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The Voice of Judaism in the Conversation of Mankind: Thoughts on Michael Oakeshott

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Michael Oakeshott (1901-1990) was a leading British social and political theorist, often credited as a father of libertarian thought. His wide-ranging oeuvre engaged fundamental problems in philosophy, such as epistemology and the analysis of experience, aesthetics, as well as the nature of human conduct and the modern state. Above all, he theorized the necessary postulates of human liberty. Oakeshott's thought was characterized by areas of agreement and of tension with the Jewish political tradition. There are interconnections between his youthful essays on religion, his mature thought on poetry and wonder, and his political theory of the grounds of law and liberty. Together, these topics are the most relevant for Jewish political thought, which must entail a consideration of religion, transcendence, and social order to remain authentically Jewish.

The thought of Michael Oakeshott (1901-1990) has grown in stature in the decade and a half since his death. Although somewhat overshadowed in life by his more famous contemporaries Isaiah Berlin, Friedrich Hayek, and Karl Popper, Oakeshott, not least on account of his profound and astonishingly elegant prose, bids fair to displace them in death. A steady stream of books, articles, and conferences probe his complex philosophic legacy.

Oakeshott's thought, however, has hardly been taken up by Jewish philosophers. Although political theorists who are Jews, such as Josiah Lee Auspitz or Efraim Podoksik of the Hebrew University, have worked on Oakeshott, there have been no diligent attempts to mine Oakeshott for the purposes of Jewish thought. Nor have Jewish thinkers engaged him in philosophical conversation.[1] This is regrettable, for Oakeshott offers a number of promising openings and provocations for contemporary Jewish thought.

The Role of Tradition

As to openings, Oakeshott, unlike many other philosophical defenders of the free society, has a generous appreciation for the category of tradition. Although his political thought is often associated-no doubt simplistically-with libertarianism, he afforded traditional ways of life considerable scope in the conduct of a humane society. Fusing Aristotle with the liberal tradition, Oakeshott saw traditions of moral practice as allies of liberty and liberal government. Rather than posit the relationship of a modern free society with premodern traditionalism as inherently antagonistic, Oakeshott, more than other liberal thinkers of his time, saw the relationship as cooperative.

His essay "The Tower of Babel" contrasts the habitual morality of a traditional order with the reflective moralities of the Enlightenment and tilts toward the superiority of the former. More precisely, in any advanced society there will be a mixture of traditional and rational morality but only a thick cushion of tradition can keep the dissolutive potential of rationality in check.

Similarly, Oakeshott's "Rationalism in Politics" and "On Being Conservative" would argue in favor of a role for Jewish tradition in the life of a modern polity such as Israel. "Rationalism in Politics," directed against utopian projects such as socialism, would be equally critical of the revolutionary attempt to instantiate a "new Hebrew man" at the expense of what Jews have always upheld as their ideals.

Oakeshott belongs to that stream of British theorizing about tradition that includes such writers as Burke, Coleridge, and Mill. But among our contemporaries, no one, with the possible exception of Edward Shils,

has written with such depth and penetration on the interdependence of a humane politics and traditional forms of life as Oakeshott.

Although the conventional political designations of Left and Right, liberal and conservative, are too facile to capture Oakeshott's theoretically rich analysis and ambiguous practical import, there is a conservative strain in his thought, married to a defense of the free society. This ambiguity ought to be appealing to modern Jewish thinkers intent on theorizing a society that is both open to traditional enclaves and ways of life and egalitarian and rights-based in its fundamental lineaments. Oakeshott theorizes a conservative disposition to take delight in what is familiar, inherited, and near at hand that is, nonetheless, lacking in chauvinism or obtuseness.

Furthermore, Oakeshott argues on behalf of the particular and the customary; he repudiates the pretensions of the universal, the predominance of the critical. Such theorizing should be attractive to Jewish thought in a postassimilatory era where both the renewal of traditionality and the full participation of Jews in contemporary society and politics are affirmed.

The Importance of Pluralism

Also attractive in Oakeshott is his deep pluralism. Somewhat reminiscent of the value pluralism of Isaiah Berlin, Oakeshott theorizes fundamentally discrepant domains of knowledge and experience held together in an intergenerational "conversation of mankind." He affirms without a hint of regret the modern condition of the fragmentation of knowledge, the autonomy of modes of knowing and experiencing. He rejects the reduction of the humanities, such as historical inquiry, for example, to positive science or of moral action to sociobiological behavior.

Oakeshott preserves, in an unabashedly idealist manner, the integrity of modes of experience or domains of thought-indeed, their mutual irrelevance-as well as human freedom of action. Practical activity, science, and poetry-the triadic categorization of the modes of experience at play in his great essay on poetry-are equally valuable, necessary, serious, and playful ways in which humans press intelligibility into mystery.

Contemporary Jewish thinkers, for whom social pluralism is by and large a valued and necessary feature of modern democracy, would do well to ponder Oakeshott's theoretical engagement with pluralism. Although modest in its metaphysical entanglements, compared with those, for example, of James, which he would have regarded as untoward speculation, Oakeshott's epistemological and experiential rooting of pluralism has great depth.

It is also, however, a provocation. Whether deep pluralism is desirable in the face of monotheistic profession is an important question. It is unclear how far down pluralism goes in Oakeshott; it is unclear whether it is relieved by his underdeveloped concepts of the "totality of experience" or the "primordial activity of the self."[2] A conversation with Oakeshott would force a Jewish thinker to decide just how much pluralism is too much.

This is where Oakeshott raises obvious problems for Jewish thought. Oakeshott, as a leading scholar of Hobbes, assumes a certain fundamental secularity in his theorizing. His philosophical anthropology, his varied accounts of conduct, and his political theory assume a condition of human life in a world that, however much it is constituted by moral traditions and practices, is basically self-enclosed. Religion does not point to a beyond, to a transcendent horizon. Religion in all its forms qualifies, modifies, or consummates human conduct within our shared moral, practical world.

Consciousness-acts of noticing, distinguishing, recognizing, and understanding-emerges against a background of mystery, about which nothing more can be said. Intimations of a radical alternative to the engagements of action, which Oakeshott calls "contemplating" or "delight," do puncture this world but he is emphatic, at least in his major essay "Poetry in the Conversation of Mankind," that delight has nothing to do with religion. Although Oakeshott's views on religion develop and shift somewhat over the course of his long career, at the end of the day religion seems enmeshed in the practical, a stranger to the experience of delight.

Although not lacking in intimations of transcendence, Oakeshott's thought reserves these intimations for the nonpurposive engagements of the arts, which he subsumes under "poetry." Poetry is the abatement of both practice and knowing. It is an escape from the restlessness of judging, understanding, averting, desiring; of truth and falsehood, right and wrong. It is fleeting and transient, itself an arrest in the Sisyphean torrent of practical and theoretical engagements that constitute a human life.

Poetry does not point to anything higher than human life. It is a mode of experience, no more, no less. It is neither salvific nor privileged in its access to an ultimate. There is no ultimate that can be experienced or known. Even delight seems to traffic in the intramundane. Oakeshott's basic orientation, therefore, remains secular or, if that is too categorical, his basic orientation is insufficiently capacious to capture the complexities of religion or, at any rate, of Judaism.

Nevertheless, a closer reading of Oakeshott on the nexus of religion and practice reveals that all is not so cut and dried. The leitmotif of his treatment of religion appears to be an unresolved tension between the embeddedness of religion in practical life and its partial transcendence of practical life. By complicating the category of practice, religion destabilizes it.

Although Oakeshott does not make this claim, he can be reasonably read to imply that religion anticipates delight. If this is so, as this author believes to be the case, then religion, including Judaism under its aspect of religion, can be freed from the fatalities of the practical. That is, we need not foreclose on Oakeshott as a resource for contemporary Jewish philosophy because of an overly constricted characterization of religion. Getting Oakeshott's teaching on religion right is a necessary first step toward an engagement with the main body of his teaching, which lies in the domain of moral and political theory.

A consideration of the problem of religion should precede deciding whether Oakeshott's political teaching is compatible with the Jewish political tradition.

Religion in Oakeshott's Thought

Religion is a persistent, if minor, theme in Oakeshott's several books and many essays. From the first, Oakeshott is concerned to clarify the relation between religion and morality. That is, his point of departure is social and worldly, although he hints, in a manner that he leaves undeveloped, at a transcendent horizon.

In an early essay, "Religion and the Moral Life" (1927), Oakeshott explores whether religion can adequately be held to be reducible to the moral life, to sanction the moral life, or to complete the moral life. Of these three possibilities, he rejects the first-an early example of his characteristic bent toward pluralism and rejection of reductionism-as well as the second. Reducing religion to morality in a positivistic manner is a "travesty of human experience."[3]

Oakeshott seems to say that religion is felt to be something more than but not radically other than morality and this intuition must be honored not scanted by theory. Nor is it adequate to say that without religion, in the sense of supernatural revelation, our morality would lack sanction; that there is nothing in nature to support morality. The only morality worthy of the name is one that we, in our autonomy, affirm. Even the revelation of morality in religion, if such there be, must be chosen by people to be moral. The free person who chooses how to live, who chooses to submit to God, is a more pertinent moral fact than the alleged delivery of a supernatural moral revelation whole and entire.

This leaves Oakeshott with a third possibility: religion completes morality, which occurs in two ways. The austere demands of morality for conformity with the right and realization of the good are also abstractions-they can never be fully met or satisfied. But from the viewpoint of religion, the endless abstract *ought* of morality is grounded in a concrete *is*: God is. Moral abstractions are completed ideally in religion. The relentlessness of *ought* can be thought to resolve into a final *is*.

Furthermore, the autonomy of the free person, which Oakeshott certainly affirms, is also merely abstract: it is a formal condition for moral conduct but it lacks content. Without wisdom or moral knowledge mere autonomous action fails to be moral. Religion completes or consummates morality by presenting the

autonomous individual with objectively normative practices and traditions of wisdom. To the extent that religion can be said to transcend morality or the world of practice it is as a regulative idea. This idea is transcendental in a Kantian sense, but it is not necessarily a marker of transcendence in a theological sense.

Spirit and World

Two years later, in "Religion and the World," (1929), Oakeshott is concerned to rehabilitate for moderns the discredited ancient and medieval dichotomy between this world-from which true religion should allegedly remain aloof-and a spiritual world in which the religious soul finds a true home. Oakeshott wants to continue to love and live in this world but simultaneously rejects an unregenerate secularism. Thus, he must revise the referents of worldliness and unworldliness, which he does by way of demythologization.

The world of the spirit now becomes, not an otherworldly existence, but a this-worldly existence in light of a certain scale of values. The world of the flesh becomes an unrelieved entanglement in practical activity. "The other world of religion," he writes, "is no fantastic supernatural world, from which some activities and interests have been excluded, it is a spiritual world, in which everything is valued, not as a contribution to some development or evolution, but as it is in itself."[4]

The world that is inimical to religion is the world of striving and calculating, the world of instrumentality and purpose. What religion proposes is a world of radical liveliness and freedom in the *hic et nunc*: "Religion is simply life itself...dominated by the belief that its value is in the present.... To the religious man, life is too short and uncertain to be hoarded, too valuable to be spent at the pleasure of others, of the past or of the future, too precious to be thrown away on something he is not convinced is his highest good."[5]

In the first of these early pieces, Oakeshott embeds religion in practical life while simultaneously intimating that religion or the idea of religion transcends practical life. In the second piece, Oakeshott suggests that religion's transcendence of practical life is not through any discredited fantasy of superstitious escapism but through a deepened engagement with the world in a manner suggestive of neo-Romantic and existentialist thought. Although he does not use the term, the role he allots to religion resembles what he will eventually call "delight." Soon, however, the approach of these youthful essays recedes.

In Oakeshott's first major work, *Experience and Its Modes* (1933), religion is fully embedded in practice. There Oakeshott defines religion as the most "concrete mood" of the practical life. Practice per se is "the assertion of reality by means of action." In thought and in action-the two are always one-practice seeks to bring coherence to existence by adapting what is to what ought to be, to what is not yet.

Religion is that form of "practical activity in which this attempt is carried furthest. [It] is not a particular form of practical experience; it is merely practical experience at its fullest." Religion, as Oakeshott earlier said in a more restrictive context regarding morality, consummates practice. "Wherever practice is least reserved, least hindered by extraneous interests, least confused by what it does not need, wherever it is most nearly at one with itself and homogeneous, at that point it becomes religion."[6] Religion is the near-perfection of the experiential mode of practice.

The mode of practice is a restless assertion of human agency onto a resistant reality. This everywhere involves the transference of ideas and values from impotent abstraction in a sphere "without force or motion" into conduct. But conduct is often hobbled by doubt, impeded by restraint, lacking in intensity or commitment.

Nevertheless, an ideal seems to inhere in practical conduct-that we act in an integrated way. "And whenever the seriousness with which we embrace this enterprise of achieving a coherent world of practical ideas reaches a certain strength and intensity, whenever it begins to dominate and take possession of us, practice has become religion."[7] Religion is, as it were, adverbial to practice. It modifies the way we conduct ourselves in the world.

Religion and Conduct

In Oakeshott's last major work, *On Human Conduct*, religion also consummates and qualifies the world of practice but a new dimension is introduced. When conduct is less a matter of the pursuit of ends and more a matter of self-enactment, of acting in accordance with what one has become, then conduct itself is delivered from what Oakeshott calls "the deadliness of doing." This is "a deliverance gracefully enjoyed in the quiet of a religious faith."

Here Oakeshott implies that religion consummates conduct by reconciling us to or freeing us from its inherent limitations. He then expands this function: religion reconciles us to "the unavoidable dissonances of a human condition," which include "disease, urgent wants unsatisfied, the pain of disappointed expectations, the suffering of frustrated purposes, the imposition of hostile circumstances, the sorrows of unwanted partings, burdens, ills, disasters, calamities of all sorts, and death itself, the emblem here of all such sufferings."[8] For those traditions in which these dissonances are understood to rupture the relationship between humans and the divine, religion performs a final reconciliation: "[A] religious faith...is both a belief that this severance cannot be unconditionally irreparable and an image of this reconciliation here or hereafter."

Religion adds heightened dimensionality to practice; it renders the practical mode more complex. While still solving a problem-an activity characteristic of the practical mode-it holds out an image of surcease from both the having and the solving of problems. Religion lightens the ever- tragic ambiguity of action but it does not liberate us from it. That role is reserved for delight and then only in a very episodic and limited way. As Oakeshott puts it with considerable poetic power of his own:

Practical activity is an endless battle for noble or for squalid but always for illusory ends, a struggle from which the practical self cannot escape and in which victory is impossible because desire can never be satisfied: every attainment is recognized to be imperfect, and every imperfection has value only as an incipient perfection which is itself an illusion. And even "forgiveness" is only an emblematic break in the chain of the fatality of doing: every action, even those that are forgotten, is irreparable. Poetic activity has no part in this struggle and it has no power to control, to modify, or to terminate it. If it imitates the voice of practice its utterance is counterfeit. To listen to the voice of poetry is to enjoy, not a victory, but a momentary release, a brief enchantment. And perhaps, obliquely, it is to enjoy something more. Having an ear ready for the voice of poetry is to be disposed to choose delight rather than pleasure or virtue or knowledge, a disposition which will reflect itself in practical life in an affection for its intimations of poetry.[9]

And yet here Oakeshott appears to transgress the categorical distinction between practical activity and poetry that he has labored so hard to sustain. Although the various modes of experience are irreducible and untranslatable to one another, apparently practical life affords occasional *intimations* of poetry. One adept at hearing the voice of poetry in the variegated and endless conversation of mankind becomes open to hearing that voice even when it is not loudly speaking.

Earlier, Oakeshott had asserted that when "any lessening of the urgency of desire, any softening of the willfulness of ambitions, or anything that blunts the edge of moral appraisal" occurs, then there arises an "invitation" to contemplative activity, to delight. One's practical engagement can elide into enchantment in a moment of lethargy or leisure. Practice is not, in the end, cut and dried. It can melt into an engagement of contemplation that transcends aversion and desire, approval and disapproval, attention to fact and nonfact.

Although Oakeshott does not make this move, it is reasonable to suggest that the manner in which religion supervenes upon practice is similar, if not identical, to the manner in which poetry supervenes upon practice. In both cases, the categorical integrity of a mode of experience is compromised or challenged in the direction of transformation. Perhaps the suggestive "totality of experience," a presumed underlying unity of the activity that is the self, to which Oakeshott alludes but does not, on principle, develop provides a foundation for these unstable categories. Oakeshott is not troubled by his own silence on the question of foundations. As always, he declines to wade into metaphysical waters, his idealism being more Kantian than Hegelian.

Does this partial divorce of the concept of religion from the despotism of doing allow religion, in the end, to recognize itself? It seems at least a partial victory. To relate religion to delight restores to it wonder,

awe, and sublimity. But it does not restore to it a divine Other; the circle of immanence has still not been broken. Oakeshott gives, in the experience of poetry, a *sensus numinus sine numino*. Jewish thought must continue to challenge Oakeshott here, but can only do so, of course, by entering into the conversation.

The Civil Condition and the Jewish Political Tradition

The chief problem that Oakeshott presents in this connection is his denial that the ideal of modern political community (which he calls "civic association" or *societas*) can have substantive, moral purposes. A related problem is Oakeshott's isolation of the ideal characteristics of statehood from nationhood, a theoretical move wholly at odds with Zionist and other nationalist thought. Oakeshott's ideal-typical polity rules out normative moral purposes such as those inherent in religious traditions.

Purposive communities, which Oakeshott terms "enterprise associations" or *universitates*, are different in kind from the civic association. *Societas* is based on common subscription to law (*lex*-Oakeshott uses Latin terms to emphasize the abstract, ideal quality of his postulates) by equals (*cives*). *Societas* is a nomocracy. *Universitas* is based on participation in a common purpose for the satisfaction of wants. *Societas* has no purpose in this sense. Even to say "to promote the general welfare and to secure the blessings of liberty for ourselves and our posterity" seems to say too much.

Societas and *universitas* are ideal types. Actual, historically contingent political associations combine these features. As Oakeshott puts it, "A state may perhaps be understood as an unresolved tension between the two irreconcilable dispositions represented by the words *societas* and *universitas*."[10] The fragile historic achievement of a state understood by its citizens in terms of the preponderance of *societas* over *universitas* is simultaneously the achievement of liberty and equality, although these goods should not be thought of as the purposes of the state. The achievement is negated wherever the desire for community, for natural forms of solidarity is allowed to prevail over the abstract relatedness of civility.

The second essay of *On Human Conduct*, "On the Civil Condition," is devoted to a theoretical delineation of the logical conditions ("postulates" in Oakeshott's vernacular) for civil association. The third and last essay, "On the Character of a Modern European State," traces the historical emergence of civil association as the ideal of Western politics.

Oakeshott's strong option for the nonpurposive, law-centered civic association over the purpose-driven enterprise association was meant to secure a sphere in which the fundamental equality of free human beings is a postulate. Only such a sphere can ground the free, intelligent conduct of human agents, a kind of Kantian kingdom of ends. In forms of association other than the civic one, such as those of family, economic, or military relations, it is typically the case that some are richer or poorer, more or less powerful, more or less able or adept at achieving the normative or substantive purposes of the association and are, hence, unequal. Oakeshott also wants to guard the modern state against ideological entanglements such as socialism or nationalism; he wants to delineate a discrete, experiential mode for the political and to restrain its scope and significance.

In light of these dichotomies, it is important to ask whether Jewish political thought would be on a collision course with Oakeshottian civic association and politics. Would Judaism be impatient with the metaphysical poverty of Oakeshott's vision of the political? Does the Jewish political tradition posit a political community of thick ties and moral purposes, drawn together under the umbrella of a covenantal bond, or does it posit a genuine and autonomous sphere of the secular alongside which a realm of sacred purposes perdures?

And, to ask a more contemporary question, is Oakeshott compatible with Zionism? Is the idea of a Jewish state fundamentally at odds with Oakeshott's vision of, as he puts it, *respublica*? Given the complexity and nuance of his thought, only a superficial description can be attempted here, as well as a first approximation of an answer to these questions.

Should a Polity Have a Common Purpose?

In an "enterprise association," or community, the focus is on the "joint pursuit of some imagined and wished for common satisfaction."

Agents thus related may be believers in a common faith and concerned or not concerned to propagate it, or they may be partners in a productive undertaking (a bassoon factory); they may be comrades or allies in the promotion of a "cause," colleagues, expeditionaries, accomplices, or conspirators; they may be joined in belonging to the same profession or in having the same trade; they may enjoy a "common life" or they may be united merely in having common enemies; they may comprise an army, a "village community," a sect, a fellowship, a party, a fraternity, a sodality, a *collegium*, or a guild. The ties of this association may be close like those of a corporation; or they may be the looser ties of partnership or alliance. The relationship may be long lasting or soon dissolved. The common purpose may be simple or complex, clearly identified or vaguely imagined; its achievement may be a near or a distant prospect, or no prospect at all, but an interminable engagement in the continuous promotion or protection of an enduring interest.[11]

Such associations may also be rule governed but the purpose of the rules is instrumental; they function as provisions to facilitate the management of the enterprise. The rules may be codified in a written constitution or in articles of association, bylaws, or oaths. There may be rituals of initiation and offices with specified duties and regulations. Such rules, however, do not constitute the purpose of the association; they are subordinate to the purpose of the association, whatever it may be, and are intended to organize the social pursuit of that purpose.

In the civic association, by sharp contrast, the rules have intrinsic value. Fidelity to a self-sufficient, authoritative system of rules (*lex*) *is* the purpose of such association. Following Aristotle, Oakeshott discerns self-sufficiency (*autarkeia*) as one of the criteria of the civic association-it is not subordinate to a purpose beyond its own form of life.[12] *Lex* is not, to use Kantian language (which Oakeshott does not), hypothetical but categorical. *Lex* has moral force rather than prudential utility. Wholly distinct from the satisfaction of wants, *lex* constitutes "the practice of being just."[13]

Agents (*cives*) related to one another through the practice of subscribing to *lex* constitute a *respublica*. Oakeshott likens their practice of acknowledging and enacting the authority of *lex* to speaking a language. Just as a language is an objective, public body of conventions (in Oakeshott's terms, a "practice" as distinct from individual "performances" or enactments of the practice), so too is civil association or civility (*civitas*) a mode of relationship founded on subscription to objective normative practices. These practices, embodied in historic but ever-evolving traditions, are performed, more or less well, by individual agents related to one another as *cives* solely through these norms.

As a practice, the civil condition is an enactment of human beings; a continuous, not a once-and-for-all enactment. And what is enacted and continuously re-enacted is a vernacular language of civil understanding and intercourse; that is, some historic version of what I have called the language of civility. This is not a stock of possible utterances, nor is it a vocabulary of clearly defined norms invoked on occasions of discord or conflict or interest; it is the instrument of that conversation in which agents recognize and disclose themselves as *cives* and in which *cives* understand and continuously explore their relation with one another.... The practice in terms of which *cives* emerge and are related to one another is unlike some other practices in being composed entirely of rules; the language of civil intercourse is a language of rules; *civitas*is rule-articulated association.[14]

Oakeshott eschews any myth of origin for his nomocratic *respublica*. Hobbesian social-contract theory, which anticipates *societas* in his sense, is understood in a logical sense not a material one.[15] *Societas* has logical and historical conditions but other than these it is foundationless. Both natural law and divine command are entirely alien to Oakeshott's secular idealism. Civil association is sustained by the continuing subscription of individual agents to conditions they believe-the reasons for their belief are irrelevant to Oakeshott-are morally obligatory. *Lex* is an authoritative system that includes rules for its own application, adjudication, extension, revision and, crucially for politics, governance.

Governance is necessary because "*lex* is unable to interpret, to administer, or to enforce itself [and thus] postulates an apparatus of rule."[16] Governance is an exercise of authority under *lex*; it derives its authority from *lex*. Should the ruler, whatever the regime form of rule might happen to be, contravene the publicly acknowledged, shared rules of *lex*, the form of association will no longer be civil association nor will there any longer be *cives*. A historic achievement, to the extent that the modern European state has approximated the ideal of *societas*, will have been lost. All that holds such an order together is what Oakeshott poetically calls "that relation of somewhat 'watery' fidelity called civility."[17]

Lines of Inquiry

The Jewish political tradition, of course, envisions a more intense bond of fidelity than Oakeshottian civility. Nor is it committed to his skepticism about metaphysical claims and grounds. But before differences are underlined, some similarities should be considered.

The Jewish tradition is preeminently constituted, at least ideally, by the common subscription of its denizens to a self-sufficient system of law. Torah is equivalent, not to any empirical, positive legal system, but to that transcendent ideal that Oakeshott denominates as *lex*. Oakeshott is less concerned about how *lex* comes into being than what functions it has, how it authenticates itself, how it relates to moral norms or how it generates and constrains governance.

The rich Oakeshottian analysis of *lex* could open up productive lines of inquiry into the always controversial relations between Torah and law, Torah and ethics, and Torah and politics. The nonpurposive self-sufficiency of *lex* accords with those elements of Jewish tradition that refuse any instrumentalizing of Torah. "Would that they forsook Me," God is supposed to have said, "and kept my Torah."

To the extent that Judaism can be construed as a nomocracy with a distinction between public conditions of fidelity and a subjective or private sphere more or less irrelevant to the objective, practice-constituted one, then Oakeshott's analysis is relevant. If Torah is better understood less as a nomocratic constitution and more as the charter of a virtue ethics, where individual and corporate striving for excellence, whether moral or spiritual, predominates, then Oakeshott's idiom is too alien to be of service.

The minimalist "wateriness" of fidelity to *respublica*, the abstract quality of the identity of the *cives*, requires that there be richer sources of identity and selfhood beyond the sphere of the political. Thus, Oakeshott gives a large scope to traditional sources of moral formation. Man is more than, but should not be less than, a *cives*. Such strictures preclude the efforts of states to create new Soviet or Hebrew men. The identity of a citizen, restricted though it is, is nonetheless sufficient for the practice of public justice, of citizenship and rule. Everything else can be left to social institutions and their practices outside the sphere of politics, strictly constituted.

Oakeshott is helpful both in thinking about the significance of metapolitical civil society and in helping restore fullness to the political identity of citizenship, a casualty of the contemporary privatization of life. His categories can offer both the Jewish people and the Jewish state insightful ways of thinking about the universality of political ideals and the particularity of Jewish identity, belonging, and tradition.

But what of the purposiveness of the Jewish political tradition? Is not Judaism, as a politically organized historic faith community, about substantive purposes such as the creation of a holy commonwealth rather than of a *respublica* that allows for some purely mundane criteria of just conduct *inter homines*? This appears to be the case. Although a "secular" strain of Jewish political thinking, based on pragmatic evaluation and calculation, has existed since the beginning of the Jewish people's worldly career, this dimension is subordinate to sacred purposes. It is impossible to conceive of the Jewish people, in classical terms, as other than a sacrally oriented "enterprise association."

Nor does the situation become more accommodating for Oakeshottian categories when integral sacred nationhood is transposed into modern, secular nationhood. The whole notion of nationhood, however construed, is at odds with Oakeshott's stringent existence conditions for *respublica*. As he descends from pure theory to historical explication and analysis in Part 3 of *On Human Conduct*, however, the ideal

types of *societas* and *universitas* intermingle. *Respublica*and *communitas*, their ideals pulling in different directions, are conjoined in the real world.

Here the dilemmas of actual societies become apparent: the guarantee of abstract rights, constitutive of citizenship, as against the ties of ethnicity or religion; the sufficiency of secular arguments for the rule of law vs. the felt need for transcendent foundations for authority; the affirmation of individuality, privacy, and liberty vs. communitarian aspirations of solidarity. These tensions beset the Jewish state, as a modern state, no less than the European states that Oakeshott examines.

Conclusion

Oakeshott was emphatic that his thought should have no practical implications. His work was to be an exercise in theorizing for its own sake. It is perhaps misguided, then, to try to settle in advance what a Jewish thinker can use or must reject as useless. To use Oakeshott is to misuse him. To enter into a conversation with him is to enter into the ongoing or, as he would say, diurnal conversation of mankind, a fitting place for the voice of Judaism to sound.

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Notes

[1] Josiah Lee Auspitz, "Individuality, Civility and Theory: The Philosophical Imagination of Michael Oakeshott," *Political Theory*, Vol. 4, No. 3 (1976): 261-94; Efraim Podoksik, *In Defence of Modernity: Vision and Philosophy in Michael Oakeshott* (Exeter: Imprint Academic, 2003). The only Jewish philosophical essay to discuss Oakeshott of which this author is aware is Elliot B. Gertel, "Moving beyond 'History': The Challenge of Michael Oakeshott," *Conservative Judaism*, Vol. 44 (Summer 1992): 3-32.

[2] Steven Grosby, "Pluralism in the Thought of Oakeshott, Shils and Weber," *Journal of Classical Sociology*, Vol. 2, No. 1 (2002): 44.

[3] Michael Oakeshott, *Religion, Politics and the Moral Life*, ed. Timothy Fuller (New Haven: Yale University Press, 1993), 40.

[4] Ibid., 30.

[5] Ibid., 35.

[6] Michael Oakeshott, *Experience and Its Modes* (Cambridge: Cambridge University Press, 2002), 292.

[7] Ibid., 294-95.

[8] Michael Oakeshott, *On Human Conduct* (Oxford: Clarendon Press, 1975), 81.

[9] Michael Oakeshott, *Rationalism in Politics and Other Essays* (Indianapolis: Liberty Fund, 1991), 540.

[10] Oakeshott, *On Human Conduct*, 200-01.

[11] Ibid., 114.

[12] Ibid., 110, 119.

[13] Ibid., 128. One way to think about Oakeshott's dichotomy between the prudential and the moral, or the useful satisfaction of wants and the just action performed for its own sake, is in terms of the distinction

between the right and the good. The civil association has to do with the right; the enterprise association with the realization of some goods.

[14] Ibid, 123-24.

[15] Ibid., 232-33.

[16] Ibid., 142.

[17] Ibid., 147.

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