

Halakhah: The Rabbinic Idea of Law. By Chaim N. Saiman. Princeton: Princeton University Press, 2018.
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Chaim Saiman's *Halakhah: The Rabbinic Idea of Law* is probably the best nonspecialist introduction to Jewish law I have yet encountered. The writing is crisp, intelligible, and frequently evocative. Over the book's three parts, Saiman demonstrates that while halakha can sometimes be analogized to American administrative or constitutional law, its real distinctiveness lies in the sheer variety of different registers that shape its study and practice. Grounded broadly in scripture and in the rabbinic adumbrations of Mishnah and Talmud, the discourse of halakha certainly includes regulatory mechanisms for social and economic life. But as Saiman insists throughout the book, halakhah is not just law—it is also Torah, whose study and conceptual articulation may be understood as ends in themselves—indeed for many thinkers, the most important of all ends—regardless of practical legal import. The laws of animal sacrifice and of the temple ritual may never have been practiced in precisely the ways they are described by the Talmud for example, and they are in any case inapplicable since the temple's destruction by Titus. Yet these laws are still Torah, deserving the same scholarly devotion as the laws of damages or of marriage and divorce, and they still play an important role in contemporary rabbinic jurisprudence.

There are even cases, like the law of the “rebellious son” of Deuteronomy 21, which the Talmudic rabbis themselves asserted to be purely hypothetical, yet which remain Torah and worthy of study for all that. The term *halakhah* in this sense obviously refers to something broader than “religious law” and certainly broader than administrative law. To the extent that halakhah is in many cases an object of sacred study and reflection independent of its more practical function, it also carries expressive and educative burdens that would probably have been subsumed under theology in a Christian setting.

The implicit comparison between Jewish law and Christian theology is never far from the surface of Saiman's work, which is directed, after all, to an audience whose default religious taxonomies are most likely to be Christian or secular Jewish. While occasional New Testament citations in the section on Talmud may prove jarring to some nonacademic Jewish readers, Saiman constantly (and gently) pushes back at pervasive prejudices against law as a vehicle of religious expression. The post-Reformation bias against “rote” (that is, ritual) practice that Talal Asad¹ and others have criticized in contemporary anthropology and religious studies was, in many ways, only a secularized version of the old Pauline critique of Law with respect to Spirit, the particular with respect to the avowedly universal, and Judaism with respect to Christianity's new covenant.² Part of Saiman's task, if I read him rightly, is to demonstrate why for many Jews the law has always been an object of love rather than the resentment this critique would lead one to expect, and its study an expression of freedom rather than slavery. While Jews have a less-well-developed tradition of explicitly theological writing than do many Christian communities, it turns out that halakhic discourse performs much of the same work for Jews that theology has done for Christians. I doubt

1 Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993).

2 See Don Seeman, “Kinship as Ethical Relation: A Critique of the Spiritual Kinship Paradigm,” in *New Directions in Spiritual Kinship: Sacred Ties across the Abrahamic Religions*, ed. Todne Thomas, Asiya Malilk, and Rose Wellman (New York: Palgrave-Macmillan, 2017), 85–108.

that Saiman would want matters to be framed so bluntly, but this book is, among other things, an *apologia* for the law against its contemporary cultured despisers. It is, by the way, one of the first books I would choose for a class about Judaism in a Christian school of theology, a high-level survey course on Jewish life, or a conversion class for people interested in becoming Jewish.

Ironically, this makes *Halakhah* an exceedingly difficult book to classify. I have no doubt that a Christian analogue to Saiman's *Halakhah* would be accepted as a relatively straightforward example of academic practical theology, but since no such discipline really exists in contemporary Jewish studies, Saiman struggles and strains to define the manner in which his book should be read. Specialist readers will find many interesting and provocative arguments scattered through *Halakhah*, but neither halakhists nor American legal scholars are likely to find the kinds of sustained technical arguments that would lend credence to this book as a work of legal theory. Neither, as Saiman acknowledges, can this book claim to stand in for a historical account of halakhic development in its various social settings. He tells us that the book will take a phenomenological approach to halakhah, but it is unclear what this might mean. Nowhere in the book does Saiman provide any firsthand accounts of what it means to be a scholar or practitioner of Jewish law, nor does he offer any sustained analyses of the perceptual and experiential categories that emerge in and through halakhic study and practice. To the extent that this work can be termed phenomenological, therefore, it is only in trying to allow the halakhah to speak in what Saiman takes to be its native categories, resisting the imposition of narrow administrative taxonomies that dominate American law as well as theological ones that dominate American religion. In this, moreover, Saiman is arguably quite successful. *Halakhah* makes more sense as a work of practical theology in Judaism than it does mainstream Jewish studies or legal studies.

Though it is not written in an autobiographical voice, *Halakhah* is an intensely personal and idiosyncratic work that reflects Saiman's life and training at a particular moment in the life of the Modern Orthodox community of North America. How else to make sense of the odd progression of chapters that starts with Talmud, detours to a few medieval legal codes, and then rushes quickly to its culmination with "The House of Brisk," an analytical school pioneered by a single family of nineteenth-century Lithuanian Talmudists but best identified for most American Jews with the towering Rabbi Joseph B. Soloveitchik of Boston and his successor son-in-law, Rabbi Aaron Lichtenstein, who became Saiman's teacher in Israel? Both rabbis were known as Talmudic virtuosos who also held impressive academic training in secular subjects (philosophy and English literature respectively) and as proponents of significant participation by Orthodox Jews in the cultural and intellectual milieu of Western civilization. Both also broke with much of the Ultraorthodox Jewish world to promote active participation in the Zionist project of Israeli state building; Rabbi Lichtenstein's yeshiva was known for intellectualism and political moderation and for being one of the flagship institutions of the *hesder* movement, allowing young Israeli men to combine a shortened period of military service with high-level Talmudic studies. Yet this is also a world of pervasive anxieties about the level and kinds of integration possible or desirable between different epistemic regimes and discourses. Is a critical historical approach to the traditional halakhic corpus, for example, really compatible with the kinds of critical devotional practice required by internal halakhic discourse? Even when he writes in English for a broad audience, Rabbi Lichtenstein writes as a representative and scion of the halakhic tradition, and his claims are ultimately normative ones. This gives some context to Saiman's enigmatic dedication of *Halakhah* to his teacher, Rabbi Lichtenstein, "who never would have written this book, but without whom this book could never have been written." Though *Halakhah* is an expression of deep and existential appreciation for what has been called the "sea of Talmudic [that is, halakhic]

discourse”³ and unavoidably encodes normative claims in the representational choices it makes, it is, for all that, a work written primarily for outsiders—an annotated memoir of voyages at sea, written for interested landlubbers ashore.

This understanding helps to save the book from potential critique of its various lacunae. In his breathless rush from Talmud to Maimonides to the House of Brisk, for example, Saiman does not even pause to discuss the profound and consequential intersection of Jewish law with Jewish mysticism in every epoch, or the earth-shattering contestation of halakhah’s binding authority that has helped to drive nearly every significant Jewish engagement with modernity, from Reform to Zionism. Nor does *Halakhah* ask us to reflect upon the European Emancipation of the Jews that was premised so heavily on Mendelssohn’s bargain to reconfigure Judaism as merely a private “religion” whose law must give way, in almost all non-ritual matters, to the law of the State.⁴ Gaps on matters of such fundamental import might derail an anthropologist or historian of Jewish life, but they are well within the discretionary ambit of the practical theologian who seeks to build a compelling and sometimes unabashedly partisan account of a religious tradition by appealing to the lived practices and ethos of some real community of participants. Saiman’s *Halakhah* is an elegant, well-written account of Jewish law as told from the perspective of contemporary, Lithuanian-derived Modern Orthodoxy, which is as fine a place to begin that journey as any—though partisans of Chabad or Conservative Judaism or contemporary Sefardic and North African Jewry might wish to tell that story on their own terms. From this perspective, one of Saiman’s most lasting contributions might be precisely in reminding us that these are also stories worth telling.

If the quintessential statement of Jewish modernism was Kafka’s bewildered hero, called to account before a law he did not recognize and whose claims he did not understand, Saiman’s *Halakhah* represents the coming of age of a self-confident and articulate generation of academic writers whose scholarly formation owes a great deal to the contours of contemporary Modern Orthodoxy. Trained to varying degrees as scholars of the halakhah and in an academic discipline, some, like Saiman, may now increasingly be ready to correct the more-or-less total eclipse of Jewish law from previous popular and academic accounts of Jewish life.

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3 The phrase “sea of Talmud” is invoked by Maimonides, among others, in his introduction to the Commentary on the Mishnah. See also *Shir Ha-Shirim Rabbah* 5:20

4 See Leora Batnitzky, *How Judaism Became a Religion: An Introduction to Modern Jewish Thought* (Princeton: Princeton University Press, 2013).