

## Abstract

This volume deals with the interactions between Judaism—specifically, Jewish Law—and human rights. The concept of human rights has a number of meanings. This book seeks to adopt an approach that recognizes that human rights, from an analytical standpoint, are, in effect, a mediating factor between values and obligations, or from a cultural one, a particular mode of expression of a value system that underpins these rights.

Judaism is multifaceted. This study focuses on its normative appearance—in Jewish Law (halakhah). The argument is that halakhic discourse is characterized by a value system that has an impact on the decisions made within its framework as well as on its nature and design. While, at times, this influence expresses itself openly, it is generally communicated in a concealed manner, affecting the interpretive process. On the hidden, sometimes indirect, level, Judaism and human rights share a broad common denominator, which is manifested in the roots that set these systems in motion, each in its own way. **In light of the above, one must consider the main thrust of the encounter between human rights and Judaism on this basic level; that is, on the level of the values common to both of them.** The gaps that exist between the two are a legitimate expression of moral pluralism, which enables the maintenance of a range of modes of thinking, as long as all systems recognize the same basic values, with the value of human life and human dignity the central values of all.

This volume aims to analyze the characteristics of the encounter between Judaism and human rights. After presenting the essential theoretical foundations for the discussion—regarding both the principal meanings of human rights as well as the feasibility of moral

discourse in Jewish Law—we shall examine the practical meeting between the two. In this case, as noted, the discussion will follow two paths. The first will look closely at the overt meeting between these systems; namely, instances in which human rights serve as an open, decisive consideration in halakhic discourse, as manifested in halakhic principles such as *kevod ha-beriyot* (which some define as respect for all living things). This path is relatively narrow, and it is difficult to consider it a productive ground for analyzing the meeting between the two systems. The second, the covert path, reveals the inexplicit values prompting halakhic interpretive processes that lead the Jewish Law to determinations that are in line with the values at the base of human rights discourse. This is true for varied examples, from the talmudic interpretation of the meaning of the Torah's reference to the four species of Sukkot, through post-talmudic halakhic values that placed people with disabilities on a par with all others for the purposes of prayer, to deliberations behind talmudic and post-talmudic determinations concerning personal status and capital cases. A test case—the value of life—is brought to illustrate these notions. It demonstrates the shared foundations of Jewish Law and human rights discourse, as well as the junctures at which these two systems diverge.

This book does not attempt to argue that the moral values in Jewish Law, foremost among them the value of life and human dignity, are the only values influencing Jewish Law, or that the nature of the specific encounter between Jewish Law and human rights is the only one that characterizes halakhic discourse. On the contrary, within Jewish Law there are also gaps and internal conflicts, such as those concerning the issue of violating the Sabbath in order to treat a non-Jew who is ill. Yet, the claim is made here that the basic values discussed above occupy a central position in halakhic discourse—at times in the middle—between rhetoric and essence, dominant though not exclusive.

The process that has been employed in this analysis seeks to attenuate the rights-obligations dichotomy and to focus on a more basic, hidden level, which creates the two sides of the dichotomy. This does not negate the differences between Jewish Law and human rights discourse. The argument, however, is that a pluralistic approach enables recognition of these two possibilities for expression and considers them to be of equal value, as long as they agree on basic values. Ultimately, the current volume proposes a **theoretical model** for analyzing the relations between human rights discourse and Judaism. The extent of the implementation of this model and the weight of the values within it varies from time to time, from place to place, and from thinker to thinker. The common denominator, however, is quite broad and valuable. It opens a window onto a topic in need of exposure and to the firm establishment of dialogue between Jewish Law and human rights.