THE INTERDISCIPLINARY STUDY
OF LAW AND HISTORY:
METHODOLOGICAL REFLECTIONS

A PANEL DISCUSSION

THE CENTER FOR JEWISH LAW AND CONTEMPORARY CIVILIZATION
THE JACOB BURNS INSTITUTE FOR ADVANCED LEGAL STUDIES
THE LEONARD AND BEA DIENER INSTITUTE OF JEWISH LAW

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Until recently, historians have regarded legal systems as a set of objective social facts best described by outside observers. Typically, the historian viewed legal rules and decisions as responses to and, therefore, reflections of economic, social and political conditions in the surrounding culture. Law was seen as a body of factual information, referring either to social contexts or rules.

Scholars and practitioners of law, however, have maintained that law is not merely a set of rules or a functionalist response to the social world. It is, they claim, a cognitive activity, a normative practice, with its own distinct language and logic that must be understood from within.

In recent years, the disciplines of law and history have met somewhere in the middle of this dichotomy. This has been accomplished largely through the study of legal theory. Historians have begun to understand that anyone who wishes to offer a historical account of law in society cannot merely approach law as raw data; one must understand how the players in the legal system think.

Law, also, has come to understand that the study of how jurists think is not solely a matter of investigating legal statutes and decisions. One must understand the intellectual and historical contexts that have shaped the thinking and reactions of jurists and the statutes and decisions they have created.