

The Principle of Polarity

EMMANUEL RACKMAN

THE THESIS THAT DR. GORDIS STATES AND proves can hardly be challenged. A number of recent publications in Israel advance and demonstrate the same conclusion: The Halakhah does respond to contemporary problems; it does cope with changed conditions; and it does not regard itself as the antagonist of the world or of human nature. But one could also make out a very good case for the antithesis: the Halakhah resists contemporary values and tries not to yield to them; it would like to change the conditions that it finds rather than change itself; and, above all, it does want to change the world and especially human nature. This antithesis Dr. Gordis' essay ignores. Yet what the moment requires — and he and I, among others, are wrestling with the problem — is clarification on when does one adopt his thesis and when its antithesis.

It was because of Dr. Gordis' writings that I became familiar with one great scholar's answer to Christians who boast that the Old Testament God is a zealous champion of vindictive justice while the New Testament portrays a God of love. His answer was simply that he could make out an equally good case for the converse. One need only pit the verses in the Old Testament that talk of God's love against an equally impressive number in the New Testament that describe God's anger and ultimate judgment. In the same manner, I can readily visualize some Orthodox challenger to Dr. Gordis presenting him with a list of topics in which the Rabbis of the Talmudic and post-Talmudic periods only magnified prohibitions and restraints. Especially was this true in an area about which Dr. Gordis himself has written — human sexuality. Perhaps because the Rabbis were so demanding in expecting males to be almost superhuman in curbing their passions, that most Conservative rabbis have read the laws pertaining to *mikveh* out of the corpus and deem them as nonexistent. But that is hardly recognition even of the authority of the Halakhah, not to mention its supremacy.

Morris Raphael Cohen's law² of polarity has been very helpful to me in my understanding of Halakhah and the decision-making process that it embraces. Both Dr. Gordis' thesis and its antithesis are poles. The Halakhah approves of both. In every new problem, the poles do not change but *theposek*, the expert who must rule, gives due consideration to both. Sometimes it is the one that prevails; sometimes the other; and, at still other times, a result that reflects the influence of both poles. Yet what begs for more research and analysis is precisely what *theposek* does when

he walks the tight rope between the poles and arrives at a decision.

It may very well be that Dr. Gordis felt that he had to write as he did to publicize his thesis for the benefit of those Orthodox Jews who are committed to a rigid Halakhah — the strict constructionists. Yet he knows well that they will not be convinced by him any more than by Professors Elon or Gilath in Israel or even Soloveitchik in America. It must be, then, that he wants to justify some decisions by his own group. If so, the proper thing to do is not to seize upon only one pole, but, rather, to relate to both and to demonstrate in specific cases that, in the projected change, due regard was given to the antinomies.

I wonder whether, in connection with the Conservative movement's recent decisions with regard to women as part of a Minyan and women serving as congregational rabbis, this kind of dialectic was involved, or was it rather that, in confrontation with the women's liberation movement, decisions were made to cope with the new pressures without much regard to the law of polarity. The status of women in Jewish law unmistakably involves some deeply entrenched ideas which are in conflict with each other and veering between them is not an easy task for the creative halakhic expert.

One finds, on the one hand, a Biblical command with regard to the equality of males and females. All have the divine image. All are equally responsible to the civil and criminal code and are equally protected by it. Yet, one finds on the other hand that in Rabbinic literature there is a deep-seated distrust of males in the matter of sex. They are easily stimulated — even a woman's voice can be the cause. And the only safeguard against sexual immorality is separation — as total as it can be. Between husbands and wives many a rabbi so encouraged the practice of the art of love that even the passion of the most sexy of men is gratified. But, as between men and forbidden women, no one is to be trusted. It was not easy even to permit fathers and their daughters to be together unchaperoned. When the taboo of incest became well established, parents and their offspring were not expected to abide by the strict rules forbidding a male and a female to be together alone. However, it is because of this pole — call it a "fixation" if you will — pertaining to the weakness of the male and his uncontrollable sexual drive. (It is difficult to deny that they knew whereof they spoke — they, themselves, were male!) that the Halakhah insisted on separation of the sexes in the synagogue and domestic careers for women. From this there derive separate seating in the synagogue, the exclusion of women from most civic, communal, and religious functioning, and much else that makes the tradition offensive to many modern women.

Now, a Jewish legislator today, confronted by the two poles, somehow finds it easier to decide, as did several halakhic giants in Israel, that women can be involved in the political process as voters, and in the judicial process as witnesses and judges, but not in synagogue procedures and

leadership. So to interpret the law that the disability of women to be judges and witnesses is removed is a fulfillment of the Biblical pole of equality, and if it impinges upon the purity of thought of males, at least the sanctity of a synagogue is not thereby affected, nor is the meditation of any worshipper. Quite different is the situation where the synagogue is concerned. In that connection the other pole comes into play. And the reluctance to change the rules is great.

This also accounts in part for the unanticipated reluctance of many Conservative rabbis and laymen to break with the tradition. They are verbalizing different objections but the truth is that the pole that the innovators would ignore is deeply entrenched. Though mixed seating became quite prevalent, this was about as far as many were prepared to go. And the overwhelming promiscuity of modern times is prompting many to reconsider whether a little bit of the old-fashioned chastity and modesty — *z'niut*, in Hebrew — is not a good antidote to the frightening situation in the Jewish community, with sexual permissiveness everywhere to be found.

It is not my intention in this brief reaction to Dr. Cordis' essay to make an exhaustive study of the problem of the status of women in the synagogue. I only want to suggest the difference between Orthodox and Conservative rabbis in halakhic development. The former reckon with all the poles; the latter more blithely ignore one or the other. Thus, in still another connection, the status of the Jewish woman in marriage and divorce, one can see the difference between Orthodox and Conservative rabbis, all of whom propose to correct painful inequities that exist. Simon Greenberg, on the one hand, as a last resort, would avoid one of the poles involved in the dialectic and let the Beth-Din ignore the existence of a husband when necessary, while Eliezer Berkovits offers a solution that reckons with the two poles involved and solves the problem by an agreement entered into in advance by bride and groom.

For those who do not cherish the Halakhah, the difference may appear to be pedantic. But for those who regard it as authoritative, then its own process for correction is respected and adhered to. It is this process that begs for more analysis and formulation. Perhaps Dr. Gordis will address himself to it in another essay.