it RaMBaM, Shulkhan Arukh, the Mishneh Berurah or the Ben Ish Hai. Only then do we have Drash, which are the discussions of Remez, the Halakha, this is Gemara.

Gemara study only reaches its true zenith of value when studied and understood within a Halakhic framework. In other words, one studies Gemara, not for its own sake, but rather, to extract from it the Halakha. This method of Torah study has long been practiced in yeshivot around the world. Indeed, this was the manner in which my Rabbanim taught me.

In my yeshiva, we would study a section of the Gemara, with Rashi's commentary and the occasional Tosefot if deemed necessary. We had no Artscroll in my day. Therefore, after the sugia (section) of Gemara, we would proceed to review the major law code/commentaries to see how the Gemara was understood and eventually applied as Halakha. This took us through centuries of history and to numerous communities as we



studied the Rif, the Rosh, RaMBaM, the Tur, Shulkhan Arukh and a number of Aharonim (later generation Rabbanim).

From this course, we could see how Halakha developed and was applied. We saw the origins and development of minhagim (variant interpretations that led to variant observances), most notably the growing differences between Ashkenazim and Sephardim. The great thing about this method is that we never lost track of the uniting thread that joined all the variant opinions and practices together. In the end, we understood the Halakha, its proper parameters and applications, in all its forms, leniencies (kulot) and strict applications (humrot).

All true authoritative Rabbis know that this is the proper way to study Torah and to learn Halakha. Indeed, in order to understand Halakha properly and to apply it correctly one must know and understand the entire history of the law and its various applications. Only when one understands the fundamental principles underlying a Torah Law can one comment upon it with authority and apply these principles to new circumstances accurately.

A competent Halakhic authority does not simply quote what is in the Shulkhan Arukh. He has to know the meaning and intent of Law just as much as its multiple written applications and forms. A competent Halakhic authority must have complete knowledge of the subject matter before him; otherwise, he cannot apply the Halakha to it properly.

A competent Halakhic authority, therefore, is above all, a well-rounded educated man. He must know what is going on in the world in all relevant areas of politics, economics, science, the arts, psychology, sociology, philosophy and religion, just to name a few.

In order to be a competent Halakhic authority, a Rav has to know a whole lot more than just Gemara and Poskim, he must understand their intentions and be able to logically outline and express why and how he has come to the conclusions of interpretation that he has.

Above all, a competent Halakhic authority, never simply proclaims his views as Torah Law. He not only expresses his opinion, he validates why he has come to his conclusion and only then he may or may not add his personal political or philosophical views based upon what he considers to be the communal needs of the moment. Then, a competent Halakhic authority will address those other opinions that disagree with his own and offer his response to them.

A truly competent Halakhic authority never offers an opinion on a matter that is not backed up with conclusive evidence and facts. If the Rav wishes to proclaim an act acceptable or unacceptable under Torah law, he must not only know everything about what he is discussing, he must also have the wisdom and foresight to perceive how his



words are going to be received by the public at large and what affect his opinions will have on the community.

As Jews, our Rabbanim are taught not to pontificate. No Rav has the right, nor should he have the arrogance to simply declare something to be either acceptable or not, and then expect his words to be accepted as true and thus followed without his having offered full evidence to support his views.

In the end, the words and views of a competent Halakhic authority are insightful and beautiful expositions of Torah that truly compliment the never-ending flow of the river of Torah emanating from the center of the Garden of Eden.

Torah is meant to extend life; it is meant to expand consciousness. When Torah is learned properly, it can then be embraced properly. In this way alone does one come close to Heaven. The Gemara (Berakhot) itself implies this when it says, "since the destruction of the Holy Temple, HaShem's only place in the world is the 'Arba Amot' of Halakha."