

*The Relationship of
Orthodox Jews with
Believing Jews of Other
Religious Ideologies and
Non-Believing Jews*

THE ORTHODOX FORUM

The Orthodox Forum, initially convened by Dr. Norman Lamm, Chancellor of Yeshiva University, meets each year to consider major issues of concern to the Jewish community. Forum participants from throughout the world, including academicians in both Jewish and secular fields, rabbis, rashei yeshivah, Jewish educators, and Jewish communal professionals, gather in conference as a think tank to discuss and critique each other's original papers, examining different aspects of a central theme. The purpose of the Forum is to create and disseminate a new and vibrant Torah literature addressing the critical issues facing Jewry today.

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Orthodox Jews with
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EDITED BY
Adam Mintz

Robert S. Hirt, Series Editor

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Series Editor's Preface

This volume offers a wide range of historical, theological, *halakhic*, educational, and communal perspectives on the challenges and considerations faced by those who endeavor to build bridges with believing and non-believing Jews in our community, while steadfastly maintaining their sacred commitments.

While formal denominational relationships organizationally in Jewish life have declined, the interaction between Orthodox Jews and non-Orthodox Jews on personal and family levels and in the work place has never been greater.

By and large, in North America, Jews of all movements live in the same communities, engage in professions and in the business world, and are members of the same extended families. Secular organizational stridency and religious organizational posturing are of little or no interest, particularly to the marginally affiliated. There is a growing interest among young Jews with limited formal Jewish education (Birthright Israel and Wexner Heritage Alumni represent notable examples) in learning more about their religion, Jewish values and

practice. To them, synagogues and day schools are seen as more vital and inspiring institutions than defense and philanthropic entities. The respect for kashrut, Shabbat observance and Torah study at events sponsored by secular communal organizations have never been more in evidence.

While there is no dramatic statistical increase in Orthodox affiliation, there is documented evidence that Orthodoxy today is a growing movement with a young, knowledgeable and observant constituency. A critical question for Orthodoxy today is whether it will see itself as a sectarian movement or one that eagerly embraces concerns facing the Jewish People as a whole. Will Orthodoxy seek to engage non-Orthodox Jews in the celebration of Jewish life? Will the Orthodox community sense the urgency and welcome participation with non-Orthodox Jews to address the serious decline and erosion of Jewish communities in the Diaspora? Will Orthodox synagogues and day schools be welcoming of others beyond their ranks and to do so as a genuine act of love rather than to increase their numbers, resources and influence? Mindful of Rabbi Joseph B. Soloveitchik's *zt"l* formulations, will the community committed to the Covenant of Faith find new ways to interact with other Jews with whom they share the Covenant of Fate?

In secular groups in the State of Israel today, there is a renewed interest to embrace the study of classical Jewish texts and culture to strengthen their Jewish identity and not only their Israeli identity. One can see the voluntary introduction of Jewish content in secular schools and in the arts as well. Whether these efforts result in seeking greater substantive interaction between the secular and religious elements in the society remains a question.

At the intergenerational Passover Seder table, all are welcome. Can warmth and joy of the family gathering be extended to other settings at other times of the year? Can a common language and shared spiritual experiences break down existing barriers and lead to the exploration of new strategies to strengthen our bonds as one people in the Diaspora and in the State of Israel? Now is the time to address these issues.

We are grateful to Rabbi Adam Mintz who has devotedly and skillfully edited this volume. Rabbi Mintz and the The Orthodox Forum

Planning Committee have succeeded in bringing together thoughtful American and Israeli rabbis, scholars and leaders to address the reality of polarization within our community as well as the challenges and opportunities to narrow the gap.

We trust that the volume will serve to stimulate a new sense of urgency and vigor within diverse segments of our community, to appreciate that what unites us is more compelling than which divides us, and that much can be done today to enrich the Jewish experience for all Jews.

Robert S. Hirt
November 2009

Introduction

Adam Mintz

In 1989, the Orthodox Forum was established by Dr. Norman Lamm, then President of Yeshiva University, to consider major issues of concern to the Jewish community. Academicians, rabbis, *rashei yeshiva*, Jewish educators and communal professionals have been invited each year for the past two decades to come together for an in-depth analysis of one such topic. This group has constituted an Orthodox think tank and has produced a serious and extensive body of literature.

The topic that was chosen for the conference held in the year 2009 was “The Relationship of Orthodox Jews with Believing and Non-Believing Jews.” It reflected the challenges that face the Orthodox community, both personally and institutionally, regarding their relationship with those Jews who are not Orthodox, both in Israel and the United States.

In an earlier Orthodox Forum volume entitled *Jewish Tradition and the Non-Traditional Jew*, Jacob J. Schacter began his Preface with the following words:

One of the central problems facing the contemporary American Jewish community is the progressively deteriorating relationship between the various denominations within

Judaism...Most problematic is the fact that this deterioration is taking place at a time when the vast majority of American Jews are not formally affiliated with any religious movement at all and are in the process of being lost to the terrible scourges of intermarriage, assimilation, apathy and indifference.¹

While the rate of assimilation and intermarriage continue to rise among American Jews, much has changed since these words were penned in 1992. The trend toward increased affiliation within Judaism as expressed in the religious, cultural and political arenas has brought many non-Orthodox Jews and previously secular Jewish organizations back to the framework of the Jewish community. It is for this reason that the Orthodox Forum has chosen to return to evaluate and analyze a topic that was previously addressed by this think tank and to consider the significant changes that have taken place in both the Orthodox and non-Orthodox community in the past seventeen years.

While the phenomenon of increased affiliation by the non-Orthodox has been welcomed in most Jewish circles, it has created a special challenge for the Orthodox community. How is the Orthodox community to maintain its strict commitment to the ritual and theological foundations of Judaism while at the same time recognizing the actions of these groups and individuals who, while rejecting many religious norms, have chosen to join the Jewish community in serious and substantive ways? Rabbi Aharon Lichtenstein has written in his contribution to this volume, "Before we choose a course of action, we must effect a change of mindset and a change of heart. We must, at the very least, reduce the level and the scope of mutual demonization." Yet, what is the nature of the desired mindset change? Are the Orthodox being called upon to relax their allegiance to Torah and *mitzvot* in order to include these newly affiliated Jews into the orbit of Jewish peoplehood? This cannot and must not be the desired goal. However, if this is not the goal, what changes are to take place in the Orthodox community that will open the door, even slightly, and allow these Jews to enter?

Furthermore this issue has varied applications in the State of Israel and in North America. Rabbi Lichtenstein concludes his contribution

to this volume with the following postscript: “When a *dati* and a *hiloni* have sat in a tank jointly, their common safety and respective futures often inextricably intertwined – the reality of their relation is perceived, intuitively and existentially, in light of their very special situation.” The relation between the *shomer Torah u-mitzvot* and the secular Jew in America often does not share that sense of purpose and of destiny. How does this distinction affect the manner in which the Orthodox community addresses the challenges of these secular communities in Israel and America today?

This volume, an outgrowth of the Orthodox Forum conference held in March, 2009, presents a selection of scholarly essays aimed at addressing the multi-faceted aspects of this issues from a historical, *halakhic*, educational, sociological and ideological perspective. It is the goal of these essays to analyze the challenges while at the same time recognizing the opportunities and potential for the future.

The volume begins with Jonathan Sarna’s historical survey of the Orthodox involvement with the non-Orthodox in the United States. He traces the many examples of events in which the American Orthodox struggled between their commitment to the unity of the Jewish people and to maintaining their Orthodox values and practices. Sometimes these two factors could be integrated while other times they created the necessity to choose one or the other. The second paper, written by Sylvia Barack Fishman, explores the Orthodox participation in trans-denominational Jewish activity. Prof. Fishman addresses many of the issues based on her personal experience participating as an evaluator on a Birthright Israel mission.

Rabbi Jack Bieler and Ahuva Halberstam examine the experience of Orthodox teachers in non-Orthodox or Jewish community schools. Rabbi Bieler conducted extensive interviews with 40 Orthodox educators who are employed in non-Orthodox schools. He evaluates their responses and places them within the context of the traditions of Jewish education. Ms. Halberstam presents the background, philosophy and curriculum of the Abraham Joshua Heschel High School in New York, where she serves as head. When it opened its doors to forty-two ninth-graders in September of 2002, the Heschel High School became the first pluralistic, multi-denominational school in the New York area.

Its current student population of just-under three-hundred, draws students from New York, Westchester, Long Island, as well as students from New Jersey and Connecticut.

The following two papers, written by Rabbi Mark Dratch and Marc Stern consider specific issues that confront the American Orthodox community. Rabbi Dratch addresses the issue of intermarriage and discusses the traditional Orthodox rejection of intermarried couples along with the trend, prominent especially in communities outside of the New York area, for the Orthodox to work together with the broader Jewish community. Marc Stern traces the past thirty years of Jewish professionals in non-Orthodox Jewish communal agencies. His personal experience is integrated with both the *halakhic* and sociological evaluation of the importance of the involvement of Orthodox professionals in the wider Jewish community.

The following three essays were written by *rashei yeshiva* who address the *halakhic* and social ramifications of the non-Orthodox Jew in both Israel and the United States. Rabbi Lichtenstein attempts to draw the sensitive line between cooperation with the non-Orthodox and maintaining the *halakhic* distinction between the Orthodox and non-Orthodox through his evaluation of the *halakhic* material and his personal experiences. Rabbi Cherlow and Rabbi Reiss attempt to redefine the category of secular and non-Orthodox Jews in *halakhic* terminology. They both agree that the categories previously suggested by rabbinic authorities no longer adequately identify these non-Orthodox Jews. Rabbi Cherlow's emphasis on secular Israeli Jews and Rabbi Reiss' focus on non-Orthodox American Jews, serves to distinguish between the communities and the issues they are facing.

The following article by Jeffrey Saks attempts to compare the Orthodox relationship with the non-Orthodox in America and the relationship of the Orthodox and the secular in Israel. He highlights both the similarities and, more importantly, the differences within the American and Israeli models. Stuart Cohen studies the Israel Defense Forces as a potential Israeli "melting pot." Yet he concludes that the relationship between the Orthodox and the secular in the IDF is complex and that time has not bridged the gap between the two segments of the IDF. Yoel Finkelman studies the relationship between

the Religious Zionists in Israel and the secular Jews through an analysis of a variety of *Parshat Ha-Shavua* sheets that are distributed in numerous shuls each week. He concludes that these sheets are not merely a source of criticism of the non-Religious Zionists. Rather, they also serve to identify the values and morals of the Religious Zionists by differentiating between themselves and members of the other ideological and religious camps. Finally, Marshall Breger asks, “Are There Lessons Religious Zionism Can Learn From Modern Orthodoxy in America?” He analyzes this question from many different angles and concludes that the religious pluralism of American Judaism might serve as a model for the Israeli religious system.

Prof. Sarna concludes his essay with an insightful comment concerning American Jewry:

Since the colonial era, we have seen, tensions have divided those who seek compromise for the sake of Jewish unity from those who demand firmness to uphold sacred Jewish principles. Looking back, this tension has proved beneficial in many ways. The compromisers and the uncompromising have, over time, checked each other’s excesses. Irreconcilable as the two may appear, they have accomplished together what neither might have accomplished separately: preserving the delicate balance between Orthodox distinctiveness and the unity of the Jewish people.

While the circumstances differ, this balance has also been achieved in the Israeli religious scene. It is an understanding and appreciation of that “delicate balance” in both countries that this volume hopes to achieve.

I would like to acknowledge those people who have been instrumental in the Orthodox Forum and the completion of this volume. This project has been spearheaded by Dr. Norman Lamm, Chancellor of Yeshiva University and convener of the Orthodox Forum. My rabbinic development is a product of the many years of his leadership and the opportunity that I have had in recent years to learn from him on a more personal level. Rabbi Robert Hirt, Vice President Emeritus, Rabbi Isaac Elchanan Theological Seminary, an affiliate of

Yeshiva University and editor of the Orthodox Forum series, provides the consistent vision and involvement that insures the quality of the annual conferences and the accompanying volumes. Rabbi Hirt has been an inspiration for me since my earliest days at Yeshiva College and I continue to admire his passion and energy in the cause of the Orthodox Forum and the model of Orthodoxy that it represents. Finally, Mrs. Sara Kessler's gracious assistance has made this job significantly easier and I am grateful to the members of the steering committee who helped to develop the concept for this volume and guided its production.

NOTES

1. Jacob J. Schacter, "Preface" in *Jewish Tradition and the Non-Traditional Jew* (Jason Aronson Inc, Northvale, NJ, 1992), xiii

1

The Relationship of Orthodox Jews with Believing Jews of Other Religious Ideologies and Non-Believing Jews: The American Situation in Historical Perspective

Jonathan D. Sarna

A central paradox underlies “the relationship of Orthodox Jewish with believing Jews of other religious ideologies and non-believing Jews in America.”¹ On the one hand, Orthodox Jews, non-Orthodox Jews, and non-Jews periodically trumpet the “unity of Israel”—whether as an

ideal, a presumed reality, or an administrative convenience. On the other hand, they likewise take cognizance of the “disunity of Israel,” which they alternatively cheer, lament, or ignore. Historically, Orthodox Jews in particular have long faced conflicting goals: some have stood first and foremost for cherished religious principles while others have placed primary emphasis on preserving Jewish unity. In the American setting, most often these two goals have proved impossible to reconcile.

In Colonial America, before anyone knew of “Orthodox Jews,” much less of other Jewish religious ideologies, the problem of how to relate to Jews who “daily violate the principles [of] our holy religion, such as Trading on the Sabath, Eating of forbidden Meats & other Heinous Crimes,” arose in New York in 1757. The Parnasim and Elders of the city’s only synagogue, Shearith Israel, basing themselves upon biblical and rabbinic tradition, took a hard line:

Whoever for the future continues to act contrary to our Holy law by breacking any of the principles command [principal commandments?] will not be deem’d a member of our Congregation, have none of the Mitz[v]ote of the Sinagoge Conferred on him & when Dead will not be buried according to the manner of our brethren.²

Within six months, following what appears to have been significant pressure, they reconsidered:

Whosoever may thinck that they are quallified but wrongfully debar’d being called to Sepher or any other Mitz[v]ote in Sinagoge, they are requested of themselves or their Friends for them to acquaint the Ruling Parnaz of the same, that none who are worthy may be unjustly neglected or deprived Thereof. The Parnasim like fait[h]ful Sheepards call into the fold the wandring sheep, leaving the ways of men to the Righteous God, not doubting but every member of this Community is convinced the Parnasim & Elders had anything else in view in the last Exhortation but the establishing & supporting our holy religion.³

Absent state support, synagogues in colonial North America depended on voluntary contributions. Coercive measures aimed at strengthening religious discipline proved unpopular, especially in a colony like New York where many believing Protestants were openly latitudinarian in their faith. As a result, colonial American synagogues learned to patrol the “edges” of irreligious behavior, much as New England congregational parishes of the time did. Torn between irreconcilable goals—the desire to combat sinful behavior and the need to preserve communal consensus—synagogue leaders blazoned the possibility of censure but generally pulled back in the face of dissent.⁴

The American Revolution introduced a new element into the question of how to relate to Jews of other religious ideologies. In addition to overthrowing the British, the Revolution also discredited the Anglican Church, with its hierarchic model of organization. The congregational form of governance characteristic of Protestant dissenters from Anglicanism came to characterize much of American religion, and especially American Judaism. Already in the days of George Washington, congregations proved reluctant to cede authority, even to the prestigious “mother” congregation, Shearith Israel of New York. That unwillingness explains, in part, why Washington received three different letters from American Jews (one from the congregation in Savannah, another from Newport, and a third from congregations in Philadelphia, New York, Charleston, and Richmond), rather than just one letter from a united Jewish community. Each congregation cherished its independence.⁵

In addition, the new world of American religion, which did away with restrictive colonial laws and monopolistic church establishments, came to be characterized by a series of principles that would have far-reaching effects on American Judaism. Four of these are particularly important to our theme: (1) religious freedom, (2) church-state separation, (3) denominationalism (“the religious situation created in a land of many Christian churches and sects when none of them occupies a privileged situation and each has an equal claim to status”), and (4) voluntarism (“the principle that individuals are free to choose their religious beliefs and associations without political, ecclesiastical, or communal coercion”). The fact that America fully legitimated indi-

vidual religious freedom as well as a plethora of religious options, and banned government from favoring any particular religious movement or from prescribing religious “heresy,” dramatically distinguished the post-Revolutionary United States from every other country where Jews then lived.⁶

The decades that followed witnessed a whole series of confrontations that pitted synagogue leaders in America against malcontents, some of whom we might anachronistically characterize as “believing Jews of other religious ideologies.” In 1782, for example, Mikveh Israel congregation in Philadelphia banned Jacob I. Cohen from marrying a widow, Esther Mordecai, who had converted to Judaism years before; the marriage of a *kohen* to a *giyyoret* is, of course, halakhically forbidden. The marriage took place in any case, defiantly witnessed by three distinguished Philadelphia Jewish laymen (including Haym Salomon), who married the couple privately. Having been apprised of Jewish law, they knowingly placed Cohen’s liberty and happiness above its dictates.⁷

Three years later the same congregation complained to Rabbi Saul Halevi Loewenstamm in Amsterdam that a local businessman named Mordecai Mordecai, the son of a rabbi from Telz, took the law into his own hands on two separate occasions. First, in an apparent attempt to reconcile members of his extended family, he performed an unauthorized Jewish marriage ceremony on a previously intermarried couple, his niece, Judith Hart, and her unconverted husband, Lt. James Pettigrew. On another occasion he openly flouted synagogue authority by performing the traditional last rites on Benjamin Clava, an identifying but intermarried Jew whom the synagogue, as a warning to others, had ordered buried “without ritual ablution, without shrouds, and without funeral rites.” On both occasions Mordecai vigorously defended his actions, insisting that he knew Jewish law better than those who judged him. Seeking to enlist Rabbi Loewenstamm on their behalf, the congregation’s leaders explained that “In this country . . . everyone does as he pleases. . . . Yet, the *Kahal* [community] has no authority to restrain or punish anyone, except for the nominal penalty of denying them synagogue honors, or of withholding from them sacred rites. However, these vicious people completely disregard such measures and contin-

ue to attend our synagogue, because under the laws of the country it is impossible to enjoin them from so doing.” In other words, Jews in post-Revolutionary America were making their own rules concerning how to live Jewishly, and there was little that the synagogue could do about it.⁸

As confrontations multiplied, a new generation of American Jews, born after the American Revolution, successfully challenged the model of American Judaism that had existed to that time. In the 1820s, Jews in the two largest American Jewish communities, New York and Charleston, seceded from the “established synagogues” of their communities and formed new ones: in New York the Ashkenazic synagogue, B’nai Jeshurun, and in Charleston, The Reformed Society of Israelites for Promoting True Principles of Judaism According to Its Purity and Spirit. The hallowed “synagogue–community” model of American Judaism, which assumed that each community would be organized around a single synagogue that unified Jews and governed all aspects of their religious lives, as a result gave way to a more free-wheeling marketplace model of American Judaism: the “community of competing synagogues.”⁹

Two decades later the population of the American Jewish community had significantly grown—reaching perhaps 15,000 Jews, mostly from Central Europe—and synagogues opposed to demands for “Reform” began for the first time to label themselves “Orthodox.”¹⁰ With multiple congregations competing against one another in major communities, religious conflicts no longer just pit synagogue leaders against dissenting members, as had been the case in the immediate post-Revolutionary decades. Instead, conflicts now pitted synagogue leaders against one another, some promoting religious change, others standing firm for tradition. Both groups generally trumpeted the importance of unity, just as Protestants at that time did, but as a rule communal unity proved impossible to reconcile with cherished religious principles.

The issue came to a head, for the first time, at a national conference of Jewish clergy and lay leaders held in Cleveland in 1855. The meeting, called by Isaac Mayer Wise, brought together the two giants of American Judaism—Isaac Leeser, editor of the *Occident* and leader

of the moderate “Orthodox” camp, and Wise, editor of the *Israelite* and leader of the moderate “Reform” camp—in a bid to promote what was called *Shalom Al Yisrael*. Wise and Leeser spoke of fashioning an overarching ecclesiastical assembly (“synod”) for American Jews, a common liturgy, and a plan for promoting Jewish education.¹¹

What makes the conference significant in terms of our topic is the reluctance of many Orthodox rabbis, especially those religiously to the right of Leeser, to attend the gathering. Abraham Rice, Morris Raphall, Henry A. Henry, and Abraham Joseph Ash all refused to participate, fearing that the conference would be manipulated by Wise and his allies and would legitimate Reform in the eyes of the public. Rice, the first formally ordained rabbi to immigrate to America, complained that many of those coming to the conference lacked religious standing; they “assumed in this country the title of Rabbins... [they] have put on their own heads the rabbinical cap.”¹² In the end, the conference, which began on a conciliatory note, endorsed a series of Reform proposals that were introduced and passed only after Leeser had returned to Philadelphia. In response, Bernard Illowy, who had initially agreed to join Leeser in Cleveland but then changed his mind, called on his erstwhile friend to own up to the fact that attending the joint rabbinical conference in the first place had been a mistake:

I know your good heart and that you have acted with a pure heart, without deceit. But I advise you to make yourself clear before all. Therefore, chastise those people in public. Tell them that their actions belie their words, and that their spirits are not faithful to Judaism. Let them change their ways and say, “We have sinned.” Then everyone will believe that you and the men with you are true followers of the God of Israel.¹³

The Cleveland Conference, designed to unite America’s Jews, in the end underscored their deepening ideological divisions. These divisions were confirmed by the next effort to unite American Jewry, the Board of Delegates of American Israelites, established in 1859. The Board had no religious aims; its goals were to “keep a watchful eye on all occurrences at home and abroad” and to collect statistics. It mod-

eled itself after London Jewry's influential Board of Deputies and was stimulated, in part, by the worldwide Jewish campaign to free Edgardo Mortara from the House of the Catechumens in Rome. Nevertheless, only about a fifth of America's synagogues participated in the Board's work. Even though moderate Orthodox leaders such as Samuel M. Isaacs and Leeser dominated the Board, the two largest Sephardic synagogues stayed away, fearing that their freedom and independence might be challenged. Most Reformers stayed away as well, charging that the board intended to "interfere with the internal affairs of the congregations."¹⁴

On the eve of the American Civil War, then, leading American Jews were divided: some advocated compromise for the sake of Jewish unity while others urged steadfastness in defense of cherished religious principles. The debate was not unique to Jews. Protestants conducted parallel debates, and in many ways the Civil War too pitted "unity" against "principle." The dispute among Orthodox Jews concerning how to relate "with believing Jews of other religious ideologies and non-believing Jews" echoed key aspects of this debate. The issue would be taken up again and again over the next 150 years but would never conclusively be resolved.

The coming of over two million East European Jews to America (1881-1924) reignited the debate over the appropriate relationship of Orthodox to non-Orthodox Jews. Whereas some in the 1870s had believed that "the meager residues of Orthodoxy which one still finds in this land are insignificant," and that Reform Judaism would shortly become "Minhag America,"¹⁵ mass immigration turned the tide. Soon Reform Jews found themselves in the minority.

Outsiders knew little of this issue and viewed Jews as a single community. They considered the ethnic and religious differences among Jews to be far less significant than the "blood" (or "race") ties marking all Jews alike as different from Christians. Inevitably, this "ascribed" identity affected Jewish self-identity. Based on longstanding Jewish values, moreover, native-born Central European Jews and immigrant East European Jews also began to interact more with one another, particularly in philanthropic and communal settings. Sharing as they did

a common fate, the two worlds of American Jewry slowly but inexorably began to bond.

The Protestant ecumenical movement further spurred such interreligious ties among Jews. At a time when the Protestant majority in America joined together in support of the “social gospel,” overseas missions, and the Federal Council of Churches (established in 1908), similar cooperation among Jews seemed only appropriate.

A series of challenges promoted intracommunal cooperation. The 1903 Kishinev pogrom that saw 47 Jews killed and 424 wounded, as well as 700 houses burned and 600 looted, outraged American Jews and united them in protest. At a mass meeting in Atlantic City, Simon Wolf, a proud German Reform Jew and a leader of B’nai B’rith, delivered a masterful address in English, followed by the well-known Orthodox Zionist preacher Zvi Hirsch Masliansky, who spoke no less masterfully in Yiddish. In Philadelphia the Socialist leader Abraham Cahan announced that at times of calamity “there should be no distinction made between socialist, orthodox, or radical.” He practiced what he preached, observing that “he, the leader of the socialists, known as the infidel, the heretic, stands now in an orthodox synagogue and preaches from the same pulpit with Rev. Masliansky and Rabbi [Bernard] Levinthal.” With Jewish lives at stake in Russia, Orthodox and non-Orthodox Jews, believers and non-believers alike, as well as notable non-Jews, all stood shoulder to shoulder. Their shared goal was *pikuah nefesh*.¹⁶

The prolonged campaign to abrogate America’s 1832 treaty of commerce with Russia, where Jewish tourists and even visiting American Jewish dignitaries faced discrimination on religious grounds, promoted some of these same cooperative efforts. So did the long political battle to keep America’s doors open to immigrants. In both cases, Central and East European Jews, Orthodox, Reform, and secular Jews, all had the satisfaction of knowing that they had worked hand in hand in support of a common aim. Religious differences had not prevented them from speaking with one voice on issues of shared communal concern.¹⁷

In New York at the same time, domestic challenges brought Jews together in an unprecedented way. On February 27, 1909, in response

to New York City police commissioner Theodore A. Bingham's charge (quickly disproved and retracted) that the "Hebrew race" produced "perhaps half" of the city's criminals, and in an effort to combat a wide range of social and religious ills within the city's Jewish community, 300 delegates representing every element within Jewish life met to form what became known, employing a word of great historical resonance, as the Kehillah—the organized Jewish community of New York. The new organization combined elements of traditional European-Jewish communal structures with American-style Progressive-era democracy. The Kehillah's sponsors, its historian explains, "envisioned a democratically governed polity which would unite the city's multifarious Jewish population, harness the group's intellectual and material resources, and build a model ethnic community"—based, of course, on the principle of voluntarism and without any formal ties to the state.¹⁸ Disagreements between Orthodox Jews, Reform Jews, and anti-religious socialists nearly wrecked the Kehillah before it began, but thanks to the able leadership and chameleon-like qualities of Judah Magnes—who was, at one and the same time, trained as a Classical Reform rabbi, enchanted by Orthodoxy, related to New York's best Jewish families, and sympathetic to Socialism—an uneasy harmony prevailed. The elected 25-member Kehillah executive, although dominated by Central European patricians, represented a surprisingly wide range of community figures, among them the Orthodox lay leaders Harry Fischel and Sender Jarmulowsky. Together, they struggled mightily to contend with a wide range of daunting communal problems, including the supervision of kosher food and the chaotic condition of Jewish education. By promising to restore "to the Rabbis their authority in matters affecting Judaism as a religion," the Kehillah succeeded in winning cooperation even from some distinguished members of the Agudath ha-Rabbanim, notably Rabbi Moses Z. Margolies (*Ramaz*).¹⁹ As one Jewish leader noted, admiringly, "the conventions of the Kehillah bring together the most varied assemblage of Jews that can be imagined. Side by side with the extreme orthodox are members of the most reformed temples. Rich men and men practically penniless, extreme socialists and extreme conservatives, gather together and under parliamentary methods, discuss the subjects they have in com-

mon. Two do not always agree but they have learned to disagree with no more disturbance than is often witnessed in foreign parliaments and, sometimes, in our own Congress.”²⁰

The Kehillah’s reach quickly exceeded its grasp. Tensions between the Orthodox and other segments of the Jewish community flared up regularly, and the Kehillah also suffered from financial, organizational, and political problems. It barely survived World War I and by 1922 it was dead. But the dream of intra-Jewish communal cooperation did not die with it. If anything, the challenges of World War I made that goal seem more urgent than ever.

Over 1.5 million Jews numbered among the sufferers of World War I, including relatives, friends, and former neighbors of Jews who now lived in the United States. In the face of this tragedy, three different American Jewish relief organizations competed for funds, each representing a different segment of the American Jewish community and committed to a different ideology and worldview. The Central Committee for the Relief of Jews Suffering Through the War, organized by the Union of Orthodox Jewish Congregations, represented religious Jews, most of them East European in origin. The American Jewish Relief Committee, organized by the American Jewish Committee and chaired by its president, Louis Marshall, represented the community elite, most of them American born, of Central European descent and affiliated with Reform Judaism. The Jewish People’s Relief Committee of America, organized by trade union leaders and East European-born Jewish socialists, represented “persons who can afford to give only very small amounts,” the immigrant Jewish masses. All three of these organizations, for all of their social, economic, political, and religious differences, shared the same overriding goal: “to join hands in the work of immediate help and relief of the sufferers.” To this end, and drawing upon their experience cooperating in the New York Kehillah, they agreed to collect contributions from their respective constituencies, to pool the funds, and collectively to dispense them through the organization that became the American Jewish Joint Distribution Committee, established to apportion and send abroad money and supplies for Jewish war relief. Orthodox and Reform rabbis, capitalists and

socialists, Jews of widely different backgrounds and persuasions, including three women, all sat together at the Joint's meetings, reaching most decisions by consensus and some by majority vote. The thorniest problem involved distributing funds for Jewish education abroad, but after much debate a formula was devised: 55 percent to Orthodox institutions, 17.5 percent to Yiddish schools, and 27.5 percent to Zionist schools. The non-Orthodox complained about "so much money spent on people who did nothing but sit and read books," but the compromise held. This collaboration established a pattern of intracommunal cooperation that included Orthodox participation.²¹

The Jewish Board for Welfare Work in the U.S. Army and Navy (later the National Jewish Welfare Board [JWB]) extended this pattern. Established within days of America's entry into the war, it responded to a demand from the United States military for a Jewish organization, akin to the Protestant Young Men's Christian Association and the Catholic Knights of Columbus, to meet the spiritual and welfare needs of Jewish soldiers. The military refused to deal with multiple Jewish groups; they assumed that if Protestants could unite around a single military service organization, then Jews could too. So it was that representatives of the Agudath ha-Rabbanim, the Union of Orthodox Jewish Congregations, the United Synagogue of America, the Union of American Hebrew Congregations, and the Central Conference of American Rabbis all sat down together (along with representatives of the Young Men's Hebrew Association and the Jewish Publication Society) to establish the JWB. The goal was to find some way to jointly provide Jewish chaplains, religious literature, and other religious services for the 200,000-250,000 soldiers and sailors being mustered into the American armed forces.²²

The relationship between the Orthodox rabbinical body and the Reform rabbinical body was never easy (the 104-member Alumni Association of the Jewish Theological Seminary, the antecedent of the Conservative Movement's Rabbinical Assembly, was apparently not yet significant enough to be invited to sit at the JWB's table). The Agudath ha-Rabbanim, whose members considered themselves America's only true rabbis, sought "to act as the sole authority on all questions

concerning religion,” and the Central Conference of American Rabbis, whose members considered the Orthodox rabbis out-of-touch immigrants, assumed that it would exert final authority in all matters of religion. Since neither could compromise, lay leaders themselves promptly assumed control of the JWB, and they relegated the rabbis to a “Rabbinic Advisory Committee,” without final authority in any area.²³

A prominent and learned communal professional, Cyrus Adler, then President of the Jewish Theological Seminary, undertook to lead the most challenging task: preparing an abridged battlefield prayerbook which the military undertook to provide to all Jewish soldiers. Although Adler had assistance in this task from an Orthodox rabbi, Bernard Drachman, and a Reform rabbi, William Rosenau, and claimed to have consulted with Moses Z. Margolies and Bernard Revel as well, neither the Orthodox nor the Reform expressed satisfaction with the final product. The Orthodox found it inappropriately short, and the Reform complained that it did “not reflect our particular theology.” Nevertheless, Orthodox Jews continued to work with the JWB. Three Orthodox rabbis (Drachman, Margolies, and David de Sola Pool), two Reform rabbis (Rosenau and Louis Grossman), and one Conservative rabbi (Elias Solomon), who represented the United Synagogue, worked under Adler’s chairmanship to select suitable Jewish chaplains for the field. External pressure from the U.S. military, coupled with the need to show patriotism, ensured that all sides displayed an appropriate spirit of wartime cooperation.²⁴

The wartime experience in intrareligious cooperation, coupled with the sense that Jews in the anti-Semitic atmosphere of the “tribal twenties” needed to unite and a fear that religion generally was losing its hold on American Jews, stimulated the Reform rabbi of Washington D.C., Abram Simon, to call upon his colleagues in 1924 to “work harmoniously” with the “sons of immigrants and the daughters of orthodox parents. . . in all good causes for their sakes and for the sake of all Israel.”²⁵ Fully 85 percent of American Jewry was of East European origin or descent at that time while Reform Judaism, by and large, remained the province of a comparatively small number of German Jews

and their descendants. In America's largest Jewish community, New York City, just about 2 percent of the city's synagogues were Reform; the rest were Orthodox in one form or another. So it seemed prudent, both from a Reform Jewish perspective and from a general Jewish perspective, to strengthen ties with other Jews.²⁶

Within a year, Simon had formulated a plan, which he presented to his congregation and distributed:

I think the time has come for the leaders of Reform Judaism to meet with the leaders of Conservative and Orthodox Judaism *on the basis of congregational loyalty*. The time has come for representatives of the Union of American Hebrew Congregations, the United Synagogue, and the Union of Orthodox Congregations to join forces to stem the tide of ignorance and indifference, and to do jointly what cannot be done so well separately. Such a National Committee, born in the heart of the Synagogue and deriving its authority from the Synagogue, will have the right to speak in behalf of Israel and of Judaism in America.²⁷

In short order, an invitation went out from the President of the Union of American Hebrew Congregations to the United Synagogue, the Union of Orthodox Jewish Congregations, the Central Conference of American Rabbis, the Rabbinical Assembly, and the Agudath ha-Rabbanim inviting them to attend a meeting at the aptly named Harmonie Club in New York for the purpose of setting up a national body of American synagogues.

The Agudath ha-Rabbanim, true to its principles, did not reply. Notwithstanding a long section in its 1902 constitution devoted to "unity and peace (*ha-shalom ve-ha-ahdut*),²⁸ cooperation with non-Orthodox Jews was to these immigrant Orthodox rabbis anathema. The twenty-fifth anniversary history of the organization makes no direct mention of the Synagogue Council, but it does record that on 24 Tevet 5685 (January 20, 1925) Reform Jews approached with a request to work together in a bid to win support for the five-day workweek—which, in fact, was one of the Synagogue Council's earliest initiatives.²⁹

Some rabbis, according to the account, thought that the urgency of the issue (*et la'asot*)—the fact that the five-day workweek would greatly ease Sabbath observance—permitted cooperation with the Reformers to bring about this key objective; others disagreed. After a “great deal of controversy” (*pulmus harif*), the decision was made to move extremely carefully and without haste: “cooperation with those who hate Judaism (*son'e'y hayahadut*), even for the purposes of a mitzvah,” the Agudath ha-Rabbanim concluded, “could cause great damage to Judaism.”³⁰

More modern, English-speaking Orthodox rabbis disagreed. Herbert Goldstein, Leo Jung, and David de Sola Pool, members of the Rabbinical Council of the Union of Orthodox Jewish Congregations, expressed interest in the idea. In 1925 Pool joined David Philipson (Reform) and Jacob Kohn (Conservative) in a joint resolution that underscored the importance of Jewish unity and the centrality of the synagogue:

We, the representatives of the Union of American Hebrew Congregations, the Central Conference of American Rabbis, the United Synagogs of America, the Rabbinical Assembly, and the Union of Orthodox Congregations, recognizing the fundamental spiritual unity that binds us as Jews, believing that the Synagog is the basic and essential unit in our Jewish life, and believing in the desirability of taking counsel together for the sacred purpose of preserving and fostering Judaism in America, recommend to the organizations represented at this meeting, that a Conference composed of national congregations and rabbinical organizations of America be formed for the purpose of enabling them to speak and act unitedly in furthering such religious interests as all these constituent national organizations share in common, it being clearly provided that such proposed Conference in no way interfere with the religious administrative autonomy of any of the constituent organizations.³¹

Thanks to Herbert Goldstein, the Orthodox Union as a whole agreed in 1926 to participate in the new organization. The key con-

cession (which the Reform leader, Samuel Schulman, opposed) was a commitment to act only upon unanimous consent, meaning that the Orthodox could never be overruled. According to the Synagogue Council's 1926 constitution, "every decision of the Council shall require the unanimous approval of the constituent organizations as expressed through a majority vote of each constituent organization."³² The Orthodox Union also insisted "that in all matters in which questions of Jewish Law shall be involved, the Orthodox view shall prevail," and that the Synagogue Council "shall in no way interfere with the religious or administrative autonomy of this Union."³³

The early work of the Synagogue Council proved, for the most part, uncontroversial. It supported strengthening of the Sabbath. It called upon all Jewish organizations "to arrange that their public dinners be prepared in accordance with Jewish dietary laws" (though the Reform were not committed to *kashrut*, they voted for the resolution "as a matter of courtesy" and in order to advance "the spirit of unity" among Jewish movements").³⁴ It admitted the Rabbinical Council of America as a constituent organization when it was organized. And it helped to coordinate Jewish communal activities during World War II.

But it did not become a powerful or influential organization. As a result, the National Jewish Welfare Board—particularly its Committee on Army and Navy Religious Activities (CANRA)—played the key role in bringing the different Jewish movements together under a single umbrella during World War II. As before, the military would deal with only one Jewish organization during wartime, and in the interests of meeting the needs of service personnel, key rabbis from every movement cooperated.³⁵ CANRA even established a unique three-man responsa committee, chaired by Solomon B. Freehof (Reform) along with Leo Jung (Orthodox) and Milton Steinberg (Conservative), to deal with wartime problems—everything from when to hold Kabbalat Shabbat services in the northern latitudes, to whether services may be held in a chapel containing a Christmas tree, to questions concerning marriage, divorce, conversion, and burial. Responsa were jointly issued, and in an astonishing number of cases, unanimity was achieved—otherwise no responsum was issued. But the committee was careful to delimit its functions. It issued no rulings that affected civilians, and it

insisted that its work respond to the “abnormalities of war” and should “not in any way be used to influence civilian religious life in peace.”³⁶

Jewish leaders who celebrated Jewish unity, like their Christian counterparts who celebrated ecumenism, hoped nevertheless that intrareligious cooperation in wartime *would* carry over into peacetime. They sought to strengthen the role of religion in the battle against secularism, and they imagined that the Synagogue Council might in time serve as a counterpart to the National Council of Churches. In 1954, Theodore Adams, president of the Rabbinical Council of America, was as hopeful on this score as his Reform and Conservative counterparts. “I believe,” he told the Jewish Telegraphic Agency, that “with the maturing of the three branches of Jewry, the competitiveness and mistrust which in the past grew out of an insecurity and a striving for a place in the sun, now is giving way to a healthy cooperation. I foresee a period when religious leadership will in fact give way to religious statesmanship, with the Synagogue Council of America becoming the widely recognized forum for the negotiation of religious ‘diplomatic’ problems vis-à-vis the American community.”³⁷

Nothing of the sort happened. Instead, Orthodox leaders faced growing pressure to limit the role of the Synagogue Council or to withdraw from the organization altogether. Orthodox rabbis born and trained in Europe who immigrated to the United States in the 1930s and 1940s—men like Moshe Feinstein, Ahron Kotler, and the Lubavitcher Rebbe—were often appalled by the relationship of Orthodox Jews with leaders of other movements in Judaism. In Eastern Europe, they recalled, Orthodox rabbis never sat down as equals with the non-Orthodox nor did they legitimate them the way their American counterparts did. Rather than compromising for the sake of Jewish unity, they advocated standing firm for Orthodox Jewish principles.

Rabbi Soloveitchik, serving as *posek* for the Rabbinical Council of America, steered a characteristically middle course. In 1953, just months before Adams set forth his optimistic vision of what the Synagogue Council might be, the Rav, in a private letter to Adams, set forth his own views:

I noticed in your letter that you are a bit disturbed about the probability of being left out. Let me tell you that this attitude

of fear is responsible for many commissions and omissions, compromises and fallacies on our part which have contributed greatly to the prevailing confusion within the Jewish community and to the loss of our self-esteem, our experience of ourselves as independent entities committed to a unique philosophy and way of life. Of course, sociability is a basic virtue and we all hate loneliness and dread the experience of being left alone. Yet at times there is no alternative and we must courageously face the test.³⁸

Specifically, with respect to the 1954 Tercentenary of the American Jewish community, the Rav, in a subsequent letter, lambasted a proposed Synagogue Council sponsored liturgy for commemoration of the American Jewish tercentenary:

The whole service concocted by some rabbi of the Synagogue Council should not and cannot be accepted by the RCA. The service suggests to me both religious infantilism and Christian-Methodist sentimentalism which exhausts itself in hymn singing and responsive reading. As a matter of fact, an order of service by the Methodist church is far superior to the approach employed by the Synagogue Council. I am not as much disturbed by the problem you raised as by the whole character and structure of the service, which contains very few Jewish themes and a lot of high school commencement nonsense.³⁹

Moreover, he carefully distinguished the “politico-social aspects and the religious moments of the suggested plan.” His ruling was unequivocal: “We are ready to cooperate with the [Tercentenary] committee on a secular social level. However, we cannot commit ourselves to any plans worked out by the committee which entail a religious moment.”⁴⁰ The Tercentenary Committee was not identical to the Synagogue Council, but the theory underlying the Rav’s ruling applied to both alike. He permitted secular and social relations with believing Jews of other religious ideologies and non-believing Jews; he forbade shared “religious moments.” This stance, of course, posed a significant challenge to an organization like the Synagogue Council that viewed

itself as a religious counterpart to the National Council of Churches, a counterweight to the highly secular federations, community centers, and defense organizations that claimed to represent the American Jewish community. If the Synagogue Council were truly forced to confine itself to “secular social issues,” it would surely not be able to become “the widely recognized forum for the negotiation of religious ‘diplomatic’ problems vis-à-vis the American community” that Adams foresaw.

Fortunately for Adams, Rabbi Soloveitchik proved open to persuasion. For the Rav, religious truth and sincere faith emerged “out of the straits of inner oppositions and incongruities, spiritual doubts and uncertainties, out of the depths of a psyche rent with antinomies and contradictions, out of the bottomless pit of a soul that struggles with its own torments.”⁴¹ So although in his 1953 letter he vigorously insisted that “we as a rabbinate should never sign a joint proclamation with other national rabbinic bodies, particularly if it should manifest a religious character,”⁴² the signature of both the Rabbinical Council of America and the Union of Orthodox Jewish Congregations of America (but not the Agudath ha-Rabbanim) did prominently appear in a handsomely printed joint statement “To Our Jewish Brethren in the United States” alongside the signatures of the Central Conference of American Rabbis, the Union of American Hebrew Congregations, the Rabbinical Assembly of America, and the United Synagogue of America. The statement was published in Hebrew and Yiddish as well as in English, and all three versions of the statement included religious sentiments, the Hebrew text most of all. Doubtless with Rabbi Soloveitchik’s assent, each version was separately and personally signed by Adams in the name of the Rabbinical Council of America.⁴³

David Hollander, who succeeded Adams as RCA president, was horrified by these kinds of cooperative projects with Conservative and Reform leaders, men he charged with “flaunting their violation of Jewish law and claiming that this was ‘Twentieth Century Judaism.’” Nor could he make peace with the fact that a “great Godol Hador”—presumably Rabbi Soloveitchik—displayed “inability or unwillingness to take a clear stand publicly one way or the other.” Bolstered by the

Lubavitcher Rebbe, who told him “with increasing strength, never to relent on this issue,” Hollander crusaded against Orthodox involvement with organizations such as the Synagogue Council and the New York Board of Rabbis.⁴⁴ Partly at his instigation, a group of eleven fervently Orthodox rabbis, led by Ahron Kotler and Moshe Feinstein, issued on February 1, 1956, their famous ban on contacts between Orthodox rabbis and their Reform and Conservative counterparts.

We have been asked by a number of rabbis in the country and by alumni and *musmochim* [*ordinees*] of yeshivos if it is permissible to participate with and be a member of the New York Board of Rabbis and similar groups in other communities, which are composed of Reform and Conservative “rab-bis.”

Having gathered together to clarify this matter, it has been ruled by the undersigned that it is forbidden by the law of our sacred Torah to be a member of and to participate in such an organization.

We have also been asked if it is permissible to participate with and to be a member of the Synagogue Council of America, which is also composed of Reform and Conservative organizations.

We have ruled that it is forbidden by the law of our sacred Torah to participate with them either as an individual or as an organized communal body.

May Hashem Yisborach have mercy on His people, and seal the breaches [in Torah life] and may we be worthy of the elevation of the glory of our sacred Torah and our people Israel.

Signed this fifth day, the week of Parshas Ki Seesoh, the Eighteenth day of Adar, 5716, in the City of New York.⁴⁵

The ban set off a frenzy of activities that have been documented elsewhere. A minority, led by David Hollander, believed that Orthodox bodies should honor the ban and withdraw from the Synagogue Council since it gave status and legitimacy to non-Orthodox bodies. The

majority insisted that cooperation with the non-Orthodox promoted Jewish communal unity and ultimately benefited Orthodoxy, leading to advances in areas such as *kashrut*.⁴⁶ The RCA Halachic Commission refused to issue an opinion on the question, citing, among other things, “an atmosphere charged with partisanship and emotion.”⁴⁷ Privately, Rabbi Soloveitchik confessed that “I strongly disapprove of the method and the manner in which the whole problem has been handled, of the personal and political overtones, of the hysterical climate which has been created and of the unfairness displayed by certain individuals and groups.”⁴⁸

The Rabbinical Council of America and the Union of Orthodox Jewish Congregations did not withdraw from the Synagogue Council, nor did its rabbis sever their relationships with organizations such as the New York Board of Rabbis. When the Agudath ha-Rabbanim issued a resolution in 1960 demanding compliance with its ban and threatening to oust from membership any rabbi “unless he resigns from the forbidden organization within thirty days,” RCA members for the most part took no notice. Indeed, Joseph Soloveitchik continued the delicate assignment he took on for the Synagogue Council two years earlier, dealing with humane methods of handling meats for slaughter, and Samuel Belkin, President of Yeshiva University, accepted an award from the Synagogue Council at a dinner in 1961. (Orthodox protestors, critical of Belkin’s appearance, threw eggs onto the ballroom floor.⁴⁹)

Over time, though, the Synagogue Council weakened. A whole host of issues—the Israeli debate over who is a Jew, state funding of parochial schools, divorce and *mamzerut*,⁵⁰ women rabbis, patrilineal descent, admission of the Reconstructionist movement, and others—spotlighted differences between Orthodox Jews and believing Jews of other religious ideologies. Lack of consensus paralyzed the organization and lack of funds made it more and more difficult for it to operate. Meanwhile, rabbis on all sides stood firm for cherished principles, making compromise for the sake of unity impossible. As a result, in 1994 the Synagogue Council closed its doors.⁵¹

But the relationship of Orthodox Jews with believing Jews of other religious ideologies and non-believing Jews by no means ended there.

Indeed, in 2005 historian Jack Wertheimer reported that, contrary to widespread predictions, “overt religious conflicts have either eased or have been pushed into the background.” He found that “a goodly amount of transdenominational cooperation occurs every day and that American Jews, like many of their liberal non-Jewish neighbors, are dealing with ideological divisions in a pragmatic fashion, seeking common ground rather than confrontation.” The “continuity agenda,” a strategy of “unity in the face of adversity” in response to anti-Semitic and anti-Israel attacks; trends in the larger community, where intrareligious tensions likewise declined; and threats by prominent funders to “cut off” those who “speak irresponsibly about other members and groups in the Jewish community,” all help to explain these developments. Specifically in the case of Orthodoxy, Wertheimer found that new efforts at “outreach,” such as Chabad *shluhim* and community *kollelim*, had muted attacks on non-Orthodox Jews. Outreach, he concluded, “is lowering social and ideological barriers and is modifying the historical tendency of Orthodox leaders to castigate their opponents as “deviationists” and to trumpet their own way as “Torah-true.”⁵²

The turn away from “Jew vs. Jew,” welcome as it may be to proponents of Jewish unity and *klal yisrael*, is unlikely to mark the final chapter in the long saga of the “relationship of Orthodox Jews with believing Jews of other religious ideologies and unbelieving Jews in America.” Since the colonial era, we have seen, tensions have divided those who seek compromise for the sake of Jewish unity from those who demand firmness to uphold sacred Jewish principles. Looking back, we can see that this tension has proved beneficial in many ways. The compromisers and the uncompromising have, over time, checked each other’s excesses. Irreconcilable as the two may appear, they have accomplished together what neither might have accomplished separately: preserving the delicate balance between Orthodox distinctiveness and the unity of the Jewish people.

NOTES

1. I focus here largely on relationships in the public arena. Private relationships between Orthodox and non-Orthodox Jews require a separate treatment. In the nineteenth century Henry Illoway, the son of the Orthodox Rabbi Bernard Illoway, proudly reported that his father, notwithstanding his many forceful battles against Reform, was “on intimate terms” with Isaac Mayer Wise, “and later on, when we resided in Cincinnati, they met frequently in the friendliest intercourse” [see Henry Illoway, *Sefer Milhamot Elohim: Being the Controversial Letters and the Casuistic Decisions of the late Rabbi Bernard Illoway, With a Short History of His Life and Activities* (Berlin: 1914), 28-29, online at <http://www.jewish-history.com/Illoway/biography.html> (accessed 2-12-09)] and (paginated) at <http://hebrewbooks.org/7201> (accessed 6-22-09). In the twentieth century, Rabbi Joseph Soloveitchik described Rabbi Joseph Shubow, the rabbi of Temple B’nai Moshe, a Conservative synagogue in Brighton, as a “dear and distinguished friend whom I hold in great esteem” [Joseph Soloveitchik to Philip Fleischer (May 5, 1954) in Joseph B. Soloveitchik, *Community, Covenant and Commitment: Selected Letters and Communications*, ed. Nathaniel Helfgot (New York: Ktav, 2005), 125-127.]
2. *Publications of the American Jewish Historical Society* 21 (1913), 74. The edict was promulgated on the eve of Rosh Hashanah 5518 [September 14, 1757].
3. *Ibid.*, 76, 3 Veadar 5518 [March 22, 1758].
4. Jonathan D. Sarna, *American Judaism: A History* (New Haven, Conn.: Yale University Press, 2004), 17; Richard W. Pointer, *Protestant Pluralism and the New York Experience* (Bloomington: Indiana University Press, 1988), esp. 46-52.
5. *Ibid.*, 39; Morris U. Schappes, *A Documentary History of the Jews of the United States, 1654-1875* (New York: Schocken, 1971), 77-84; Joseph L. Blau and Salo W. Baron, eds., *The Jews of the United States: A Documentary History 1790-1840* (New York: Columbia University Press, 1963), 8-11; for a different interpretation, see J. J. Goldberg, *Jewish Power: Inside the American Jewish Establishment* (Reading, Penn.: Addison-Wesley, 1996), 83-85.
6. Sydney Ahlstrom, *A Religious History of the American People* (New Haven, Conn.: Yale, 1972), 379-384; Sarna, *American Judaism*, 41.
7. Jonathan D. Sarna, “Jacob I. Cohen,” *Dictionary of Virginia Biography* 3 (Richmond: Library of Virginia, 2006), 345-347; and idem, “The Democratization of American Judaism,” *New Essays in American Jewish History to Commemorate the Sixtieth Anniversary of the Founding of the American Jewish Archives*, eds. Pamesla S. Nadell, Jonathan D. Sarna and Lance J. Sussman (Cincinnati, OH: American Jewish Archives, 2010).
8. Sidney M. Fish, “The Problem of Inter-marriage in Early America,” *Gratz College Annual of Jewish Studies* 4 (1975), 85-95, reproduces the original text of this document and provides an English translation. An abbreviated translation along with other valuable material may be found in Malcolm H. Stern, “Two Jewish Functionaries in Colonial Pennsylvania,” *American Jewish Historical Quarterly* 57

- (September 1967), 41-46; see also Sarna, "Democratization of American Judaism," for context and full annotation.
9. Sarna, *American Judaism*, 52-61, sets forth the "synagogue community" to "community of synagogues" model. For a critique, see Holly Snyder, "Rethinking the Definition of 'Community' for a Migratory Age 1654-1830," *Imagining the American Jewish Community*, ed. Jack Wertheimer (Watham, Mass.: Brandeis University Press, 2007), 3-27.
 10. Sarna, *American Judaism* 87 traces the term to the controversy over the installation of an organ at Charleston's Beth Elohim synagogue in the 1840s.
 11. For full accounts of the conference, see esp. Moshe Sherman, *Bernard Illoy and Nineteenth Century American Orthodoxy* (Ph.D., Yeshiva University, 1991), 151-165; Lance J. Sussman, *Isaac Leeser and the Making of American Jewry* (Detroit: Wayne State University Press, 1995), 196-200; and Sarna, *American Judaism*, 108-110.
 12. *Occident* 13 (December 1855), 451; cf. I. Harold Sharfman, *The First Rabbi* (Malibu, Calif.: Joseph Simon/Pangloss Press, 1988), 312-328.
 13. *Ibid.* 14 (April 1856), 38-39. Illoy wrote in Hebrew. I follow the translation in Moshe Davis, *The Emergence of Conservative Judaism* (Philadelphia: Jewish Publication Society, 1963), 424 n.39. Significantly, Radical Reform rabbis, notably David Einhorn, likewise boycotted the meeting and criticized its results. See Sarna, *American Judaism*, 110.
 14. Allan Tarshish, "The Board of Delegates of American Israelites (1859-1878)," *Publications of the American Jewish Historical Society* 49 (1959), 16-32; Sarna, *American Judaism*, 110-111.
 15. *Israelitische Wochenschrift* as quoted in Michael A. Meyer, *Response to Modernity: A History of the Reform Movement in Judaism* (New York: Oxford University Press, 1988), 252; Sarna, *American Judaism*, 124-129.
 16. Cyrus Adler, *The Voice of America on Kishineff* (Philadelphia: Jewish Publication Society, 1904), esp. 14, 152-53; cf. Philip E. Schoenberg, "The American Reaction to the Kishinev Pogrom of 1903," *American Jewish Historical Quarterly* 63 (March 1974), 262-283, and Stefani Hoffman and Ezra Mendelsohn, eds., *The Revolution of 1905 and Russia's Jews* (Philadelphia: University of Pennsylvania Press, 2008).
 17. Sarna, *American Judaism*, 199-200; Naomi W. Cohen, "The Abrogation of the Russo-American Treaty of 1832," *Jewish Social Studies* 25 (1963), 3-41; Esther Parnitz "In Defense of the Jewish Immigrant," *American Jewish Historical Quarterly* 55 (September 1965), 57-97.
 18. Arthur A. Goren, *New York Jews and the Quest for Community: The Kehillah Experiment, 1908-1922* (New York: Columbia University Press, 1970), esp. 3, 251.
 19. Sarna, *American Judaism*, 200-201.
 20. Cyrus Sulzberger, November 2, 1916, as quoted in Jonathan J. Golden, *From Cooperation to Confrontation: The Rise and Fall of the Synagogue Council of America* (Ph.D., Brandeis University, 2008), 23.

21. Yehuda Bauer, *My Brother's Keeper: A History of the American Jewish Joint Distribution Committee, 1929-1939* (Philadelphia: JPS, 1974), 3-18; Herbert Agar, *The Saving Remnant—An Account of Jewish Survival* (New York: Viking Press, 1960), 69-71; Sarna, *American Judaism*, 210-211.
22. Charles J. Teller, "The Jewish Welfare Board," *American Jewish Year Book* 20 (1918-19), 98-102; Oscar I. Janowsky, *The JWB Survey* (New York: Dial Press, 1948), 45-61; Golden, *From Cooperation to Confrontation*, 25-34; Albert I. Slomovitz, *The Fighting Rabbis: Jewish Military Chaplains and American History* (New York: NYU Press, 1999), 43-62; Sarna, *American Judaism*, 212-213.
23. Janowsky, *JWB Survey*, 52.
24. Golden, *From Cooperation to Confrontation*, 30-32; Sarna, *American Judaism*, 213.
25. *Central Conference of American Rabbis Yearbook* 34 (1924), 128; see, on the origins of the Synagogue Council, Golden, *From Cooperation to Confrontation*, 35-63, upon which I draw heavily.
26. Sarna, *American Judaism*, 144-151, 193-197, 206-207, 249.
27. Abram Simon, "The Religion of a Businessman," January 19, 1925, as quoted in Golden, *From Cooperation to Confrontation*, 45.
28. *Constitution of the United Orthodox Rabbis of America* (New York: 5662 [1902]), 16-18.
29. Golden, *From Cooperation to Confrontation*, 53.
30. *Sefer Ha-Yovel Shel Agudat Ha-Rabbanim Ha-Ortodoksim De-Artsot Ha-Berit Ve-Kanada* (New York: 1928), 105. Saul Bernstein quotes Benjamin Koenigsberg as reporting that the Agudath Ha-Rabbanim was prepared to join the Synagogue Council "subject to the stipulation that the proceeding would be in Yiddish. The stipulation was not accepted" (Saul Bernstein, *The Orthodox Union Story: A Centenary Portrayal* [Northvale, N.J.: Jason Aronson, 1997], 98).
31. *Central Conference of American Rabbis Yearbook* 35 (1925), 226; Golden, *From Cooperation to Confrontation*, 47.
32. "The Present Constitution of the Synagogue Council of America, as Adopted on November 9, 1926," as quoted in Golden, *From Cooperation to Confrontation*, 51.
33. Golden, *From Cooperation to Confrontation*, 48-50. Golden relies on documents he found in the papers of Samuel Schulman at the American Jewish Archives in Cincinnati. Saul Bernstein, *The Orthodox Union Story*, claims that "Diligent search has failed to disclose any record of presentation to any convention, meeting or other organ of the UOJCA of any proposal to join the Synagogue Council of America. Nor is there to be found any record of any discussion or action taken by any organ of the Orthodox Union on the matter, at the time of, or following, the establishment of the mixed council, nor yet of any consideration of the projected formation of that agency. It can be surmised that the connection was made by Rabbi Goldstein's personal presidential decision. . . . Rabbi Goldstein's high distinction as a foremost protagonist of Jewish Orthodoxy, prominently identified with both the Orthodox Union and the Agudath Israel movement of Inde-

- pendent Orthodoxy, was apparently enough to obviate any possibilities of doubt as to the propriety of the step taken (p. 99).”
34. Golden, *From Cooperation to Confrontation*, 61.
 35. The Rabbinical Council of America, Hebrew Theological College, Israel Elchanan Theological Seminary, and the Union of Orthodox Jewish Congregations all signed on to a joint “Call to Jewish Congregations and Rabbis of the United States,” along with Reform and Conservative Jewish leaders, soon after Pearl Harbor. The Agudath Ha-Rabbanim did not sign the statement, which is reprinted in Philip Bernstein, *Rabbis at War: The CANRA Story* (Waltham, Mass.: American Jewish Historical Society, 1971), 55-56.
 36. Bernstein, *Rabbis at War*, 5; see pp. 60-95 for the responsa. The best account of the committee, which discloses issues on which the three failed to agree, may be found in Joan S. Freedman, *Solomon S. Freehof, the “Reform Responsa,” and the Shaping of American Reform Judaism* (Ph.D., Columbia University, 2003), 215-250; see also Chaniel Nahari, “Development of Halakhic Literature for Soldiers from 1880-1975” (MA thesis, Bar-Ilan University, 2003; Hebrew), 32-43 (thanks to Menachem Butler for this last reference).
 37. JTA, June 27, 1954, as quoted in Golden, *From Cooperation to Confrontation*, 84.
 38. Joseph Soloveitchik to Theodore Adams (August 11, 1953), reprinted in Joseph B. Soloveitchik, *Community, Covenant and Commitment: Selected Letters and Communications*, ed. Nathaniel Helfgot. (New York: Ktav, 2005), 111. The Rav clearly anticipated here his larger discussion in “The Lonely Man of Faith,” *Tradition* 7 (Summer 1965), 5-67.
 39. Joseph Soloveitchik to Emanuel Rackman (August 1, 1954), in Soloveitchik, *Community, Covenant, and Commitment*, 115-116. The “some rabbi” was probably Abraham Feldman, a Reform rabbi of Orthodox background from West Hartford; see Golden, *From Cooperation to Confrontation*, 94-98.
 40. Soloveitchik, *Community, Covenant, and Commitment*, 112; see Golden, *From Cooperation to Confrontation*, 108.
 41. Joseph B. Soloveitchik, *Halakhic Man*, trans. Lawrence Kaplan (Philadelphia: Jewish Publication Society, 1983), 142.
 42. Soloveitchik, *Community, Covenant, and Commitment*, 113.
 43. Photocopies in the author’s possession.
 44. Hollander recounts all of this in Chaim Dalfin, *Conversations with the Rebbe* (Los Angeles: JEC Publishing Company, 1996), 71-77; see also Golden, *From Cooperation to Confrontation*, 100-101.
 45. The ban is reproduced in Louis Bernstein, *The Emergence of the English Speaking Orthodox Rabbinate* (Ph.D., Yeshiva University, 1977), 556. A slightly different text appears in Aaron Rakeffet-Rothkoff, *The Silver Era* (Jerusalem: Feldheim, 291-292). Note that Eliezer Silver, like Joseph Soloveitchik, refused to sign this ban.
 46. Louis Bernstein, *Challenge and Mission: The Emergence of the English-Speaking Orthodox Rabbinate* (New York: Shengold, 1982), 141-156; Golden, *From Coop-*

- eration to Confrontation*, 98-113. We also now know that secret negotiations were taking place at that time between Orthodox and Conservative leaders around a plan to set up “a national *beit din* recognized by both groups as having exclusive authority in matters of Jewish family law”; see Marc B. Shapiro, *Saul Lieberman and the Orthodox* (Scranton, Penn.: University of Scranton Press, 2006), 44-46.
47. Joseph Soloveitchik to Solomon Sharfman (June 11, 1957) in Soloveitchik, *Community, Covenant, and Commitment*, 153.
 48. Joseph Soloveitchik to Jacob Radin (n.d.) in *ibid.*, 155. Thirteen years later, speaking at the RCA Annual Convention in 1970, the Rav obliquely alluded to the Synagogue Council issue and spelled out his views more fully: “We are engaged in a mortal struggle with the dissident community. You can call them Reformers or Conservatives. I do not care about the name. We are even contending with secularists. . . . We will not win the battle or lose the battle by excommunications, prohibitions, fist fights, or throwing stones. . . . We will only win if we understand two concepts. First, we must be capable of interpreting Judaism profoundly. . . . However we must also understand the second principle. We will only emerge victorious if the people feel that the Orthodox Jew is morally superior.” [Aaron Rakeffet-Rothkoff, *The Rav: The World of Rabbi Joseph B. Soloveitchik* (New York: Ktav, 1999), 53].
 49. Golden, *Cooperation to Confrontation*, 111-114; Soloveitchik, *Community, Covenant, and Commitment*, 61-74.
 50. Norman E. Frimer and Dov I. Frimer, “Reform Marriages in Contemporary Halakhic Responsa,” *Tradition* 21 (Fall 1984), 7-39.
 51. Golden, *Cooperation to Confrontation*, 114-137.
 52. Jack Wertheimer, *All Quiet on the Religious Front? Jewish Unity, Denominationalism, and Postdenominationalism in the United States* (New York: American Jewish Committee, 2005), esp. 8-9, 28.

2

Encountering the Other: Birthright Israel, Jewish Peoplehood, and the Opportunities and Dangers of Religious Journeys

Sylvia Barack Fishman

Fellow Travelers—or Itineraries to Different Destinations?

What is the impact of Orthodox participation in transdenominational Jewish activities? The Synagogue Council of Massachusetts has for many years run a Unity Mission, bringing Boston-area Orthodox, Conservative, and Reform young leaders to New York to visit Orthodox, Conservative, and Reform rabbinical seminaries. The journeys have been a great success. Yeshiva University, the Jewish Theological

Seminary, and Hebrew Union College each provides prestigious, empathetic, and effective speakers. Boston participants have the opportunity to discover everything they always wanted to know but never had a chance to ask about other wings of Judaism (and sometimes about their own).

But the most successful aspects of the SCM Unity Missions were the friendships and respect that developed among Jews across denominational lines. Participants said they discovered that Orthodox Jews were not narrow-minded bigots, that Conservative Jews had standards, and that Reform Jews cared deeply about Jewishness, Israel, and *klal Yisrael*, Jewish peoplehood.

One Reform woman remarked to me in wonderment when she came back from a SCM Unity Mission: “There were two Orthodox men on my mission. I had never really spoken to Orthodox men before, and I was blown away. They were the most gentle, interesting, and non-sexist men of *any* religious persuasion I had ever met.” As it happened, I knew both of the men she was talking about, and her description was more or less accurate. I uttered a silent prayer of thanks that she hadn’t encountered some of the other, less politically sensitive Orthodox men I know!

That conversation taught me the importance of interaction between Orthodox and non-Orthodox Jews. Orthodox Jews can have a profound impact on the Jewish community—but only if they don’t sequester themselves. The SCM Unity Mission experience suggests that when Orthodox Jews are unknown to the majority of the non-Orthodox community, negative images will undercut any positive religious impact they might have. The potential for negativity may be even more potent when people’s idea of Orthodox Jews are gained exclusively from media images, such as those surrounding the Rubashkin kosher meat scandal, and are not balanced by positive images of Orthodox Jews encountered in daily life.

However, influence can go in two directions. Many in the Orthodox community have worried that rather than Orthodox Jews influencing the non-Orthodox in a positive Jewish direction, during transdenominational activities the non-Orthodox may undermine Orthodox commitments. That side of the story was articulated viv-

idly in 2003 when Gil Perl and Yaakov Weinstein, doctoral students in Harvard University's Near Eastern Languages and Cultures program (NELC, Jewish studies) published "A Parent's Guide to Orthodox Assimilation on University Campuses." The ten-page pamphlet argued that interactions between Orthodox and non-Orthodox students on college campuses constituted an "alarming trend" which too often results in a "religious transformation"—the abandoning of Orthodox standards of behavior and belief by young men and women who heretofore have lived entirely within the fold, including day school attendance and Israel yeshiva study. The authors concluded that parents should gauge for themselves "whether your children are prepared to face these challenges." If parents decide that nonsectarian liberal arts institutions pose too great a spiritual threat, the authors urged, "have the courage to say so."¹

The publication caused a windstorm of discussion in the United States and Israel, with the result that many Orthodox institutions and individuals actively discouraged young Orthodox Jews from interacting with non-Orthodox Jews, lest their religious commitments be weakened. Most of these discussions were based upon fear rather than on factual evidence about the impact of universities among young American Jews. Moreover, the impact on non-Orthodox young Jews of having no interaction with Orthodox Jews was not a matter of any concern in most of these discussions. A new wave of similar discussions discouraging Orthodox/non-Orthodox interactions have now surged in response to the Birthright Israel program. Arguments about the wisdom of interacting with—and encouraging one's children to encounter—non-Orthodox peers at work, at school, and in social activities still divide segments of the Orthodox community.

This chapter explores the ramifications of Orthodox/non-Orthodox encounters from a sociological standpoint, drawing upon recent studies of Birthright Israel and its impact, and upon other research on the relationship of American Jews to Israel and to the concept of Jewish peoplehood.² Several years ago I traveled on one of the *Taglit* buses in Israel as an evaluator for Brandeis University's Cohen Center for Modern Jewish Studies (CMJS), which has conducted most of the Birthright Israel studies. Part of the evaluation process involved ob-

serving the participants experience the trip and interact with each other and the way the various leaders implementing the trip fulfilled the goals of the program—ranging from nonsectarian organizations like Hillel to Orthodox outreach organizations such as Aish HaTorah.³ The bus I observed was facilitated by “Mayanot,” leadership from Chabad-Lubavitch. In this chapter I draw upon my field notes from that trip and place my observations into the context of data from sociological studies of Jewish education, Jewish and Israel connections, and several recent reports conducted by the CMJS research team and Israeli counterparts, as well as American Jewish Committee Annual Public Opinion Polls, to discuss Orthodox participation in *Taglit*-Birthright Israel and other transdenominational activities. Among other subjects, I look at the proportion of Orthodox to non-Orthodox participants, interactions between Orthodox and non-Orthodox trip staff and participants, observance and attitudinal levels of participants and non-participants before the trip, and the relative impact of the trip on Orthodox and non-Orthodox participants.

Birthright Israel Encounters

The *mifgash*—an encounter between young Israeli army personnel and American college and post-college youth—is one of the primary educational strategies of *Taglit*-Birthright Israel, a free ten-day trip, which has brought close to 200,000 North American young Jews to Israel over the past nine years in a program called *Taglit* in its Israeli context and Birthright Israel in the United States. Its goals cluster around strengthening connections to Jews and Judaism in the hearts and minds of young Diaspora Jews by strengthening their ties to Israel. Among other activities, *Taglit* brings Israeli and Diaspora young Jews together for a few days in a *mifgash*, with the creation of bonding and understanding between Jews who have many different experiences and assumptions about life and who in many ways inhabit different planets.

However, another type of *mifgash*—much less remarked upon or studied—is also taking place: encounters between Orthodox and non-Orthodox Birthright Israel participants. Orthodox participation in Birthright Israel has varied year by year, and it was generally

higher early in the program than it has been in recent years but has averaged about 20 percent of participants over the lifetime of the program. Obviously, four out of five participants are not Orthodox. On the other hand, since Orthodox Jews comprise fewer than 10 percent of the American Jewish population, one could say that an Orthodox participation of 20 percent is disproportionately high. The strength of Orthodox participation, especially in past years, is especially striking since attending one of the many schools/*yeshivot* catering to Diaspora Jews during the “gap” year between high school and college has become normative in the American Orthodox community. Birthright Israel mandates that students who have already made an educational Israel trip cannot participate—so Orthodox participants typically have deviated from the norm and will not have had the Israeli *yeshiva* experience.

Orthodox participants may probably be drawn disproportionately from (1) Orthodox families with lower discretionary income; or (2) non-Orthodox families of *ba’ale teshuva* (newly Orthodox Jews), who are less willing to fund an extended stay in Israel for their children. In recent years the proportion of Orthodox participants from the United States has declined considerably, while “the growth in the size of the program appears to have disproportionately expanded *Taglit*-Birthright Israel’s reach into the ‘Just Jewish’ population, which, collectively, is less connected to its Jewish identity on most measures.”²⁴

As we might expect, the religious profiles of Orthodox and non-Orthodox participants look dramatically different. Daniel Parmer and I compared the behaviors, backgrounds, and attitudes of Orthodox and non-Orthodox young men and women before the trip. Some of our results are illustrated in Figures 1 through 6, adapted from Daniel Parmer and Sylvia Barack Fishman, “Bridging the Gender Gap: American Young Adults’ Jewish Identity and Birthright Israel.”²⁵

Birthright Israel Participants Span a Broad Continuum of Jewishness

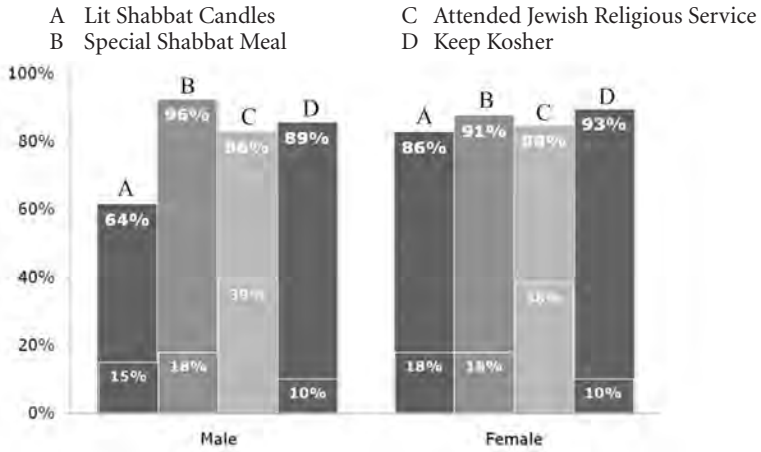
These figures show young people who applied to participate in Birthright Israel trips, divided by gender, by wing of Judaism, and by whether or not they did in fact participate in a trip. As these tables il-

lustrate, participants and non-participant applicants to the program start out almost identical to each other. When CMJS evaluations are compared with other sources of information about the population that sociologists now call “emergent adults,” such as the 2000-2001 National Jewish Population Survey,⁶ it becomes apparent that young Jews who apply for Birthright Israel trips—whether or not they go—are slightly more Jewishly identified than the general population. Nevertheless, the Birthright Israel applicants represent a dramatically broad range of backgrounds. At one end of the spectrum, about one in five attended Jewish day school for some period of time. Figure 2 shows us that more than three out of four Orthodox participants have attended day school, compared with one in seven non-Orthodox participants. At the other end of the spectrum, about one-quarter don’t know *aleph-bet*—they are utterly unschooled Jewishly. The largest group—more than 40 percent—have attended Jewish supplementary schools (two or more sessions per week), and predictably they help make up the half of participants who say they can read Hebrew but don’t understand it. Seventy percent of participants have grown up in homes with two Jewish parents; 20 percent have one Jewish parent and one non-Jewish parent; and 10 percent have a parent who converted to Judaism.

The Jewish involvement of participants both before and after the Birthright Israel trip can be measured by looking at behaviors—such as ritual observances or attending religious services—and by attitudes. Figure 1 shows that Orthodox Jewish young men and women are overwhelmingly likely to attend Jewish religious services, eat special Shabbat meals, and keep kosher, while their non-Orthodox peers are overwhelmingly not likely to participate in most of these activities. The most frequent Jewish activity for non-Orthodox participants before the trip is that about four in ten attend a Jewish religious service each week—an important fact, because it underscores the greater importance of the synagogue in American Jewish society, compared with Israeli Jewry.

Figure 3 looks at how highly participants rank themselves in attitudes such as caring about Israel, the importance of being Jewish, the importance of celebrating Jewish holidays, and the importance

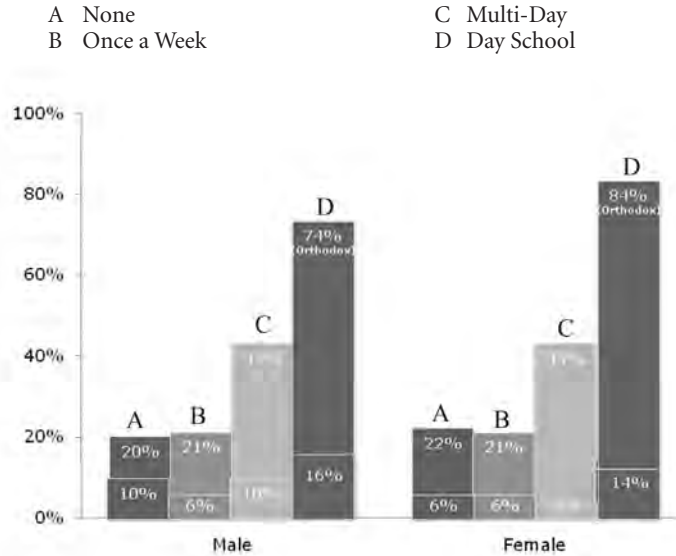
Figure 1: Pre-Trip Participants' Ritual Behavior*



Source: Daniel Parmer and Sylvia Barack Fishman presented in "Bridging the Gender Gap: American Young Adults' Jewish Identity and "Birthright Israel" 3rd International Conference on Research in Jewish Education, Jerusalem, January 8, 2009, for further information contact CMJS. Adapted here for "Encountering the Other."

*Top section: Orthodox Participants
Lower Section: Non-Orthodox Participants

Figure 2: Pre-Trip Participants' Jewish Education (Grades 1-8)*



Source: Daniel Parmer and Sylvia Barack Fishman, "Encountering the Other."

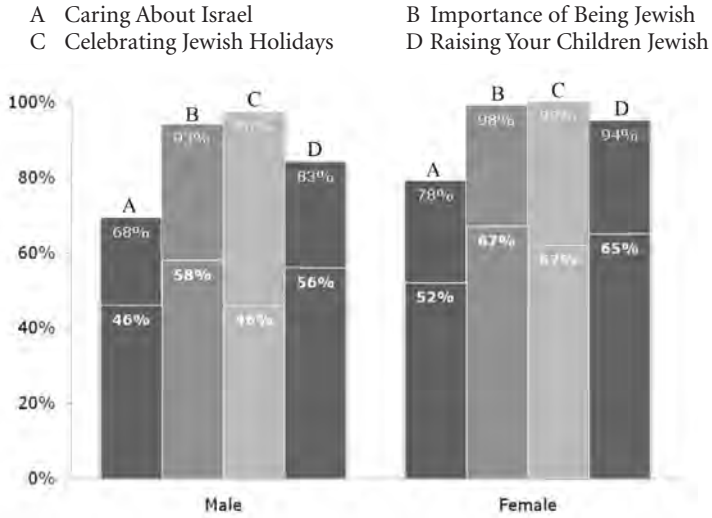
*Top section: Non-Orthodox Participants
Lower Section: Orthodox Participants

of raising one's children as Jews. Figure 3 shows that Orthodox Jews rank each of these attitudes more highly than non-Orthodox Jews, but it reveals some gendered differences as well. In general, women have higher scores in positive Jewish attitudes than men do, even among Orthodox participants. When all the wings of Judaism are looked at separately, Orthodox women have the most positive attitudes, and Reform men have the least positive or most ambivalent attitudes toward Jews and Judaism. Overall, the most significance of all, for both Orthodox and non-Orthodox Birthright Israel participants, is connected to raising Jewish children. When we look at the fourth column on Figure 3—"Raising Your Children Jewish"—we see that even before the trip two-thirds of non-Orthodox participants and more than nine out of ten Orthodox participants say it is "very important" to them to raise Jewish children.

Interestingly enough, the Birthright Israel trip has the greatest positive behavioral and attitudinal effect on participants who are already high-functioning before the trip. It is the Orthodox, the ritually observant, the day school population who end up being more involved and having even more positive attitudes across the board after completing the Birthright Israel trip. At the other end of the spectrum, those participants who come to the trip with the least Jewish education and the fewest Jewish connections emerge after the trip with many of their attitudes and behaviors unchanged—with the critical exception of a dramatically increased sense of Jewish peoplehood. This is not a trivial consideration—far from it. This chapter argues that increasing a sense of Jewish peoplehood may be the single most important challenge facing contemporary American Judaism.

Across the board, from the most to the least Jewishly connected, Birthright Israel has a powerful effect on feelings of connection to Israel and the Jewish people. For example, Leonard Saxe and Barry Chazan demonstrated that *Ten Days of Birthright Israel* is indeed *a journey in young adult identity* with persistent positive impact: Saxe and Chazan found that three years after they completed the trip more than 60 percent of participants said they feel "very much" connected to Israel, compared with 45 percent of non-participants. Similarly, three years after they completed the trip 83 percent of participants said it is very

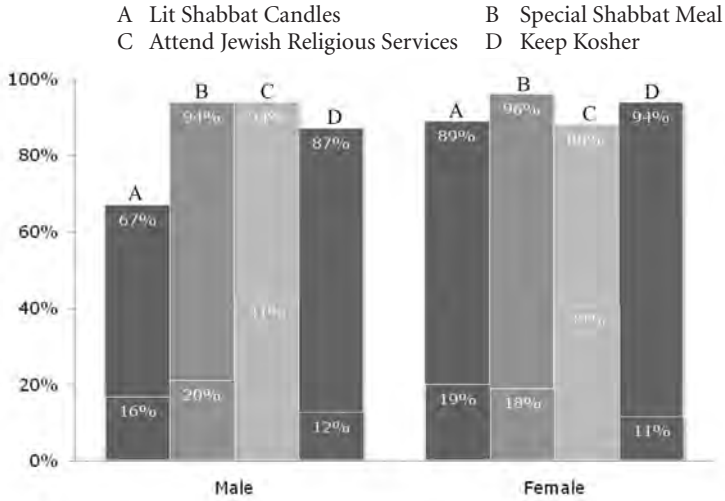
Figure 3: Pre-Trip Participants' Attitudes*



Source: Daniel Parmer and Sylvia Barack Fishman, "Encountering the Other."

*Top section: Orthodox Participants
Lower Section: Non-Orthodox Participants

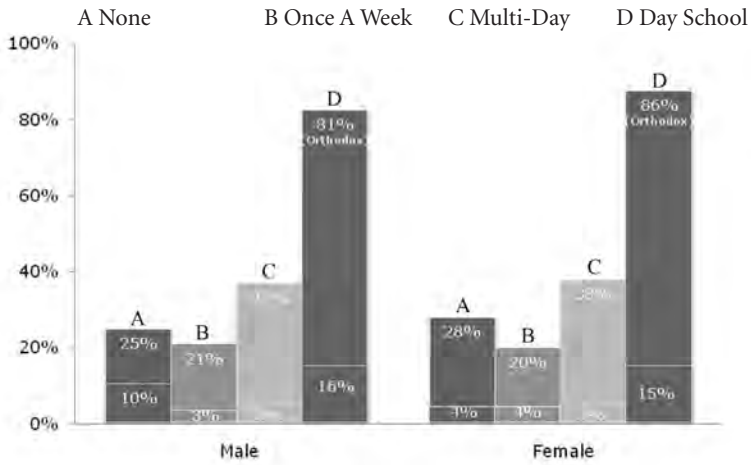
Figure 4: Pre-Trip Non-Participants' Ritual Behavior*



Source: Daniel Parmer and Sylvia Barack Fishman, "Encountering the Other."

*Top section: Orthodox Participants
Lower Section: Non-Orthodox Participants

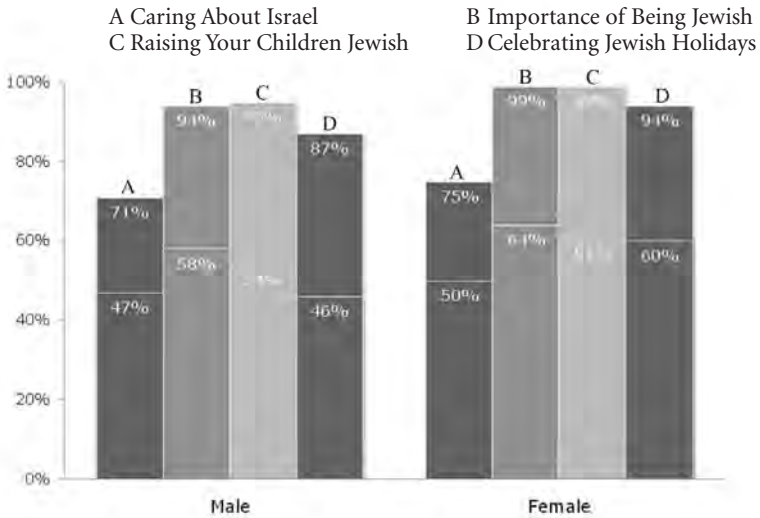
Figure 5: Pre-Trip Non-Participants' Jewish Education (Grades 1-8)*



Source: Daniel Parmer and Sylvia Barack Fishman, "Encountering the Other."

*Top section: Orthodox Participants
Lower Section: Non-Orthodox Participants

Figure 6: Pre-Trip Non-Participants' Attitudes*



Source: Daniel Parmer and Sylvia Barack Fishman, "Encountering the Other."

*Top section: Orthodox Participants
Lower Section: Non-Orthodox Participants

important to them to raise Jewish children, compared with 74 percent of non-participants. Sixty-two percent of participants said they think of Israel as a “source of pride,” compared with 50 percent of non-participants.⁷

Birthright Israel Provides Jewish Experiences for a Broad Range of Jews

These figures statistically indicate the power of Birthright Israel trips to create emotional bonds to Jewishness. But statistics don't tell everything. Anyone who has witnessed the process of these connections being forged will corroborate their transformative effect. For example, on the Mayanot bus in which I served as evaluator, two young men were the children of intermarriage, “persons of Jewish background” who had not been raised as Jews. One was a thin, pale, yellow-haired young man with a Jewish mother and an Irish father, whose name and looks strongly represented his father's side of the family. In the ruins of a little synagogue atop Masada, this young man decided to take advantage of a quiet opportunity to put on *tefillin* for the first time in his life. The second was a tall, robust African-American young man whose mother had a Jewish mother. The rest of his ethnic heritage derived from Puerto Rico and the Dominican Republic. He grew up in Harlem and came on the Birthright Israel trip to “explore my Jewish heritage.” I have never seen anyone read every single posting at the Yad VaShem Holocaust Memorial with greater sustained concentration than that young man. He was still reading when the rest of the group had long since concluded their serious business at the Memorial, and the born-Jewish girls were flirting with the Israeli soldiers.

On the Mayanot trip, another example of the broad range of persons affected by Birthright Israel was a serious, cerebral young woman who had emigrated to America from the Former Soviet Union; she was anxious and distressed at the idea that the Mayanot participants would be celebrating Shabbat. “I've never celebrated Shabbat before,” she worried. “I've never been to the Western Wall. I'm a secular person. What will I do there while everyone else is praying?” Her fears subsided when she saw that others beside herself at the *kotel* were secular, or at least Jewishly illiterate. American modern Orthodox young women

standing near her explained the highlights of the service without pushing her to do more than she wanted. She took in the singing and the socializing and relaxed into the atmosphere and the new experiences.

Orthodox Rabbis, Teachers, and Peers Influence Non-Orthodox Youth

The impact of Orthodox rabbis, teachers, and peers on non-Orthodox youth was clearly visible to me over my two-week Mayanot evaluation experience. Among the Birthright Israel participants on the tour bus was a non-Orthodox young man who frequently voiced anti-religious, overtly skeptical sentiments, sometimes in a disruptive fashion, “acting out” his resistance. One evening the senior Chabad tour leader, Rav (rabbi) Aaron Slonim from Binghamton, New York, scheduled an open discussion session. The young man attended and peppered Rav Slonim with hostile questions about the role of religion in a moral and productive life. Rav Slonim engaged him patiently and thoughtfully, and, after some time, said to him gently: “All people with deep faith are tormented by doubt from time to time. They struggle to make sense out of what they see and experience. For you to be so obsessed and concerned about faith and religion shows you have deep feelings. You must be a very religious person.” After this discussion, the “acting out” behavior vanished, and the young man participated in activities without trying to disrupt them.

Studies of Birthright Israel show that the transformative moments I observed occur with some frequency and that rabbis and tour leaders play powerful roles. For example, 27-year-old Shmuly Yankelowitz, a rabbinical candidate at Yeshivat Chovevei Torah (interviewed in another context),⁸ openly says that his life was transformed by Birthright Israel. Yankelowitz is one of the founders of both the Orthodox ethical kosher certification *hashgakhah* movement, *Tav haYosher* (the Ethical Seal), and the Orthodox international program modeled on Ruth Messenger’s American Jewish World Service (AJWS), *Uri Letzedek*. Yankelowitz grew up as “Shawn” in a home with a Protestant mother and a Jewish father. Yankelowitz remembers: “My father emphasized his Jewishness in moral ways. My mother emphasized her Protestantism in faith ways. And that was a constant tension for me in my early years.”

At his own request, Yankelowitz underwent a Reform conversion into Judaism when he was eleven years old. He enjoyed his bar mitzvah and continued on for confirmation at his Reform temple, where he developed a close relationship with his rabbi.

Yankelowitz attended the University of Texas at Austin and became the head of the Reform minyan there. He remembers ruefully, “We had four thousand Jewish students there, and twenty-five came to the Friday night Reform service, and some Shabbat mornings at minyan there were only three of us.” Yankelowitz discovered a new Jewish lifeline when he was appointed to the International Board of Hillel, then led by Rabbi Richard Joel. His feelings for Jewishness were profoundly intensified when he attended Birthright Israel. After he returned, he participated in “Partners in Torah,” a telephone learning program which assigned him to a telephone *havrutah* (study partner) from Monsey, an Orthodox businessman. Yankelowitz enjoyed the learning but wasn’t quite sure where he fit in. He agonized over whether to wear a kippah on the Texas campus, where he felt increasingly marginalized, and also over his level of Jewish learning and observance. It took some time and some experimentation with different types of Orthodoxy for him to find his way.

Yankelowitz was particularly disturbed by the tension between his desire to do good in a tormented world—a goal he had lived intensely by participating in the AJWS, and the tendency of the *haredi* yeshivot he studied in to try to shut the world out, rather than to try to heal it. Yankelowitz eventually found his niche in the religious approach of Rabbi Shlomo Riskin. His Orthodox conversion to a compatible shade of Orthodoxy feels complete to him. Today he is widely regarded as one of the most creative and gifted young Orthodox leaders—and it is worth noting that he became Orthodox because Orthodox Jews interacted with him regardless of his official status, before his *halakhic* transformation.

Studies of Orthodox and Non-Orthodox Jewish “Peoplehood”

Aware that the impact of Birthright Israel could be greatly increased with the development of follow-up programming, a number of organizations and educational institutions have created initiatives,

called NEXT Birthright Israel, including some that are run under Orthodox auspices. Some of these include, in the greater New York area, Jump, the House, Hazon, Dor Chadash, and the Manhattan Jewish experience. As Fern Chertok, Ted Sasson, Leonard Saxe, et al. comment in discussing these initiatives, “Orthodox respondents were more likely to be involved than non-Orthodox respondents,” and “Conservative respondents were more likely to be involved than Reform or unaffiliated respondents.” In New York, “one-quarter or more of respondents who attended the activities of these [the groups listed above] groups reported their denominational affiliation as Orthodox.” The authors go on to comment about Birthright Israel and the NEXT Birthright Israel as precipitators of greater religious commitments, noting: “a small portion of alumni made dramatic changes in their Jewish lives.... Most notably, some were launched into an exploration of religious identity and went on to adopt substantially more observant lifestyles.”⁹

As the Birthright evaluation statistics demonstrate, sociologically, the more observant that American Jews are, the more likely they are to take personally the tribal concept in general and Israel’s situation in particular.¹⁰ Caring about Israel is tied in complicated ways to Jewish identification. In a recent study of the intersection between gender and religious identity, Daniel Parmer and I looked at parents of children under 18, because for many people that is when religious issues start to feel pressing. Looking at unmarried Jewish parents—men and women who are married to Jews and who have a child under 18 living at home—in the NJPS 2000-2001, when respondents were asked, “How important is being Jewish to you?” those who answered “Very important” included virtually all Orthodox men and women (92% / 100%), two-thirds of Conservative men and women (69% / 71%), and 42% of Reform men and 53% of Reform women. In this, as in other peoplehood—rather than religious—questions, the most highly identified American Jews may be Orthodox women, and the least identified may be Reform Jewish men. Gender as well as denomination can make a difference in Jewish identification.¹¹

This is especially true with regard to connections to Israel. In the 2007 American Jewish Committee Public Opinion Poll (Synovate, Inc.), when Jews were asked “How close do you feel to Israel?”—six

out of ten Orthodox respondents answered that they feel “Very close” to Israel, as did four out of ten Conservative Jews and two out of ten Reform Jews (64% / 39% / 22%). Looking at the other end of the spectrum of feelings about Israel, 16% of Conservative Jews responded that they feel “Fairly distant” or “Very distant” from Israel, as did 30% of Reform Jews but only 5% of Orthodox Jews. Thus, Orthodox Jews today are much more likely than non-Orthodox Jews to feel that what goes on in Israel has immediate salience to their lives—one could say they “take it personally.”

The reasons for these differences are tied to another pattern: The wing of Judaism with which one affiliates makes a big difference in whether or not a Jew has visited Israel. Among unmarried Jews with children under 18, visits to Israel are reported by 81% of Orthodox men and 91% of Orthodox women, 55% of Conservative men and 61% of Conservative women, and 32% of Reform men and 34% of Reform women (NJPS 2000-2001).¹²

Another way to look at attitudes toward Israel is to see where respondents rank “Care about Israel” compared with other “Very important Jewish values.” When asked to rank values they thought were “very important Jewish values” in NJPS 2000-2001, those who thought “Care about Israel” was “Very important” included 55% of Orthodox men and 78% of Orthodox women, 50% of Conservative men and 54% of Conservative women, 42% of Reform men and 38% of Reform women. In other words, the group of American Jews most likely to have visited Israel and to rank caring about Israel as a very important Jewish value were Orthodox women. Orthodox men were at the same level as Conservative Jewish men and women, and Reform men and women were lowest of all.

It is not a surprise, of course, that there are differences between more ritually observant and less ritually observant Jews when it comes to areas of Jewish life that people define as “religious.” When it comes to activities such as attending synagogue services and lighting Shabbat candles, most would expect that the Orthodox profile is much higher than that of Conservative and Reform affiliated Jews. Less expected are results, such as data from the 2007 AJC Public Opinion Poll, which is similar to data from the NJPS 2000-2001 and other studies, showing

that in areas of non-religious, ethnic, peoplehood—or tribal—identification, there are large denominational gaps as well.

Not only connections to Israel but social networks—how many Jewish friends do you have and do your children have, for example, are an important measure of Jewish identification. How many Jewish friends one has correlates closely with how much one identifies as a member of the Jewish people. The NJPS 2000-2001 data showed inmarried Jewish parents having “Mostly Jewish friends” among nine out of ten Orthodox Jews (87% / 93%), slightly over half of Conservative Jews (57% / 55%), and about a third of Reform Jews, ranging from 31% of Reform men to 42% of Reform women.

Thus, connections to Israel among Conservative and Reform Jews are almost identical with the likelihood of their having visited Israel and also with their connections to other Jews in their American neighborhoods. To put it very simply, for younger American Jews, statistical attachment to Israel matches whether or not they have visited Israel and how many Jewish friends they have currently. Feeling part of the Jewish people at home and feeling part of the Jewish people overseas are closely connected.

The wings of American Judaism also differ in terms of what one might call “family styles.” Orthodox Jews are far more likely to marry in their twenties rather than their thirties and forties. Young Orthodox men and women are far more likely to have three or four children, on average, while young non-Orthodox American Jews are having children at well below replacement level, typically fewer than two children per family. Observant Jews are connected to the Jewish peoplehood on a micro level as well as on a macro level. They have more children, they give those children Jewish educations, and their children are more likely to create Jewish homes of their own. They are more likely to transmit Jewish culture to the next generation. These Jews with high levels of religious and ethnic Jewish capital are reproducing Jews and reproducing Judaism.¹³

Denominational Labels and Fluidity among the Wings of Judaism

As we have noted, Orthodox and non-Orthodox Jewish experiences are often different, and assumptions about life, and the role of

Jewishness in their lives, are different. But this statement is not quite “the truth,” because it simplifies, and in this case simplifications can distort. The temptation, which many Orthodox Jews succumb to, is to be triumphalist, to create a scenario of “good” and “bad” American Jews, with Orthodox Jews, who are the most measurably highly identified and most regularly involved in Jewish activities, as being the “best” Jews, Reform Jews as being the “worst” Jews, and Conservative Jews falling, as they often do, somewhere in between. Among non-affiliating Jews, of course, connections are even fewer and thinner, and in some cases non-existent, at least in terms of factors that can be measured.

But the reality is more complicated and more fluid in several important ways. The relationship between the wings of American Judaism is fluid. American Jews who call themselves Reform Jews or Orthodox Jews today often grew up in another Jewish movement. About one-quarter of married Jews with children under 18 who call themselves Orthodox, for example, say they grew up as Conservative, Reform, or secular Jews. So who gets “credit” for their current behavior—the Conservative, Reform, or secular communities they grew up in or the Orthodox community with which they affiliate today? And well over one-third of current Reform Jewish parents of children under 18 grew up as Orthodox, Conservative, or secular Jews. So if their attachments to Judaism are weaker, who gets blamed for their weak attachments, the Orthodox communities they grew up in or the communities with which they affiliate today?

There is nothing magical about denominational labels. Calling oneself an Orthodox or Conservative or Reconstructionist or Reform Jew doesn’t suddenly make one highly identified and engaged—or weakly identified and engaged—with Jewishness. Within each wing of Judaism there are significant numbers of people who have a lot of religious and ethnic social capital—Orthodox Jews have more of them, but they don’t own the concept.

Creating Jewish Social Capital

Jews can build religious and ethnic social capital by learning Jewish languages, getting involved with Jewish organizations, including temples and synagogues, performing Jewish rituals and ceremonies,

studying Jewish sacred texts, participating in Jewish culture by reading Jewish books, listening to Jewish music, and viewing Jewish films. That social capital can then be spent in transmitting Jewish religious culture to the next generation. The reasons there are many more Jews with religious and ethnic social capital within Orthodox Jewish communities than within non-Orthodox Jewish communities are that Orthodox Jewish communities invest more of their human resources as well as their financial resources into the creation of that religious and ethnic social capital. Indeed, it is in these *human resources* that we can locate the major differences between wings of American Judaism. American Orthodox Judaism has managed to create *committed and highly engaged laity*, people who are willing to sacrifice a great deal, when they need to, to participate fully in Jewish life.

The liberal wings of American Judaism today face the great challenge of creating a similarly committed and highly engaged laity and sense of peoplehood within their congregations. This is a difficult task, but it would be a mistake to regard it as impossible across the board. American religious fluidity, seen in Jewish population surveys and in the Pew study, shows that religious identification changes. While that fluidity often moves in the direction of fewer Jewish connections, sometimes it moves in the direction of more Jewish connections. The Pew study and other studies have shown that when young people get a little older, when they marry and have children, they are much less likely to describe themselves as “secular.” The American Jewish Committee Public Opinion Poll of 2007 shows higher levels of Israel attachment among Conservative and Reform Jews than the AJC Poll showed in 1997.

It’s also very important to note that current attachments to Israel among young Jews are substantial, if we look just at American Jews with two Jewish parents. Although the Jewish press publicized diminishing attachments to Israel among young American Jews, in Steven M. Cohen’s misleadingly titled article: *Young American Jews and Their Alienation from Israel*,¹⁴ Cohen says, “On a variety of measures, approximately 60% of non-Orthodox Jews under the age of 35 express a measure of interest in, caring for, and attachment to Israel.” He continues by explaining that the decline in attachment to Israel is

primarily a factor of intermarriage, which is more prevalent among young American Jews. “Among the unmarried and the non-married, the number with high attachment to Israel surpasses the number with low attachment. . . . Intermarriage is a major factor in driving down the Israel attachment scores in younger adults.”¹⁵

On *Kiruv* and Cliquishness

In the movement toward more identification with Israel and with the Jewish people, interventions have now and can in the future make a big difference. The evaluations which have been conducted over and over again looking at birthright Israel data show that *Taglit*-Birthright Israel, has powerful and persistent effects on attachments to Israel. One of the reasons young American Jews today, including Conservative and Reform Jews, feel somewhat more connected to Israel than they did a decade ago is that they or their children went on Birthright Israel, which has been shown to measurably influence Israel connections and Jewish identification long after the trip has been completed.¹⁶ To the extent that Birthright Israel also serves as a forum for positive interactions between Orthodox and non-Orthodox young Jews, the groundwork is also laid for future cooperative Jewish ventures, as well as greater attachment of Jewishness among participating non-Orthodox Jews. In that sense, it is appropriate to say that Birthright Israel is a twenty-first century *kiruv* experience.

It is important to recognize, however, that when Orthodox Jews of any age behave in an inconsiderate, arrogant, or cliquish manner, they not only alienate non-Orthodox Jews against themselves but they also alienate them against Jewish observance. The Birthright Israel research data is replete with hurt and angry tales of Orthodox callousness, unfriendliness, or overt unkindness to non-Orthodox Jewish youth. When these interactions take place, their impact is the opposite of *kiruv*. Rather than drawing non-Orthodox Jews close, it pushes them away. Perhaps most upsetting, it is possible that some young Orthodox Jews behave this way because they have been encouraged by their parents, rabbis, and teachers to protect themselves from possible “pollution” through interactions with non-Orthodox peers by maintaining social isolation.

It is also important to acknowledge that the wings of American Judaism influence each other, whether or not they always admit it. Reform Judaism has learned from Orthodoxy much about the importance of ritual, text study, and joy and spontaneity during worship services. Many of the most positive initiatives in the transdenominational renaissance that is occurring within a limited but important segment of American Jewish life are being led by young people who received their training under Orthodox auspices, such as Orthodox artistic business entrepreneur Aaron Bisman, and Storahtelling's "nonprofit musical and dramatic company" founded by Amichai Lau-Lavie, "Israeli-born former yeshiva student and member of one of Israel's most prominent rabbinic families."¹⁷ Even the *haredi* world is part of this fluidity. As Adam Ferziger has demonstrated, teachers and *shlichim* in the new "Community Kollels" run by right-wing Orthodox *yeshivot* are now involved in education and outreach in places far away—in every way—from the insular worlds in which they have trained. In the law of unintended consequences, they are affected by the people they teach, even as the people they teach are affected by them.¹⁸

This is far from the first time in Jewish history that Jews have faced the challenge of trying to figure out how much they can or should empathize with people whose lifestyles are very different from theirs. Indeed, while this struggle is certainly not limited to the Diaspora, it is one of the results of and one of the definitions of the Diaspora experience—the isolation of the individual Jew in an often sophisticated environment that has the effect of distancing that Jew from his or her brothers and sisters. A powerful tool for creating feelings of connection between Jews in the United States and Israel and Jews who affiliate differently, as research repeatedly demonstrates, can be found in participation across cultural lines in the *Taglit*-Birthright Israel program. The *mifgash* is extremely effective and has a profound, positive influence on both Israeli and American participants.

Other types of Orthodox/non-Orthodox *mifgashim* are also critical, I would argue, for the collective health of the American Jewish community. Given that Orthodox Jews tend in certain ways to live in a different America than non-Orthodox Jews, some in the Orthodox world have wondered whether peoplehood is a concept that has out-

grown its usefulness, and that Orthodox Jews should seal the boundaries and leave the non-Orthodox world to its fate. Some leaders, sadly, have suggested that Orthodox Jews will soon be “saying kaddish” for non-Orthodox forms of Judaism. It is interesting, by the way, that the extent such statements parallel those of post-Zionist Israeli radicals who similarly assert that Jewish peoplehood has nothing to do with Israeli identity, that the Jewish law of return should be abolished, and that the Jews of the Diaspora, with all their idiosyncrasies and delusions, should be left to their own fate.

It could be argued, to the contrary, that triumphalism and isolationism are unhelpful—and actually un-Jewish ideas, and that from sociological, cultural, and religious standpoints it is much more useful to think in terms of strengthening connections and interactions between Jews with diverse understandings of Jewishness. From sociological standpoints, several related facts suggest that interaction, rather than fragmentation and isolation, is the more useful strategy. As was noted earlier, the relationship between the streams of Judaism is already more fluid than many realize. Even a simple consideration of enlightened self-interest dictates the importance of—at the very least—creating working alliances between Orthodox and non-Orthodox brothers and sisters. Orthodox Jews comprise fewer than 10 percent of America’s Jews, and they need their non-Orthodox co-religionists for a plethora of socio-political enterprises.

Not least, non-Orthodox Jews need Orthodox Jews to help them create more vibrant connections to their own Jewishness. Non-Orthodox communities are actually drawing closer to Jewish peoplehood and identification with Israel, particularly if we look at the children of two Jewish parents. Interventions make a measurable difference in improving the Jewish peoplehood identification of younger, non-Orthodox Jews. Culturally Orthodox Jews are in a particular position of power, leadership, and responsibility toward their fellow Jews. In historical Jewish communities, where densely Jewish lives were surrounded by significant boundaries—usually not of Jewish making—Jewish ethnic capital was created coincidentally. In America today, however, ties to Jewish values, causes, and behaviors—the production of ethnic capital—is a countercultural activity that requires conscious

interventions. Orthodox Jews can help by providing a peer group to non-Orthodox Jews, making it easier for them to explore their own forms of counterculturalism and distinctiveness, through modeling, through friendship, through *mifgashim*.

NOTES

1. Gil Perl and Yaakov Weinstein, "A Parent's Guide to Orthodox Assimilation," <http://www.people.fas.harvard.edu/~perl/pgindex.html>.
2. Leonard Saxe and Barry Chazan, *Ten Days of Birthright Israel: A Journey in Young Adult Identity* (Waltham, Mass.: Brandeis University Press/University Press of New England, 2008) gives the most comprehensive data, but this paper draws upon other research publications as well.
3. Fern Chertok, Ted Sasson, Leonard Saxe, et al. *Tourists, Travelers, and Citizens: The Impact of Birthright Israel* (Waltham, Mass.: Brandeis University's Cohen Center for Modern Jewish Studies, forthcoming, 2009), lists the organizations running Birthright Israel programs.
4. Leonard Saxe, Benjamin Phillips, Graham Wright, Mathew Boxer, Shahar Hecht, and Theodore Sasson, *Taglit-Birthright Israel Evaluation: 2007-2008 North American Cohorts* (Waltham, Mass.: Brandeis University's Cohen Center for Modern Jewish Studies, 2008).
5. Daniel Parmer and Sylvia Barack Fishman, "Bridging the Gender Gap: American Young Adults' Jewish Identity and Birthright Israel," presentation for the Fifth International Conference on Research in Jewish Education, Oranim and the Mandel Institute, Jerusalem, January 8, 2009.
6. United Jewish Communities, National Jewish Population Survey (NJPS) 2000-2001.
7. Saxe and Chazan, *Ten Days of Birthright Israel*, pp. 142-147.
8. Sylvia Barack Fishman, "Creating and Countering Culture: Young American Jewish Leaders," in *Avi Chai Study of American Jewish Young Leadership*, ed. Jack Wertheimer, forthcoming 2010.
9. Chertok, Sasson, Saxe, et al., *Tourists, Travelers and Citizens*, pp. 11-13.
10. Materials from this section are presented in another context in Sylvia Barack Fishman, "For This Very Time: On Tribes and Tribalism Among Orthodox and Non-Orthodox Jews in 21st Century America," in Rafael Medoff, ed., *Rav Chesed: Festschrift in Honor of Haskel Lookstein* (2009).
11. Sylvia Barack Fishman and Daniel Parmer, *Matrilineal Ascent/ Patrilineal Descent: The Gender Imbalance in American Jewish Life* (Waltham, Mass.: Hadassah-Brandeis Institute and the Cohen Center for Modern Jewish Studies, Brandeis University, 2008).
12. Fishman and Parmer, *Matrilineal Ascent/ Patrilineal Descent*.
13. Fishman and Parmer, *ibid*.

14. Steven M. Cohen and Ari Y. Kelman, with Lauren Blitzer, *Beyond Distancing: Young Adult American Jews and Their Alienation from Israel* (Davis, Cal.: HUC-JIR Research Center, 2007), p. 11.
15. Cohen and Kelman, *Beyond Distancing*, p. 14.
16. *Ibid.*, p. 17. Cohen's data also show that the positive impact of strengthening feelings of being close to Israel is "more pronounced among those under age 35 than those 35-64." The two most important factors in whether young American Jews feel attached to Israel are: (1) did they ever visit Israel? and (2) do they have two Jewish parents? (As for American Jews 65 and older, they tend to feel attached to Israel whether or not they have ever visited.)
17. Steven M. Cohen, "The Continuity of Discontinuity: How Young Jews Are Connecting, Creating, and Organizing Their Jewish Lives," www.acbp.net, 21/64.
18. Adam Ferziger, *The Emergence of the Community Kollel: A New Model for Addressing Assimilation* (Bar Ilan University: The Rappaport Center for Assimilation Research and Strengthening Jewish Vitality Research & Position Papers, 2006). Ferziger is expanding his analysis of these materials into a book-length study.

3

Orthodox Educators in Non-Orthodox Jewish Educational Settings

Jack Bieler

Methodology

This article is the result of a study conducted over the course of three months during which forty individuals who self-identified as Orthodox Jews¹ and were previously employed and/or are presently working in non-Orthodox Jewish schools and other Jewish educational contexts; they were interviewed primarily by phone² for 35-60 minutes. The interviews were based upon a standardized rubric.³ Written notes were recorded for each of the interviews. Candidates for the interviews were identified by means of personal contacts in the Jewish education world as well as being self-selected by answering an announcement placed on the Lookjed Jewish education listserve sponsored by Bar-

Ilan University.⁴ Interviewees were guaranteed confidentiality with respect to their comments and judgments.

An Overview of the Current State of Non-Orthodox Jewish Education and the Role Played by Orthodox Teachers

Formal education is one of the means by which the Jewish people initiates younger generations into its beliefs, traditions, and folkways. While primary responsibility for educating the young is halakhically imposed upon a child's parent,⁵ the Talmud attributes to Yehoshua ben Gamla⁶ the establishment of formal schools in each Jewish community to oversee the educations of orphans and, by extension, those children whose parents for various reasons are unable to conduct and oversee their own children's Jewish education. Although home schooling has increasingly become a realistic option for some Jewish families,⁷ the overwhelming majority of structured Jewish education for the young currently takes place within the context of schools that are either under the auspices of synagogue congregations or independent institutions in their own right.⁸

Schools that dedicate at least a portion of their educational programming, curricular as well as extracurricular, to Jewish studies are faced with the responsibility to employ staff members who are expected to carry out a particular school's Jewish vision and mission during the course of their formal and informal activities.^{9 10} While an institution obviously has to allow for personal, background, and *hashkafic* (matters of *weltanschauung*, religious worldview) differences that will cause one Judaic studies teacher to be differentiated from another, the degree to which a particular instructor fits into the school's overall outlook, particularly when there is a "disconnect" between the individual's own religious perspective and the official school orientation in which s/he is working, will determine the teacher's appropriateness for that school setting. Furthermore, just as the school has to evaluate which teacher would be a desirable staff member, the educator will also need to consider the extent to which s/he can cope with challenges and conflicts that working in a school that may be at odds with his/her own religious and educational vision may entail. Clearly, in addition to the individual's professional competency and knowledge base, personality

traits such as the degree to which one is judgmental of others, open-minded, flexible, and respectful of differences in outlook and practice will have to be considered by both the school and the teacher in order to create a successful and satisfying job situation, particularly when school and teacher are ostensibly “out-of-sync” with one another.

Contemporary schools in which students obtain Jewish educations, whether they are individual nursery, elementary, middle, high schools, or combinations of these grade configurations, can be categorized into two basic groups with respect to their overall Jewish orientations: (1) institutions affiliated or at least identified with a specific Jewish denomination,^{11, 12} and (2) those that are intended to serve the Jewish community as a whole and therefore are designed to be practically, philosophically, and educationally welcoming to all students regardless of Jewish affiliation, halakhic Jewish identity,¹³ and practice.

Assuming that a denominationally oriented school is self-consciously ideologically committed to creating, developing, and strengthening adherents of its own particular Jewish perspective, the ideal candidates to teach Jewish studies¹⁴ in such institutions would obviously be proponents and adherents of the same religious point-of-view as that of the institution.¹⁵ Not only would the content of such teachers’ lessons be in consonance with the beliefs of the movement in question, but their personal example would further provide reinforcement for the learning taking place. As opposed to a secular university setting, where instructors in classes devoted to Jewish studies are expected to assume a stance of academic objectivity in order to appropriately present subject matter for consideration and analysis by their undergraduate and graduate students,¹⁶ Jewish denominational schools designed for students up to and including their high school adolescent years, pointedly intend to at the very least engender respect and sympathy for, if not outright passionate commitment to, Judaism in general and a specific perspective and mode of observance in particular. However, if the teacher him/herself does not personally share the religious orientation of the school,¹⁷ students quickly discern inconsistencies in behavior, outlook, and curricular content¹⁸ that can possibly result in the undermining of a successful transmission of the institution’s religious agenda. Nevertheless, the ideal pool of Jewish educators that

would afford denominational institutions the opportunity to employ individuals who are the personal embodiments of the institution's articulated religious philosophy, as well as who are endowed with the passion and charisma that will allow them to engage their students in a meaningful and substantive manner, simply does not presently exist,¹⁹ and there is no evidence that this situation will change in the short term. Consequently, among the "compromises" that non-Orthodox denominationally affiliated institutions feel they are "forced" to make is the hiring of Orthodox instructors.

Regarding Conservative, Reform, and Reconstructionist supplementary schools affiliated with congregations,²⁰ an educational context that has been bemoaned for a considerable number of years due to the perception and evaluation of this venue's relative ineffectiveness in contributing to the Jewish continuity and commitment of its students,²¹ interviewees reported that it is the obvious passion and deep personal commitment with which at least some Orthodox educators approach their students that cause school leaders to believe that Orthodox teachers would be best suited to succeed in these contexts, despite obvious religious divergences. As opposed to day school settings, certainly beyond the pre-school level, where the greater number of weekly sessions and the more in-depth nature of the curricula in several Judaic subjects require a relatively high acumen with respect to texts and overall Jewish knowledge, given the optimal educational outcomes presently associated with supplementary schools, some of the heads of these afternoon and Sunday schools feel that emphasis must be placed upon employing teachers who are able to forge personal relationships with their students, rather than those who might be subject-matter experts. One Orthodox supplementary school educator reported that while the non-Orthodox synagogue's rabbi, upon learning that an Orthodox teacher had been hired to fill an opening that had suddenly developed, was extremely hostile toward him, the rabbi's reaction was in sharp contrast to the feelings of the school's parents and even those of the school director, who were so pleased with the rapport that this Orthodox teacher managed to establish with his students that he was invited to return the following year.²² Another educator suggested to me that contemporary Jewish non-Orthodox parents²³ are for the most

part “post-denominational” in the sense that rather than caring that much about which denomination their children ultimately choose, they are interested primarily in their offspring’s developing some positive attachment to Judaism.²⁴ From their perspective, what is important is that their children ultimately feel positively disposed toward Judaism and once the parents overcome suspicions that the Orthodox teacher may be engaging in “proselytization,” that is, trying to “convert” students to “Orthodoxy,” they are extremely appreciative of the educator’s success in inspiring their children. Consequently, while the ideologues of the movements—the rabbis and other seminary-trained Jewish professionals—may be invested in institutionally preserving their own personal approach to Judaism, the viability of their respective movements, and the institutions directly associated with them, the actual constituencies of the synagogues that these professionals work in might have a significantly different agenda with respect to what they consider to be in their children’s best interests, leading at least some parents to prefer effective, engaging, passionate, and child-centered teachers of whatever denomination, including Orthodox instructors, to teach in their synagogue’s supplementary school.

From the perspective of an Orthodox teacher in a non-Orthodox denominational supplementary school, it would appear that their activities would be considered as informal rather than formal education. Several interviewees mentioned that their primary goal is to provide “fun” for their students so that their association with Judaism in general and Hebrew School in particular will be a positive one. Those who have extensive experience working with youth groups such as NCSY (National Conference of Synagogue Youth) and Bnei Akiva (an Orthodox Zionist youth group) appear to best be prepared to meet the challenges posed by this particular educational environment. An additional factor that might make this type of setting attractive to an Orthodox educator is that the expectations that a teacher become personally involved with his/her students are lower on the parts of school leadership and the parent body, such as inviting students to one’s home for *Shabbatot* and *Yomim Tovim* (Sabbaths and Jewish holidays), serving as a counselor for personal family issues, becoming a student’s singular religious role model, and so on, since there are far fewer sessions dur-

ing the course of the school year, and the teacher rarely lives near the synagogue sponsoring the school. One Orthodox educator working in a non-Orthodox pre-school setting stated that she welcomed being able to separate her personal and professional lives, something that Orthodox educators working in Orthodox schools cannot always do.²⁵ Supplementary schools generally do not run *Shabbatonim* (programs over the course of a Sabbath) or take trips outside of the classroom, two other areas where *halakhic* challenges to Orthodox observance typically arise.²⁶ Consequently many of the conflicts experienced by Orthodox instructors in non-Orthodox day schools never become points of conflict. Of course, this issue is balanced by the relatively low expectations that the instructor can reasonably entertain for the effect of his teaching upon his/her students, thereby seriously compromising his/her sense of accomplishment and the opportunity to experience some sort of “return” for his efforts. Interviewees realistically noted that often, monetary considerations provide the main attraction for working in this setting.

With respect to the denominational day school world, the majority of non-Orthodox day schools are affiliated with the Conservative movement²⁷ and are known as Solomon Schechter schools.^{28 29} It is important to note that just as synagogues associated with each of the denominational movements differ to some extent in perspective and practice, a range of religious views are similarly represented in non-Orthodox day schools of a particular denomination as well. One Schechter school was described by Orthodox teachers working in it as “more traditional” and therefore “not all that different from Modern Orthodox day schools”^{30 31} in light of the seriousness with which Judaic studies are pursued by the student body and commitment to Jewish practice such as *Kashrut* (Jewish dietary laws). On the other hand, an educator working in a different Schechter school, which he characterized as “left-wing Conservative” in light of the levels of learning, the sophistication of the curriculum, the degree of ritual observance, and interest in Jewish learning on the part of the majority of its student body, reported that he would be occasionally challenged by some of his students to the effect that “This is a Conservative school!” whenever they “sensed” that he was presenting a perspective they thought was

overly “Orthodox.”³² He further reported that the basis of the challenge was never with regard to his curricular choices and teaching, since he felt he was careful to respectfully present multiple perspectives; in his opinion the students’ impetus for their comments was merely due to his openly stating to the class, as well as to parents on Parent-Teacher night, that he had Orthodox ordination.³³ In this setting the dynamic between teacher and student was apparently being informed by pre-existing assumptions on the part of students about variations in denominational ideology between the school and the teacher, resulting in articulated conflict.^{34, 35} Whereas the “more traditional” Schechter school would tacitly acknowledge less of an inconsistency were it to hire an Orthodox instructor, it would be more hard-pressed to justify such a decision, other than that there was no other qualified teacher available, which as has been stated, is frequently the case.

Another variable that appears to force the hand of some non-Orthodox day schools to hire instructors at odds with the school’s religious orientation is the type of teachers required to enact the institution’s educational philosophy. Many of the interviewees stated that the reason some Conservative as well as community day schools may have a seemingly disproportionate number of Orthodox faculty members is the school’s commitment to teaching subject matter by means of seriously engaging with primary texts. These interviewees felt that the school’s hiring practices were influenced by the assumption that a teacher with an Orthodox education³⁶ is best equipped to teach text, and such a consideration often trumps any ideological concerns on the part of a school’s professional and lay leadership about the individual’s personal practice and beliefs. Not only was it pointed out that a school’s emphasis upon teaching primary text positions Orthodox teachers to be particularly desirable as staff members, but that such an educational philosophy also results in the Orthodox position about a particular topic or focus of study being clearly reflected in the primary text and therefore serving as the jumping-off point for all subsequent discussions of denominational modifications. Consequently, contrary to a particular non-Orthodox movement’s reforms and innovations, the textual emphasis in the classroom results in greater exposure being given to the more traditional perspective and practice.³⁷ Particularly

with regard to community schools, where a standard aspect to their approach to Jewish practice and *weltanschauung* entails reviewing what the various denominations each believe with respect to a specific issue, an objective presentation will result in the Orthodox approach's being repeatedly reviewed in order to illustrate how the originally singular practice has diverged in contemporary Jewish practice.

In contrast to the situation of Orthodox educators in denominational day schools, a fundamentally different dynamic would seem to apply to community day schools and their Orthodox faculty members. By virtue of the basic assumption underlying the community day school, Orthodox instructors teaching an Orthodox approach to text, ritual, and belief should be not any more or less welcome on the school's staff than would representatives of other denominations as well as secular advocates of Jewish culture. Community schools are founded upon the premise that just as the student body should ideally be comprised of the various types of Jews who make up the contemporary Jewish community as a whole, the Judaic studies faculty should be similarly constituted. Yet when it comes to how community schools throughout North America actually present Judaism and Jewish observance to their students, different overall approaches can be clearly identified. Dr. Marc Kramer,³⁸ the head of RAVSAK,³⁹ the Jewish Community Day School Network, describes at least four philosophical orientations of today's Jewish community day schools:

1. Schools that approach "pluralism" as a religious ideology.
2. Schools that value a diversity of denominations making up their student populations, but as a sociological statement rather than as a religious ideological point of view.
3. Schools that are non-ideological and deliberately non-denominational.
4. Schools that are officially under Orthodox auspices but are open to the entire community, regardless of denomination and even rigorous *halakhic* definition of Jewish identity.⁴⁰

While community schools that could be categorized as "under Orthodox auspices" should obviously not have an issue with hiring Orthodox staff members per se, and may even prefer to do so, provided

that these educators have the temperament and training to function comfortably in an essentially open environment comprising all types of Jews, the other types of community schools will vary in their attitude toward the desirability of hiring overtly Orthodox staff members.

The non-ideological, non-denominational community school attempts to avoid conflicts between various points of view, and unless the Orthodox individual will agree to suppress any positions that are exclusively associated with Orthodoxy, his/her presence on the staff will very likely be contentious. The school that wishes to be diverse rather than deliberately pluralistic will expect its staff members to present with equal emphasis and respect a variety of denominational positions on whatever topic is being studied. An alternate model of this type of school involves expecting teachers to be neutral in their presentations and to invite non-faculty rabbis representing the various denominations to present their perspectives to the students.⁴¹ But it should be pointed out that such schools derive a particular benefit from employing Orthodox faculty members despite the potential for conflict. The presence of Orthodox individuals on the staff is sometimes perceived by the community as giving “credibility” to the quality of Jewish education taking place within the institution, thereby alleviating the concerns of Orthodox and Ortho-prax families that their children’s level of observance will be adversely affected by the pluralistic nature of their religious education. As far as the Orthodox educator in such a school is concerned, his/her comfort level with presenting perspectives with which s/he fundamentally disagrees but is directed not to articulate that disagreement is questionable not only from the point of view of how subject matter is presented, but also with respect to the teacher’s personal conscience and concern for the ultimate religious outlooks adopted by his students.⁴²

In my view, the most intriguing community school orientation vis-à-vis whether Orthodox instructors should choose to join the Judaic studies faculty are those institutions that truly value pluralism as a religious ideal. In such a setting, representatives of various denominations and religious perspectives are invited to present their points of view and approaches as powerfully and passionately as they are able. It is assumed that this literal *kulturkampf* will create an intellectually

stimulating environment that will expose students to a variety of options and force them to reconsider where they personally stand religiously. Rather than being faced with deciding in very stark terms to either accept or reject a singular, essentially monochromatic religious perspective that a school might advocate, along with the traditions and observances presented to the child by his/her family, synagogue, and community, in the ideologically pluralistic type of community Jewish day school many more options are seriously and dramatically placed before the student, allowing him/her to potentially form his own, unique, position(s) as s/he goes through life.⁴³ Consequently, an Orthodox educator in such a setting will not be directed concerning what s/he can or cannot teach with respect to denominational ideology and might actually be provided with the opportunity to “win hearts and minds” on behalf of Orthodoxy. However, s/he is simultaneously participating in an educational environment where formerly Orthodox students’ hearts and minds could just as easily be lost to Orthodoxy. And while this could be the case even were s/he to teach in an Orthodox institution, that is, students for various reasons do not maintain either for the short run or the long term their Orthodox religiosity,⁴⁴ at least s/he was not consciously a part of a school that was philosophically accepting of such a result. In other words, that would consider a student who entered the school Orthodox and left it as something other religiously as much of a school success as the child who began with virtually no commitment and graduates living an Orthodox lifestyle, as well as so many other combinations lying between these extremes. With regard to such a school, the Orthodox educator faces the dilemma whether to opt for being involved in the institution’s educational process so that the Orthodox perspective is well-served and represented, or to deliberately avoid such a setting because s/he is not in consonance with what the school considers at least some of the optimal religious outcomes for its students.⁴⁵ ⁴⁶ At the very least, whether to accept an invitation to participate in such an educational setting, let alone seek out such an opportunity, were it possible to teach in other Jewish educational settings more similar to the educator’s personal outlook, seems hardly a clear-cut issue and would require significant research, consultation, and personal soul-searching.

Patterns and Trends Emerging from This Study of Orthodox Educators in Non-Orthodox Schools

During the course of the interviews, despite the fact that the interviewees were of different ages,⁴⁷ had different educational backgrounds,⁴⁸ worked in different capacities,⁴⁹ and taught in different types of educational settings,⁵⁰ several common themes and patterns emerged that in my estimation deserve comment, reflection, and analysis.

1. Motivations for Orthodox educators working in non-Orthodox educational settings

When reviewing the explanations given by the subjects for why they decided at least at one point in their careers to work in a non-Orthodox environment, aside from the expected reaction that the choice was necessitated by practical considerations, a significant number reported that they did so out of idealism.^{51, 52}

Of the fourteen educators (35%) who comprise this category, sentiments included: (1) “wanting to make a difference,” (2) “feeling that it was a huge educational *mitzvah* (fulfillment of a religious Commandment) to contribute to a marketplace of ideas” (with reference to a community school setting), (3) “since the educator had him/herself grown up in a non-Orthodox home, feeling the need to explore Orthodox religion with children who came from a similar background,” (4) “desiring to provide the type of Jewish learning that the educator thought had been lacking in his/her own formative years,” (5) “believing that the future of Judaism can be assured only by reaching out to non-Orthodox as well as Orthodox Jews,” (6) “desiring to interact with a true microcosm of *kellal Yisrael*” (the entirety of the Jewish people), and (7) “believing that the current Jewish educational scene qualifies as a situation of *pikuach nefesh*⁵³ (threat to [the] life [of the Jewish people], if not physically, then certainly existentially) and therefore requires heroic action on the part of educators.”⁵⁴ The apparent dedication of those who took on the challenges of working in an environment where so many students and colleagues did not share their basic assumptions about religious commitment and Jewish identity and would therefore inevitably involve conflicts and a greater set of

challenges than might be encountered in Orthodox institutions, was, in my view, notable and admirable.⁵⁵

2. Examples of conflicts and difficulties encountered by Orthodox educators in non-Orthodox educational settings

The conflicts that the interviewees listed as challenging their Orthodoxy, and at times making them feel as though they were “skating on the outside” of the institution in which they worked, were numerous and varied according to the position held, type of school, the age of the students, and probably the personality of the educator.⁵⁶ Here is a sampling of issues they mentioned when asked about the difficulties that they encountered working in non-Orthodox schools:

1. As was previously mentioned, teaching or even administering non-Orthodox supplementary schools requires less time, one is usually dealing with younger children, and the learning is more experiential than substantive. However, that fact does not insulate an Orthodox educator from challenges from parents suspicious of the teacher’s or administrator’s motives with regard to “making the children too religious.”
2. *Kashrut* issues arise at times, as does the challenge to respond to a Bar or Bat Mitzvah invitation in a setting in which the teacher/administrator might feel uncomfortable.
3. The fact that any number of the students may not be halakhically Jewish⁵⁷ can certainly constitute an issue—while there are leniencies, there are also stringencies with respect to teaching Torah to non-Jews—at every point when one is working in non-Orthodox schools.⁵⁸
4. The school calendar in a non-Orthodox school can also pose problems. The school’s view of not only a *chag* (religious festival) like Purim, but even *Yom Tov Sheini* (the second day of a religious festival that is observed only outside the land of Israel) will sometimes require negotiation with the institution’s leadership to ensure that proper coverage will be provided for the Orthodox educator’s classes.
5. With regard to teaching prayer, if the texts that non-Orthodox synagogues use diverge significantly from Orthodox practice,⁵⁹ can an

Orthodox teacher present this to his/her students as proper *tefilla* (prayer)? And while a teacher's declaration, "This is how some Jews practice but others do things differently," might be appropriate with older children already able to engage in abstract thinking, would this be developmentally appropriate for younger children? And if not, can an Orthodox educator sanguinely exclusively teach these materials and practices that are not in accordance with his own views?

Assuming that pre-school divisions that are part of day schools present challenges similar to those posed by congregational-affiliated supplementary schools, working in Jewish day schools on the Middle and High School level raises an additional array of issues.

6. Must the problem of the authorship of the Bible be discussed, and if so, how can/should one go about it?
7. With older students, personal modesty as well as physical contact⁶⁰ become important concerns.⁶¹ In a similar vein, how to handle gender issues as well as the question of homosexuality can be particularly daunting for an Orthodox educator.
8. How a *minyán* is arranged and conducted, as well as who can serve as *shliach tzibbur* when students are beyond Bar Mitzvah age, could also make the Orthodox educator uncomfortable.⁶²
9. If a male faculty member left an assembly at which *kol isha* (the restrictions in Jewish law against men's listening to women singing) was taking place, in what sort of light would that put him and how would the school, his colleagues, and the student body view him?
10. Can an Orthodox faculty member teach practices and interpretations even from objective, academic points of view and as part of a survey of Jewish practice, that are considered beyond the pale of Orthodox practice and thought? Can s/he do so only when allowed to make a personal disclaimer?
11. Because of the great number of trips and extracurricular activities, *kashrut* is obviously difficult to control, and will the requisite vigilance be exercised? Since food becomes a concern when faculty meetings are held outside of the school at a restaurant or private

home, to what extent can the Orthodox staff member participate and still be viewed as part of the “team”?

12. Can one be an active participant in a *Shabbaton* where students on different levels of observance are allowed even privately to observe Shabbat in their own way, including using electricity, handling *muktza* (articles inappropriate for Sabbath use), etc.?

In light of the relatively low status, salary, and benefits that educators receive in comparison to other professionals in American society, deciding to enter the field of education already requires a modicum of idealism and self-sacrifice. It would appear that an Orthodox teacher in a non-Orthodox school personally extends him/herself that much more—although several interviewees noted that the material benefits in non-Orthodox institutions were better than those offered by Orthodox schools. Where the physical amenities are superior, the educator goes through a “cost-benefit” calculus whereby s/he has to consider the trade-off between material inducements and the ideological and spiritual atmosphere of the educational environment. And perhaps this is why, in light of the relatively personally stressful religious climate that some Orthodox educators experience in a non-Orthodox school, a few interviewees commented that teaching in non-Orthodox schools over the course of a number of years⁶³ has been increasingly frustrating in terms of the relatively minute number of students that an educator manages to substantively engage with and influence to take Judaism more seriously,⁶⁴ and therefore if an opportunity presented itself where they could teach in an Orthodox school, they would seize it. Could such an insight be interpreted as indicating that as one advances in one’s career, an educator’s idealism ceases to insulate him/her from the awareness of the effectiveness of his activities, and therefore s/he begins to reflect upon how efficacious has been the individual’s activities to that point? It would be interesting to see whether by means of a longitudinal study, it could be determined whether Orthodox teachers in non-Orthodox schools experience “burn-out” either to a greater degree or more quickly than do those teaching in Orthodox schools.

3. A commonality of experience found among Orthodox educators in non-Orthodox educational settings

During the course of trying to determine why, in light of the challenges and difficulties mentioned above, certain Orthodox individuals nevertheless prefer to look for opportunities to work in non-Orthodox settings, one interesting common characteristic became evident.⁶⁵ All of those expressing “idealistic” motivations, as well as some of the educators that I would place in other categories, were able to identify some type of formative experience whereby either they achieved a comfort level with non-Orthodox Jews or they were inculcated with a sense of responsibility for the broader Jewish community. In addition to those possessing a *Ba'al Teshuva* (lit. a master of repentance; those who have come to more traditional observance relatively later in life) background which obviously allows for a heightened level of empathy for and understanding of non-Orthodox Jews, and which will be further discussed below, interviewees mentioned the following reasons why they were not only comfortable but also attracted to non-Orthodox educational settings:

1. Their youth group work for outreach organizations such as NCSY made them understand how important it was to try to positively influence non-Orthodox young people.
2. While at college, through Hillel, World Jewish Service, and other Jewish leadership programs, they came into contact with the broader Jewish world and felt drawn to working in such settings.
3. Exposure to non-Orthodox Jews as part of Federation work or other forms of Jewish communal activity created a desire to teach in a school populated by a broader range of Jews.
4. Listening to the messages insisted upon by family members, often stemming from Holocaust experiences, who stressed that we are truly responsible for every Jew, made a deep impression upon some of these individuals.
5. Having family members or close friends who were non-Orthodox Jews and therefore served as models for the greater non-Orthodox Jewish population created a sense of familiarity and concern for students in a non-Orthodox institution.

6. Coming to Jewish education after engaging in a secular profession, and having had exposure to not only non-Orthodox but also non-Jewish society, creates a greater capacity to feel comfortable working with non-Orthodox Jews.
7. Growing up in a small town where denominational lines are often crossed because of the mutual dependency of all Jews upon one another engenders an outlook that carries over into the individual's professional educational activities.
8. Israelis with *Bnei Akiva* and army experience which brought them into contact with broader Israeli society, including many non-Orthodox Jews, were not dismayed by a non-Orthodox Jewish school.⁶⁶

4. Is Yeshiva or Orthodox day school education a factor that would not lead to an Orthodox educator's considering working in a non-Orthodox setting?

An additional complementary factor is the number of these same educators who themselves never received an Orthodox day school or Yeshiva education.⁶⁷ Sixteen of the forty interviewees (40%) reported that their involvement with Orthodoxy began in adolescence or later. Consequently, (some of these individual's childhood home lives were described as Orthodox but most were not) these educators spent significant time interacting with non-Orthodox Jews in public, private, or non-Orthodox institutions, usually developing a comfort level and broad sense of tolerance. However, one interviewee astutely pointed out that before we assume that Orthodox *Ba'alei Teshuva* might make the best Orthodox teachers in non-Orthodox educational settings, such individuals should be categorized into at least two groups: (1) those who underwent a somewhat radical personal transformation and, either because of a sense of insecurity regarding their knowledge base or a fundamental rejection of the world from which they came, are disinterested in revisiting, let alone working in an environment similar to that in which they grew up, and (2) those who over time deepened their religious commitment incrementally to the point where they do not perceive themselves as rejecting their former religious and cultural lifestyle but rather modifying, improving, adding

dimensions of meaning and significance, and simply “growing into” their present state of religiosity. Whereas the former would likely be loath to engage in educational institutions which in their minds are associated with the world that they have striven so hard to abandon, the latter might not only feel comfortable in such settings, but even feel a sense of obligation to help others to potentially undergo personal journeys resembling their own.

5. The personality factor

Finally, one of the interviewees suggested that in order for an Orthodox educator to be successful in a non-Orthodox setting, s/he requires a particular personality trait: “To work in such an environment, a person needs to possess something of a ‘radical streak.’” Granted that an Orthodox person who works in these kinds of environments is breaking with convention to some extent and is possibly confounding the expectations of his/her own teachers, peers, and family members. Perhaps that is exactly what being a true idealist requires—the readiness to follow one’s deep-seated beliefs in the face of the more typical everyday choices that are made by others. I believe that this subgroup within the Orthodox educational community makes significant contributions, along with, at least for some, significant personal sacrifice.

Future Considerations

One policy question that arises from such research is whether Orthodox degree-granting institutions, such as Yeshiva University, Touro College, Yeshivat Chovevei Torah, and others should self-consciously train those intent upon entering the field of Jewish education in dealing with non-Orthodox populations, or at least should create a track for those interested in working in such a context. The question impacts upon post-professional support and training as well—that is, should resources be provided that will allow such educators to share their experiences and be given ongoing professional assistance by their Orthodox training institution? If it is determined that a “significant” percentage of their graduates either choose or find themselves needing to work in non-Orthodox institutions, should these graduates’ career paths be acknowledged and specific formal training be provided, or

will they be forced to choose such a direction without institutional support or preparation?⁶⁸

With respect to denominational day schools, it could be maintained that the challenge to find qualified and effective Judaic studies teachers will become even more acute in coming years if the opening of day schools continues at its present rate. This concern is mitigated, at least in the short term, by the current economic crisis which is expected to result in lower day school enrollment⁶⁹ and even the closing of smaller, less viable schools. Furthermore, supplementary schools are not thriving, and this trend could result in a change in the total number of educational positions available as well. It will be interesting to observe whether the Orthodox presence in non-Orthodox schools will significantly change in the years to come, particularly in light of the common observation that the Jewish community is increasingly polarized, with individuals gravitating to “left” and “right” extremes. Could that development mean that even fewer Orthodox educators will be prepared to work in non-Orthodox settings?

Only time will tell whether Orthodox educators in non-Orthodox Jewish educational settings will continue to be viewed as exceptions who will be left by the Orthodox establishment to essentially fend for themselves, or whether their role will be acknowledged and even validated as an important professional option for Orthodox educational professionals.

Appendix 1

1. How old are you? Where did you study? Do you have academic, professional educational training? Do you have an academic degree? At what level?
2. How many years have you worked in Jewish day school and/or supplementary school environments?
3. Have you worked in other non-Orthodox educational environments?
4. In what other sorts of educational settings have you worked? For how long?
5. How would you describe your present job satisfaction compared with what you experienced previously?
6. How would you characterize your present professional experience?
7. Do you consciously think of *kiruv* (lit. bringing closer; a term representing the mindset whereby one individual attempts to bring another to a higher level of religious commitment) as a goal? (I would explain that by *kiruv* I meant not necessarily making someone Orthodox, but rather moving the students religiously along a spectrum of less observance/commitment to more.) How does doing this interact with other possible educational objectives, e.g., covering curriculum?
8. What sort of collegial relationships do you have?
9. How does your Orthodoxy affect your professional experience?
10. How do you relate to your school setting outside of school?
11. What sort of conflicts have arisen and how have you dealt with them?
 - a. With students
 - Students who are not halakhically Jewish?
 - Kol isha?
 - Kashrut*?
 - Trips?
 - Dramatic productions? (Issues of subject matter, character behaviors, language, etc.)
 - b. With parents
 - c. With administrators
 - d. With lay leadership

12. What are the benefits, advantages of your situation?
13. Would you recommend such a setting to your Orthodox colleagues? Why?
14. What would you consider the profile for an Orthodox individual who could succeed in a non-Orthodox educational setting?

Appendix 2

Date: Thu, 8 Jan 2009 10:01:27 +0200

Subject: [LOOKSTEIN] Announcements 415

To: LOOKSTEIN@listserv.biu.ac.il

The Lookstein Announcements list is a project of the Lookstein Center for Jewish Education.

Announcements in this issue:...

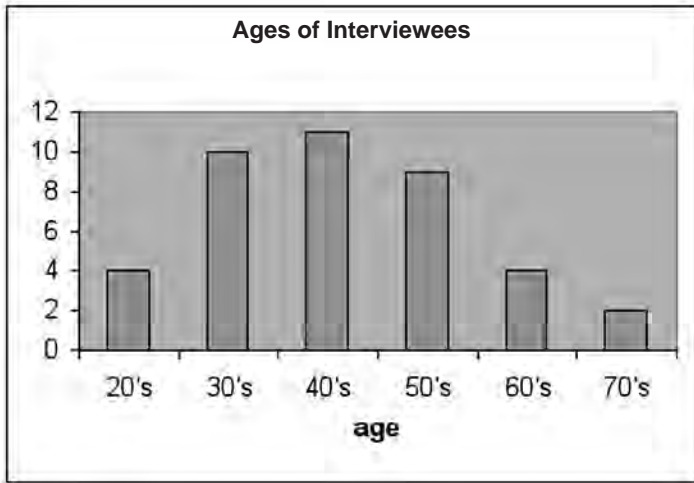
3. Research request - "Orthodox Educators in Non-Orthodox Educational Settings"

I am currently researching the topic of "Orthodox Educators in Non-Orthodox Educational Settings" for an upcoming academic conference. If you would like to participate in my research, please contact me offline at jackbieler@aol.com. What is entailed is a phone conversation lasting 20-30 minutes.

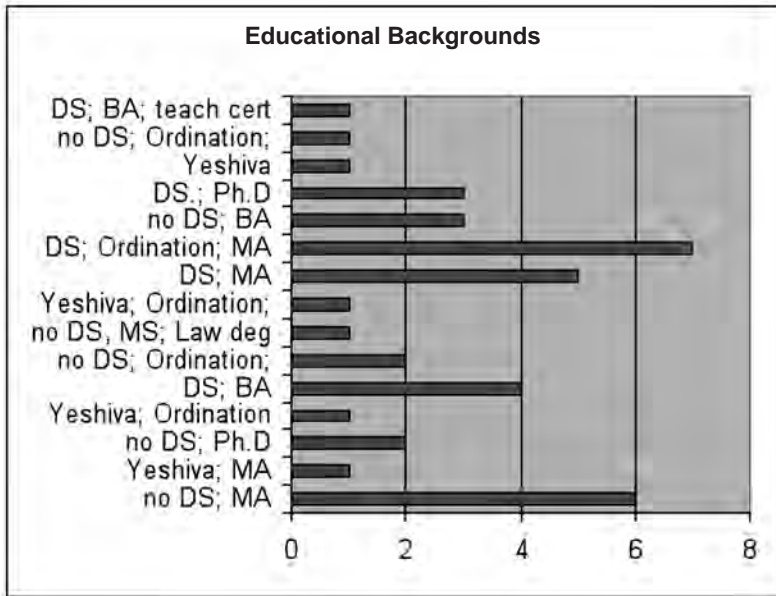
Rabbi Jack Bieler

Silver Spring, MD

Appendix 3

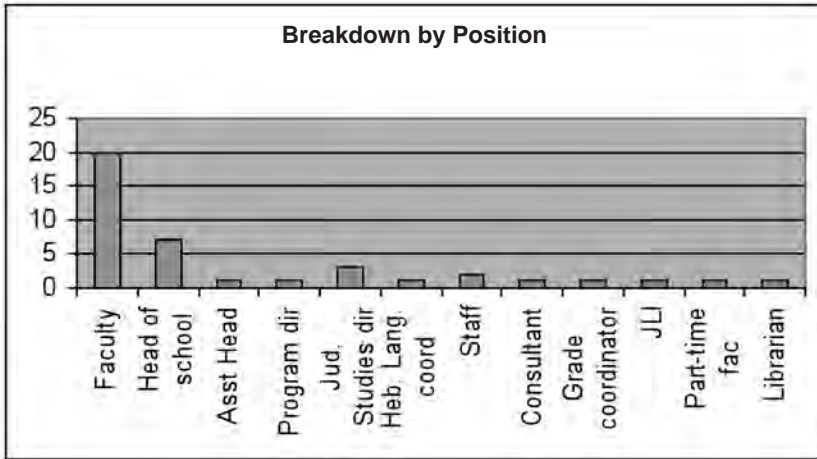


Appendix 4



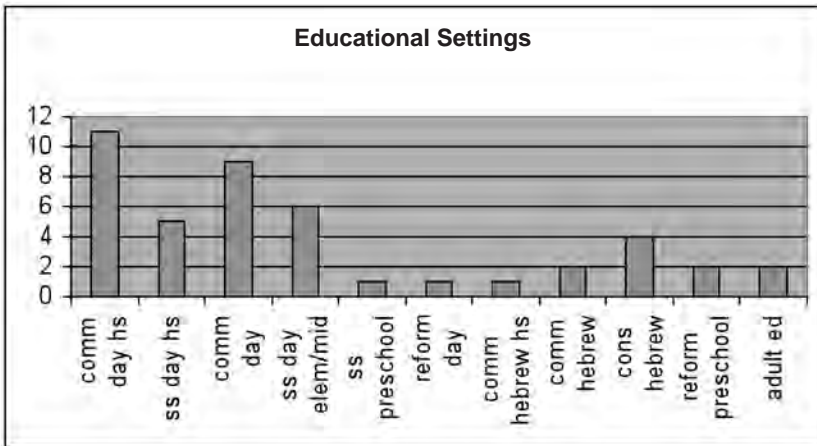
(DS = Day School)

Appendix 5

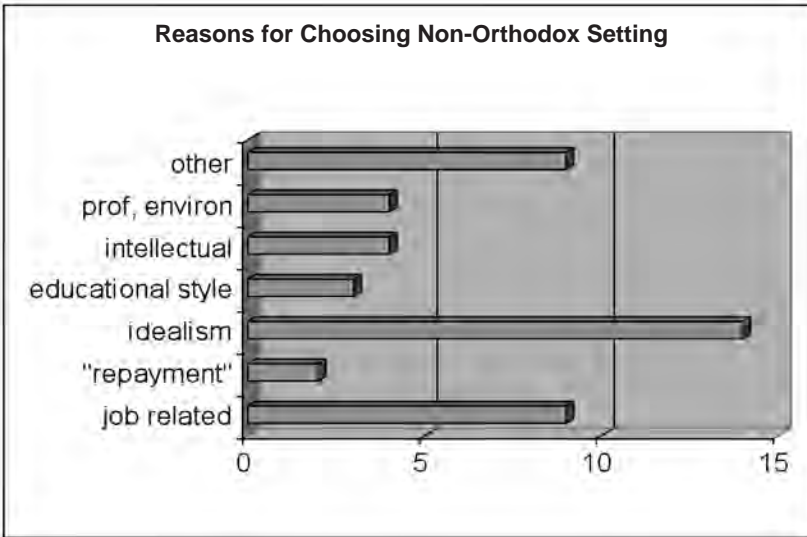


(JLI = Jewish Learning Initiative of Orthodox Union)
 (Staff = School Rabbi, Adult Education Coordinator, Board of Jewish Education staffer)

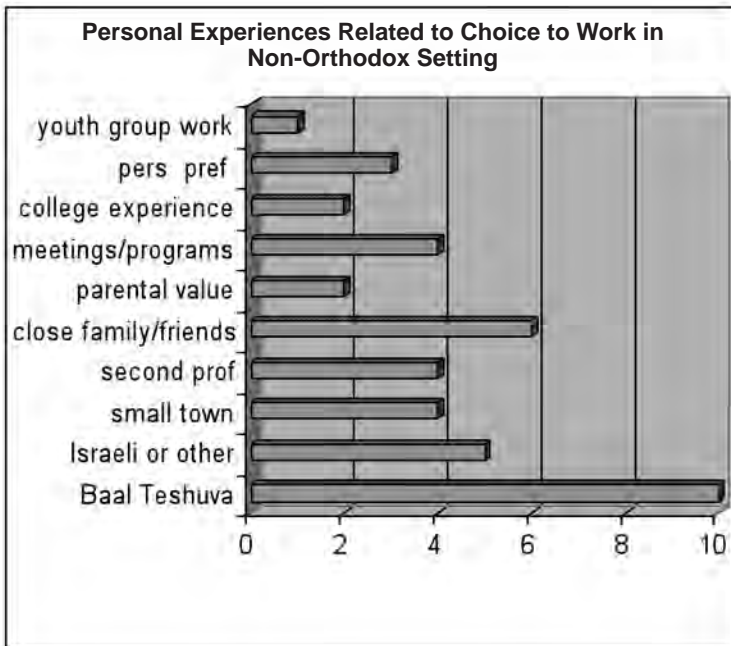
Appendix 6



Appendix 7



Appendix 8



NOTES

1. It was beyond the scope of my research to determine exactly what a respondent meant when s/he identified him/herself as “Orthodox” in response to the request that I placed on the Lookjed listserve.
2. Three interviews were conducted in person.
3. See Appendix 1.
4. See Appendix 2.
5. Deuteronomy 6:7; Kiddushin 29a; RaMBam, Mishneh Torah, Hilchot Talmud Torah 1:1.
6. Bava Batra 21a. However, Yerushalmi Ketubot, end Chapter 8 attributes this institution to Shimon ben Shetach.
7. Websites like those of the Jewish Home Educators Network <http://www.snj.com/jhen/faq.htm> and http://chinuchathome.info/index.php?option=com_content&task=view&id=372&Itemid=10514 reflect the demand on the part of Jewish families for curricula and other services designed for home schooling. During difficult economic times the difficulty of meeting tuition bills is also influencing more parents to consider such an option. There was a recent interchange on the Rabbinical Council of America listserve regarding whether home schooling could serve as a substitute for day school education in accordance with the GPS (Gerus Protocols and Standards of the Beth Din of America) initiative with respect to *Giyur Katan* (the religious conversion of a minor), particularly if the parents cannot afford the costs of day school education for their child.
8. There were 759 Jewish day schools in the United States in 2003-2004, with an enrollment of 205,000 children from age 4 to grade 12—Wikipedia http://en.wikipedia.org/wiki/Jewish_day_school.
In a 2007 study of Jewish supplementary schools, 230,000 children were enrolled in 1,720 schools. See Nate Sugerma, “Study Provides Snapshot of Struggling Supplementary Schools,” in *The Forward*, 8/13/2008, <http://www.forward.com/articles/13962/>
9. Although these instructors are employed by a particular school, from a halakhic perspective they are actually the *shlichim* (surrogates) of the parents. For that matter, the administrators who assemble the staff are similarly acting on behalf of the parent body of their students and should feel responsive to their expectations.
10. How many teachers are actually aware of a school’s mission/vision statement? How many schools have first worked carefully to produce such a document and then made sure to disseminate it to all of the institution’s stakeholders, reviewing it regularly to update it and bring school policies and practices into alignment with it?
11. This is true about both supplementary and day schools.
12. Not only are there supplementary schools of every type because of the various types of congregations sponsoring them, but in addition to Orthodox day schools, there are also Conservative, Reform, and Jewish cultural day schools. (I am unaware of the existence of Reconstructionist day schools.)

13. As will be pointed out later, just as denominational schools are not monolithic with regard to the positions that a particular institution establishes as its working principles and assumptions, the same is true for community schools. Consequently, although conceptually no one who is in some way part of the Jewish community should be excluded on the basis of not being “Jewish,” there are some schools that have instituted various types of policies in this regard. E.g., some schools have a “School Rabbi” who is charged with making these types of decisions on behalf of the school, and this individual’s religious orientation will obviously play a role in what sort of decisions are made. Other institutions might consult with a particular *posek* (halahkic decisor) or local Vaad Rabbanim (Rabbinic organization). Furthermore, particularly when schools have only a small Jewish community from which to draw their students, and there is a perceived need to attempt to attract Orthodox families to the school, particular policies might be put into place that could exclude some other potential students whose Jewish identity is questionable.
14. During the course of a consultation concerning the recent JESNA (Jewish Educational Service of North America) study, “Educators in Jewish Schools Study” (EJSS), http://www.jesna.org/jesna-publications/doc_download/2-ejss-report, the question was raised whether Jewish secular studies teachers, particularly those that are observant, should be considered as “Jewish educators” in the sense of their commitment to the field of Jewish education and their Jewish impact upon the student populations in the schools where they are employed. For the purposes of this paper, I have considered only educators directly engaged in teaching Jewish studies rather than general studies teachers in Jewish schools.
15. It is a theoretical conceit to assume that a particular individual, let alone all the members of the school’s faculty, will be in complete consonance with the perspective that the school’s founders envisioned for their institution. Religious belief and observance are extremely idiosyncratic to the point that among a group of people who purport to be adherents of a particular Jewish orientation, significant differences can be recognized when the totality of their respective religious practice and belief is rigorously analyzed. That being said, however, there are those whose similarities outweigh their differences, in contrast to others who diverge with respect to their religious norms to such an extent that they fall “outside the pale” of the school’s overall perspective.
16. During a session on Jewish prayer at the 2008 conference sponsored by Brandeis University’s Mandel Center for Jewish Education, entitled “Teaching Rabbinic Literature: Bridging Scholarship and Pedagogy,” when a university instructor who had just made a presentation on prayer was asked about how such insights could be transferred to the day school classroom and prayer experience in order to deepen students’ appreciation of their prayers, he responded categorically that it would be completely inappropriate for him as an academic to take into consideration the effects of his teaching on the inner experience of students, whether in

- his own classes, or any other. Several of the attendees were not only taken aback by the assertion but also strongly disagreed.
17. Of course this is not only the case when the instructor identifies with a completely different denomination than the one that is associated with the school, but even if within the same denomination, e.g., Orthodoxy, if the school defines itself as Modern Orthodox and teachers represent more right-wing positions, significant dissonance between teachers and students can result. While some would argue that Modern Orthodoxy constitutes a separate denomination from those identifying themselves as Orthodox or Chareidi, such a distinction has not typically been applied or accepted.
 18. This is far less of a concern in the younger grades, when students are not as discerning as when they become more mature and sensitized to issues of consistency versus hypocrisy.
 19. However acute this problem is in larger metropolitan areas, it is more severe in smaller communities which have to recruit teachers from other communities to move to their area. Consequently, less than ideal “fits” will so much more be the case in smaller communities.
 20. Fewer and fewer Orthodox congregations have offered a supplementary school option as ever greater numbers of Orthodox families have chosen to send their children to day schools. However, if current economic problems persist, just as there has been increased discussion regarding Hebrew charter schools, as well as an attempt in the Five Towns to work in tandem with local public schools to offer Jewish studies during part of the day resulting in significantly lesser costs for parents (see, for example, <http://www.ou.org/pdf/ja/5766/fall66/RadicalProposal.pdf>), it is possible that Orthodox families who are no longer able to send their children to day school might welcome a supplementary school option in their home synagogues.
 21. See Nate Sugarman, <http://www.forward.com/articles/13962/>
 22. The teacher never learned whether the rabbi also approved of his being rehired, despite his apparent success in the classroom with respect to engaging the curiosity and interest of the students.
 23. Because of the greater comprehensiveness of Orthodox observance, loyalty to Orthodoxy is often considered more central to the overall lifestyle of its adherents, and therefore Orthodox parents are typically concerned that their children develop not only a general Jewish identity, but a specifically Orthodox one. While every movement includes some individuals who are passionately dedicated to the preservation of their Jewish perspective, the percentages among the Orthodox who possess such an outlook would appear to be higher.
 24. This is not to claim that if their child became what they considered “too religious” they would be prepared to accept such a result. However, it would appear that most parents had such a low level of expectation regarding whether their children would react positively to their supplementary school experience, that this possibility never crossed their mind, unless it actually occurred.

25. While such a sensibility seemed to be more common in the supplementary school context, some Orthodox educators working in non-Orthodox day schools reported that whereas in an Orthodox institution they feared they would be overly self-conscious regarding being evaluated by colleagues, students, and the community regarding the manner in which their Orthodoxy manifested itself in their teaching and personal deportment, whether they would be required to see themselves as “standard bearers” or “role models” for Orthodox belief and practice, this would not be the case in a non-Orthodox school.
I am intrigued by such a position since an Orthodox educator could just as easily take the opposite position, i.e., an overtly Orthodox setting would challenge him/her to constantly reflect upon his/her personal level of observance and knowledge, whereas a non-Orthodox environment would be devoid of such an impetus. I suppose the degree to which an educator desires his/her professional environment to provide not only stimulation for perfecting his/her craft, but also for his/her own religious development and understanding is a matter of temperament, personality, and self-perception.
26. See, for example, points 11) and 12).
27. The official website of the Progressive Association of Reform Day Schools <http://www.pardesdayschools.org/schools/> lists seventeen member schools, one of which is in Israel.
28. The official website of the Solomon Schechter Day School Association (<http://www.sdsa.org/?page=founder>) states that there are currently 73 schools serving 20,000 students.
29. The recent identity crisis that the Conservative movement is widely reported as experiencing has led a number of Solomon Schechter schools to redefine themselves as community schools. See, for example, http://www.thejewishweek.com/viewArticle/c36_a561/News/New_York.html#. One rationale for such a “re-branding” is that it might be easier to attract a wider range of students to enroll when a specific denomination no longer defines the nature of the institution. In my research, I did not encounter anyone who recounted that the redefinition of the school would cause him/her to reconsider continuing to work there, his/her having preferred a denominational school to one that lacks a specific religious orientation; however, I would imagine that such response might be possible on the part of some individuals.
30. These individuals also mention the differences between the Schechter and Modern Orthodox schools, and consequently the difficulties that they encounter working in these environments, and these will be discussed at a later point.
31. Naturally it is possible that such a view is a rationalization that lowers the dissonance that an Orthodox person might experience in such a setting; on the other hand, if it is possible for an Orthodox individual to carve out his/her responsibilities in such a manner that s/he essentially avoids the areas where s/he may encounter conflict, e.g., s/he is not asked to lead/participate in an egalitarian prayer group, s/he is not required by the curriculum to discuss authorship issues relating

- to the Torah, etc., the Orthodox instructor can compartmentalize his/her role in the school from the overall policies and orientation of the movement with which the school is associated, creating an acceptable personal comfort level.
32. The individual described his approach in the classroom as leaving no doubt that he was Orthodox. From a strategic perspective, one wonders whether such an approach is optimal if in the end it leads to students' being able to easily delegitimize what is being taught. On the other hand, is it intellectually honest for an Orthodox person to teach in such a setting without disclosing his perspective and point of departure? This would seem to be an interesting subject for discussion among obviously those who believe that it is legitimate to work in such a school in the first place.
 33. Does this case suggest that an Orthodox teacher in such a setting would be best served by not identifying the nature of his ordination?
 34. I realize that it is questionable to overly extrapolate from anecdotal evidence, since the biases of the teacher, his/her level of experience, the chemistry between instructor and his/her students, the level and motivation of students, overall school culture, etc. might all or individually be coming into play with regard to a particular interchange. Therefore it is important to keep in mind whether this comment was substantive in a stand-alone manner, or was evidence of some other undisclosed factor(s) influencing the teacher-student relationship.
 35. While it could be said that only one or two students vocalized the challenge, nevertheless there could be others who share the critique. Furthermore, even if initially the objectors were localized, the same complaints raised over time could influence other students to share such a concern.
 36. Although at least one interviewee described how s/he had received a traditional Orthodox education but had subsequently changed her religious orientation and as a result was more than comfortable working in a non-Orthodox environment, the overwhelming majority of interviewees who reported having received Orthodox educations continue to identify themselves as Orthodox in outlook, despite serving as educators in non-Orthodox environments.
 37. It is interesting to consider what will make a greater long-lasting impression upon the student: the first position about a certain issue that s/he confronts, or the final points of view articulated.
 38. These categories are based upon a phone conversation with Dr. Marc Kramer, 2/5/2009. While Dr. Kramer was very helpful in delineating these categories, I take full responsibility for any flaws in the manner in which I may have represented them as well as the implications of those representations that I have drawn with respect to Orthodox teachers working in these settings.
 39. *Reshet Batei Sefer Kehilatim*
 40. When I asked the interviewees about the policy of their school toward accepting students who might not have been halakhically Jewish from an Orthodox point of view, several stated that as long as the requirements of one of the mainstream Jewish denominations was satisfied, the child was accepted by the community

school. This might include patrilineal lineage and/or conversion by other than Orthodox *batei din*. It must be reiterated that this is not the policy of all community day schools.

41. The effectiveness of such rabbinical presentations will obviously depend upon the frequency, quality, and pedagogical acumen of these clergymen to work with students of these age cohorts.
42. A personal example perhaps could illustrate this issue. Many years ago, when I was working in a Jewish day school, I was asked to teach a course in Comparative Religion. One of the considerations that caused me to demur was the worry that if I attempt to be intellectually honest with regard to religions other than Judaism, how would I feel if one of my students ultimately chose to adopt a different religion and claim that at least in part my presentation was responsible for his decision to make the change. Similarly, would an Orthodox teacher be able to countenance his student's adopting a form of Judaism with which, from his own perspective, he would fundamentally disagree?
43. Rabbi Marc Baker articulates such a conceptualization of what an ideologically pluralistic Jewish day school offers its students in the August 2008 issue of the RAVSAK journal, *HaYidion*, entitled "Jewish Identities in Process: Religious Purposefulness in a Pluralistic Day School". <http://www.ravsak.org/news/138/115/Jewish-Identities-in-Process-Religious-Purposefulness-in-a-Pluralistic-Day-School/d,HaYidion/>
44. The much-publicized case of Noah Feldman is an example of such a phenomenon. See <http://www.nytimes.com/2007/07/22/magazine/22yeshiva-t.html>.
45. One of the classical strategies for developing a school's educational program is to conceptualize the profile of an ideal graduate and then work backward in order to create the longitudinal path that could contribute to the pro-active development of individuals reflecting these goals and values. While in theory, at least, one aspect of a Jewish day school's *raison d'être* is to contribute to Jewish continuity, would a student who has attended an ideologically pluralistic community day school, who has thoughtfully and energetically engaged in the school's Jewish educational program and emerges alienated from Jewish tradition and community, still fall within the definition of an "ideal graduate"?
46. During the first years of my career, I taught in a school where, albeit Orthodox, many of the students were not observant. I recognized that this was the case but felt that as long as I did my best to present Jewish studies and tradition as well and as convincingly as I could, I would have no personal responsibility for how my students turned out religiously. During the time I was a Jerusalem Fellow, my tutor, Dr. Michael Rosenak, challenged me with respect to this approach and stated that he considered my attitude a form of "irresponsible" religious education. He felt that it would be more appropriate if I established some sort of baseline for each of my students, whatever it might be, e.g., avoidance of intermarriage, affiliation with a Jewish institution, ongoing Torah study, etc., and evaluate the effects my teaching had upon my students in that light. While it might be unrealistic

to think that a single year-long class, or even the opportunity to teach the same students over the course of multiple years, the effect would be so long-lasting and profound that it could be observed in personal behavior many years in the future, on the other hand, to take no responsibility for how teaching is translated into practice, or whether it isn't at all, belittles and perhaps even trivializes the significance of the religious educational relationship.

However, with respect to the ideologically pluralistic school, it would appear that Dr. Rosenak would not be able to maintain his position, since as long as a student seriously and honestly engaged with the various approaches that fall within the rubric of Jewish tradition, the ultimate result, whatever it might be, is the student's own responsibility and deserves respect by all who have participated in his education.

47. See Appendix 3.
48. See Appendix 4.
49. See Appendix 5.
50. See Appendix 6.
51. See Appendix 7.
52. Categories besides "idealistic" were made up of the following comments made by interviewees:
 1. "job related"—the educator needed a job; a job was suddenly offered, and the educator felt s/he could not turn it down; the commute was more manageable; the educator needed the salary; the benefits and salary were better than what was offered at an Orthodox institution.
 2. "repayment"—the educator attended the same school when s/he was young and therefore was interested in being able to occupy the helping role that his/her own instructors served for him/herself.
 3. "educational style"—the non-Orthodox schools were perceived to be more progressive and technologically advanced.
 4. "intellectual"—more freedom with respect to what can be taught and discussed; less preoccupation with "externalities"; intellectual openness.
 5. "professional environment"—greater commitment to professional development; more open, honest, ethical.
 6. "other"—included needing a change in venue; female staff members being treated with greater respect; teaching being in fulfillment of requirement of graduate program; for an Orthodox educator, working in a non-Orthodox institution creates a separation between the work space and personal space; a sense that will be less subject to judgment of personal religiosity and level of learning in a non-Orthodox institution.
53. I recall many years ago while attending Rabbi Aharon Lichtenstein's Shiur (Talmud class) in Yeshiva University when he used a similar metaphor in order to impress upon his students the importance of entering the field of Jewish education. The specific context to which he was referring was clearly not the world of non-Orthodox schools, but rather the need for Jewish educators to be involved with

students on the more elementary levels, since if the only way someone would be interested in entering the field was if he could be guaranteed that he would occupy the status of “Rosh Yeshiva” (head/lead teacher of the Jewish school) there would be no students sent his way because of a dearth of quality teachers in lower grades and at lower levels. It was a message that I for one took to heart.

54. As a Jewish educator who has worked for many years in Modern Orthodox schools, I could easily apply some of these same categories to the school environments in which I have taught. Unfortunately, there are many students in Orthodox schools who are unmotivated, disinterested, even alienated from Judaism and who would be extremely well served by teachers who were seeking to “make a difference,” who viewed helping many of these students as a matter of *pikuach nefesh*, and who wished to contribute a particular religious perspective to the “marketplace of ideas” extant in the school. Consequently, in my view, the truly unique emphasis of some of these educators upon *kellal Yisrael* and wanting to deal with the entire gamut of the modern Jewish community would be what sets apart Orthodox idealists in Orthodox schools from those who opt to teach in non-Orthodox settings.
55. During the course of my interviews, it became apparent that those teaching in Middle or High School, whether day or supplementary institutions, were generally harder pressed to deal with incongruities between their personal religious views and those of the student and parent body, than were those who taught in nursery or elementary schools. Furthermore, Hebrew language teachers were often insulated from religious orientations of the school and could choose to include as much or little Jewish culture and ritual observance as the subject matter would permit without entering into general conflicts with the school community. In fact several interviewees mentioned that avoiding teaching specific subject matter on the upper levels was a deliberate choice on their parts in order to avoid not only curricular issues, but also problems that would involve how to constitute a minyan, choosing *shluchoi tzibbur*, and events like Shabbatonim that could bring religious disagreements to the fore. Similarly those working as librarians, programmers for adult education organizations or members of Bureaus of Jewish Education might face issues when interacting with co-workers; however they would be spared day-to-day student and parent conflicts.
56. Some individuals described themselves as preferring not to “rock the boat” and felt that challenging a practice or a curricular decision from an Orthodox point of view would be “disrespectful” to the non-Orthodox setting in which they worked. Others were not reticent about such matters and did voice objections to certain goings-on in the school. Aside from the pluralistic community school setting wherein everyone is defined as an equal stakeholder, this attitude raises the question of whether an Orthodox educator in a non-Orthodox school can ever become truly invested in the institution in which s/he works. Perhaps as long as one is devoted to his/her students, becoming an institutional “stakeholder” is of less importance. Or is it? I am fond of quoting one of TheodoreSizer’s principles

for Essential Schools, “Faculty should be generalists first and specialists second,” i.e., staff members should feel invested in advancing the entire institution rather than just their own subject area. Is doing this possible in the scenario that this paper is discussing?

57. Such an issue can arise from the school’s accepting students on the basis of patri-lineal lineage or a conversion conducted by a non-Orthodox *Beit Din* (rabbinical court).
58. It was striking to me that a great number of the interviewees, when asked how they dealt with questions such as teaching Torah to a student not halakhically Jewish, either said that the problem never occurred to them or that they simply assumed that it was not a problem. This view was in contrast to the much smaller number who reported that they asked *She’eilot* (questions regarding Jewish law), researched the matter, and made sure that they were not violating any clear-cut *issurim* (prohibitions). Does this attitude reflect upon the degree of these individuals’ Orthodoxy, their personal level of Torah learning, or other phenomena?
59. A specific issue that was brought up several times was the inclusion of the *imahot* (the Biblical foremothers, Sarah, Rivkah, Rachel, and Leah) in the introductory *Beracha* (blessing) of the Amida (the silent devotion prayer). What constituted Musaf (the additional prayer recited on Sabbaths and holidays) was another bone of contention.
60. One interviewee recounted how after a traumatic event at the school, some faculty members could hug their students, whereas he could not (because of religious restrictions regarding physical contact between men and women), possibly leading some students to consider him inconsiderate or distant.
61. Interestingly, the majority of interviewees who mentioned this issue were male rather than female.
62. Several Orthodox women commented to me that whereas Orthodox male faculty members would not be required to supervise the egalitarian tefilla (prayer) at their school, the same accommodation was not made for women.
63. In a recent issue of *Mifgashim*, VIII:45, edited by Rabbi Lee Buckman, an internet project under the aegis of Bar-Ilan University, a description of the most recent generation of teachers, obviously including those in Jewish education, suggests that long-term work in any one school, or even in the field of Jewish education in general, may not appeal to the “Millennial generation,” and therefore the issue of long-term frustration may be moot:

Marshall Memo: How Are Millennial Teachers Different from Gen-X and Boomers? In this Tools for Schools article, National Staff Development Council communications director Joan Richardson lists the ways that the Millennial generation of teachers (those born after 1977) are distinct from Generation X (1965-1977), Baby Boomers (1946-1964), and Traditionalists (before 1945):...

Millennials have a high tolerance for change, innovation, and learning. They don’t expect to stay in the same career for 30 years, which

means tenure has much less meaning for them, but they place a high value on continuing to learn and moving ahead quickly. “Packaged with this,” says Richardson, “is a higher level of assertiveness and confidence in their own abilities.” They may think that three or four years of teaching is plenty of time and then they’re ready to become a principal or take on another role in the field. . . .

64. Although Mishna Sanhedrin 4:5 contends that “whomever saves a single life is considered to have saved an entire universe,” suggesting that all human interactions are functions of quality rather than quantity, and even if a teacher manages to inspire a solitary student out of the many that s/he teaches, he has achieved a noteworthy accomplishment, nevertheless acknowledging that a conceptual idea does not always result in a sense of affective fulfillment and provide a stopgap against personal burnout.
65. See Appendix 8.
66. In my experience, Israelis do not have the same attitude toward non-Orthodox institutions in the Diaspora as many American Jews appear to have. Perhaps since the entire culture, society, and communities in which the non-Orthodox schools are located are perceived on the one hand as different from what the Israeli educators are accustomed to, even if they have lived in *chutz la-aretz* (outside the land of Israel) for many years, and on the other hand, still part of the Jewish people to whom they feel a deep sense of commitment, some of them look past denominational demarcations.
67. For my discussion of the effects of an Orthodox day school education on attitudes of students toward non-Jews, see *Formulating Responses in an Egalitarian Age*, ed. Marc Stern, Orthodox Forum, 2001, http://www.lookstein.org/articles/bieler_racism.pdf.
68. At one point in time, Orthodox institutions deliberately placed graduates into non-Orthodox synagogues, with the understanding that these individuals will decide whether or not to remain, on the basis of their ability to effect certain changes in the synagogue over the course of a specific number of years. Furthermore, institutions took upon themselves the responsibility of providing chaplains for the armed forces, even if doing so meant that the environments in which such individuals found themselves would not be ideal for Orthodox observance. Should non-Orthodox day schools and supplementary schools be viewed similarly?
69. While some parents approach the need to give their children day school educations in sacrificial terms to the extent that they will endure hardships to be able to pay high tuitions, others were not deeply committed to this type of education even during periods of economic prosperity, and the current difficulties will pressure them to conclude that they are unprepared to make the sacrifice and will send their children elsewhere.

4

Beyond Outreach: The Abraham Joshua Heschel School— A Case Study in Inter-denominational Collaboration

Ahuva Halberstam

The Abraham Joshua Heschel School, a 26-year-old Jewish day school that added a high school division in 2002, is a pluralistic, progressive, mission-driven school that attracts students whose families affiliate across all Jewish denominations as well as those who do not affiliate at all. The high school division opened to meet the needs of existing

Heschel families, and to attract those families who were interested in educating their adolescents in a Jewishly diverse community. When it opened its doors to forty-two ninth-graders in September 2002, it became the first pluralistic, multi-denominational school in the New York area. Its current student population of just under 300 draws students from four of the five boroughs in New York (none yet from Staten Island), Westchester, Long Island, as well as students from New Jersey and Connecticut. We do not ask and therefore cannot track how families affiliate, but in the high school, where students may select a *minyán* from among many options, the Orthodox and Conservative *minyanim* together account for close to half our students. The language of labels is alien to the culture of the Heschel School. Neither students nor adults routinely use denominational labels in discourse, nor use titles such as rabbi or doctor to address one another; even surnames have been dropped and everyone is addressed by first name only.

We are not about *kiruv*, since *kiruv* implies that a certain set of religious behaviors is distant from a prescribed and agreed-upon norm. We are not about tolerance, either, since that term too implies something undesirable that another will make space for in his or her thinking or worldview; we *are* about genuine respect for differences. We *are* about creating a community in which interactions among members are consonant with Torah ethics. The crafting of a *tzibbur* that embodies the values of *tzelem Elokim*, that focuses on the myriad *mitzvot ben adam lechaveiro*, has become the springboard for the school's entire educational (not only academic) program and the extension into the high school of its mission.¹ In the preparatory year before the high school opened, a small group of colleagues² and I collaborated regularly to determine how best to implement the school's mission for fourteen- to eighteen-year-olds and to develop *limudei qodesh* and general studies curricula as well as an overarching approach to high school governance. What emerged was a commitment to create a community characterized by dignity, respect, caring, and accountability in which all members had a stake and a voice. We agreed to live by the inclusive guidelines of the school's existing Education and Religious Policy. (A committee of the same name has been meeting regularly since the school's inception to review, reexamine, and also rewrite policy so

that it reflects what should as well as what does go on in the school. The opening of the high school was one occasion that catalyzed such revision and highlights the school's own commitment to reflective practice. A manual entitled *Educational and Religious Policy*, reflecting the work of the committee, is distributed to parents and faculty.) We also discussed and adopted the "Just Community" model already adapted for Jewish schools by Steven Bailey and Jerry Freidman, from Lawrence Kohlberg's work on moral development.³ Interestingly, this choice of school governance emerged from Freidman's contention that Orthodox Jewish Day School students were (despite the many hours in religious education, regrettably) no more inclined to act morally or ethically than their secular peers. Among the students studied by Bailey and Freidman were high school students in Orthodox day schools in Boston, and Freidman subsequently completed doctoral work at Harvard using this research to support his contention. The first Jewish school to employ Kohlberg's Just Community model is the *Shalhevet* School in Los Angeles, founded by Freidman and first headed by Bailey. It is still being used there seventeen years later.

While Kohlberg appreciated the importance and value of moral dilemma discussions, he held from very early on that moral education required more than individual reflection, but also needed to include experiences for students to operate as moral agents within a community. In this regard, Kohlberg reconciled some of the differences in orientation that existed between the theories of moral growth held by Piaget and Durkheim. In order to provide students with an optimal context within which to grow morally, Kohlberg and his colleagues developed the Just Community schools' approach towards promoting moral development. The basic premise of these schools is to enhance students' moral development by offering them the chance to participate in a democratic community. Here, democracy refers to more than simply casting a vote. It entails full participation of community members in arriving at *consensual* (emphasis mine) rather than "majority rules" decision-making. One primary feature of these schools is their relatively small size (often they are actually schools within

schools), aimed at providing the students with a sense of belonging to a group which is responsive to individual needs. The central institution of these schools is a community meeting in which issues related to life and discipline in the schools are discussed and democratically decided, with an equal value placed on the voices of students and teachers. An underlying goal of these meetings is to establish collective norms, which express fairness for all members of the community. It is believed that by placing the responsibility of determining and enforcing rules on students, they will take pro-social behavior more seriously. At the same time, this approach stems from the cognitive-developmental view that discussion of moral dilemmas can stimulate moral development.

However, this is not to say that a Just Community school simply leaves students to their own devices; teachers play a crucial leadership role in these discussions, promoting rules and norms, which have a concern for justice and community, and ultimately enforcing the rules. This role is not an easy one, as teachers must listen closely and understand a student's reasoning, in order to help the student to the *next level* of reasoning. This requires a delicate balance between letting the students make decisions, and advocating in a way, which shows them the limits in their reasoning. A primary advantage to the Just Community approach is its effectiveness in affecting students' actions, not just their reasoning. Students are, in effect, expected to "practice what they preach," by following the rules determined in community meetings.⁴

Student-run town meetings take place at our high school about once a month. Student Senators (three per grade) present proposals for school policy that have come from ideas of students across the grades and that have been discussed by the members of the Student Senate, including administrative and faculty representatives. After presentation to students and discussion, members of the school community vote the proposals in or out. Students also vote in every class during the first week of school. At this time, teachers present a policies

and procedures document through which they suggest (based on their experience in the classroom) policies that might govern the classroom community fairly and enhance the learning process. Responsibilities of both teachers and students are delineated. Each policy is backed by a rationale (no arbitrary policies) that benefits and binds (not only in the obligatory sense) all members of the community. Teachers and students discuss the fairness of each guideline; modifications are often made, and only then is a vote finally taken.⁵

The notion of a community in which all members may expect to be treated respectfully and fairly at all times is neither ingenious nor revolutionary, but it is an articulated, well-defined norm in our Jewish school. At the Heschel High School it is only one of the ways in which we strive to create a caring community. We require our full-time teachers to be at work from 7:45 A.M. until 4:45 P.M.; all faculty members share a large common space, positioned in the center of the main classroom floor, where students are welcome. When teachers are not in the classroom or at lunch, it is easy to find them in the faculty room. No additional teacher or department spaces have been set aside. This design allows for much greater accessibility for students and greater collaboration for teachers, who get to know one another very well and their students even better. The greater amount of time spent in school affords teachers greater awareness of students' inner lives, including their religious lives. It is very important to us to have all of our school community members involved in the life of the school and accomplishing that goal requires both quantity and quality time spent *in* the school.⁶

If the creation of a *tzibbur* characterized by justice, righteousness, human dignity, the characteristics of *kedushah*, holiness, and *tzelem Elokim* values underscores the intrinsic value of each member of our school community and defines the relationships that members form with one another, the *limudei qodesh* curriculum focuses on the primary relationship that has governed Jews from time immemorial: the *brit* (covenant) between the Jewish people and the Divine. Text selections from *Tanakh* and *Talmud* in grades nine through eleven are made to underscore the significance of the covenantal relationship, its intricacies and implications. By grade twelve, course offerings expand to

include a glimpse of contemporary Jewish thinkers (including Rabbi Heschel), ethical dilemmas that characterize modern life, Israel and Israeli Jews, and how the politics of the Middle East will confront our students once they arrive on a college campus. It is at this point in their academic and religious education that we challenge students to begin to articulate a personal theology and to grapple with the question of where and how they fit into the covenantal continuum of God, Torah, and Israel.⁷

The ongoing challenge of sustaining a community whose members demonstrate genuine respect for one another, despite *hashkafic* and religious praxis differences, and who are also invested in having learning emerge from their interactions with both text and open dialogue (constructivist and progressive), requires daily teacher collaboration and reflection not only about the pacing of curricular content, but also with how a specific lesson is processed by a particular set of students with its particular teacher, and the daily adjusting and fine-tuning of lesson plans and assignments to reflect that process.

The nine members of the *limudei qodesh* team (three males and six females) include a department head with extensive professional experience as a teacher educator, a *musmakh* of YU with an Orthodox pulpit as assistant rabbi, a *musmakh* of *Chovevei Torah*, a Ph.D. from Yale, a graduate of YU's *beit midrash* program for women, a graduate of Drisha's Scholar's Circle, and several beginning teachers who have studied at JTS, Pardes, or the Hartman Institute. Most have had previous workplace exposure to non-Orthodox populations. (Interestingly, the high school has attracted ritually observant Jews [many of whom self-identify as Orthodox across the departments [most of the math, science, and social studies departments, in fact]. This composition allows for a rich integration of Jewish content and concepts outside of *limudei qodesh* classes. Jewish History is embedded in all general history courses, and it is not unusual for figurative language to be illustrated in English classes through translations of liturgical material.) When I asked the *limudei qodesh* faculty to identify issues they face in working with a diverse Jewish population, few came up. One suggested that she was occasionally disturbed by how some of the students dress; another remarked that while *kol isha* was an issue for him, he felt respected

by students and colleagues alike when absenting himself from *kol isha* events. Further remarks are assembled in Appendix IV.

Despite the lack of overt discomfort on the part of self-identifying Orthodox faculty and administrators, we did have to grapple (and we continue to do so) with the question of *tefillah* for students who represent all the streams of Judaism. After much discussion, a trans-denominational option, in which all students would have the identical *tefillah* experience, was rejected. It felt preferable to us to have students acquire *tefillah* skills that were reflected in real-world *tefillah* venues. And so we created several options for *tefillah* that include normative egalitarian and *mekhitza tefillot* (what one would expect to find in a Conservative or Orthodox morning service, respectively), and a range of options to engage those students who require or desire something else. The result has been that more students are meaningfully engaged in prayerful experience and form positive attitudes to *tefillah*. All faculty members are involved in some way in facilitating *tefillah* to underscore its place and value in the school. Those who can, facilitate different *minyanim*; everyone else contributes either by taking attendance, monitoring hallways, or joining a *tefillah* service. No faculty member uses this time to meet with students or to prepare lessons or to grade work.

The following is a statement of the place of *Tefillah* at the high school and the options for 2008—2009. Students make their selections, with parental approval, for the duration of the school year.

The Heschel High School believes in the benefits of starting one's day in prayerful stance and seeks to imbue its students with the skills, attitudes, and dispositions of prayer. All students begin their school day in a *tefillah* service. *Tefillah* options, regardless of their emphases or structures, include a core daily service and reflect school policy that all boys wear *tefillin* to fulfill their responsibility as members of a Heschel High School *minyan*. Beyond these shared standards, the emphases of each of the *minyanim* differ significantly from one another. In the interest of pluralistic Jewish education, the high school maximizes opportunities for exposure to a multiplicity of forms of *tefillah* practice. Students select a *minyan* in consultation with their families for the year's duration.

Egalitarian Minyan: Grades Nine through Twelve

This *minyan* is for students who want to participate in and shape a warm community that connects to God through the words of the traditional *shaharit matbeah* (morning liturgy) and its melodies. This is a student-run *minyan* with faculty facilitators. Students serve as *shlihei tzibbur*, *gabbaim*, and Torah readers. In addition, students give *divrei tefillah*, teach each other *davening* skills, and lead group-wide activities.

The Orthodox Minyan: Grades Nine through Twelve

Tefillah is a daily struggle; to succeed is to start again.

Committed to tradition in both form and content, the Orthodox *minyan* is home to those who find meaning in reciting the words of the *tefillah* and feel comfortable with the separation of a *mehitza*. This group is committed to the primacy of prayer, guided by the dual beliefs that in the quest for a worthwhile *tefillah* experience there is no substitute for reciting the words, but that reciting the words of the rabbis cannot substitute for personal investment in the attempt to find meaning. Thus the challenge: to experience a meaningful *tefillah* moment each day in which the full service is not mere lip service; to foster a collective group atmosphere that withstands the *mehitza* barrier; to create substantive opportunities for personal involvement from both genders while remaining within the confines of tradition. To meet these goals, all members of the group must show respect for *tefillah* by not distracting the group; all sound comes from praying, not talking.

Hesed Minyan: Grades Nine through Twelve

In the *Hesed Minyan*, the community will pray and engage in *Hesed* (Acts of Loving Kindness) together, and explore the connection between the two. What does it mean to build a community devoted to *Hesed* and prayer, a *Hesed* community that prays together and a prayer community that does *Hesed* together? How can the experience of *tefillah*, and particularly *Tefillah be-Tzibbur*, communal prayer, be enhanced by *Hesed* and engagement in *Hesed* be enhanced by *tefillah*? The *Hesed Minyan* will include: a modified prayer service, including exploration of the connection between the words and experience of prayer and *Hesed*; exploration of social justice issues from a Jewish

and humanitarian perspective; and planning and implementing *Hesed* projects. The members of the *Hesed Minyan* will take leadership roles in shaping the prayer service; identify social justice issues to explore; and choose, organize, and carry out *Hesed* projects.

Tefillah Exploration: Grades Nine and Ten

Do you know what all the morning prayers mean? When they were written? Why they are organized the way that they are? Do you know why males are mandated to wear *tefillin* but females are not? Would you feel comfortable walking into any morning *Shacharit* service, because you would know exactly where to find the prayers that the community is reciting? Do you know how to connect the words of the traditional prayers to your own life? If the answer to these questions is no, then the *Tefillah Exploration Minyan* is for you. In this open, supportive, and safe environment where all questions are welcome, we will explore the content and the structure of the prayers in ways that will help us find our own personal meaning in them. In addition, we will work on gaining the skills and comfort level necessary to be able to fully participate in and lead the *Shacharit* service.

God and People Searching for Each Other: Grades Nine and Ten

This *tefillah* group includes a short, basic daily service fulfilling the obligation for daily, community-minded prayer. This group will be suited for students who are philosophically minded and like grounding their spirituality in learning. Students will read segments of teachings about our relationship with God and God's relationship to us. These teachings will include Talmudic texts, medieval theologians, and contemporary thinkers such as Rabbi Joseph Dov Baer Soloveitchik, Martin Buber, Mordechai Kaplan, and Abraham Joshua Heschel.

The Varieties of Human Experience: Grades Eleven and Twelve

This *minyan* will focus on an authentically Jewish approach regarding universal human experiences in a setting that is comfortable for students with *both* religious and secular leanings. Through the medium of documentary film, memoir, blogs, and audio diaries we will explore such themes as forgiveness, grief, hope, and injustice. Ad-

ditionally, the *minyan* will engage in an exploration of human rights. This *minyan* is appropriate for students seeking serious dialogue who are prepared for active participation.

The Meditation and Sacred Music Minyan: Grades Eleven and Twelve

The Meditation and Sacred Music *Minyan* combines Jewish meditation practice, the sacred art of *niggun*, wisdom teachings, and ecstatic Jewish prayer from the Kabbalistic and Chassidic traditions to open participants to deeper and more subtle shades of consciousness, spiritual awareness, self-expression, and a sense of Divine Presence. In addition to Jewish meditation, music, and prayer, this *minyan* includes regular God-talk sessions where students are given an opportunity to reflect upon, journal, and talk about issues relating to God, with the goal of shaping personal theology. The *minyan* seeks to foster the creative self-expression of each student by inviting students to compose, arrange, and teach their own *niggunim* and harmonies, share music that moves them, play leadership roles in leading and shaping the prayer service, and share insight from personal experience. Students are encouraged to bring musical instruments to *minyan* and to participate in jam sessions as they accompany *niggunim* and explore the power of music as a gateway to spiritual awareness. Each student will pair up and check in with a spiritual *chavruta* (or spirit buddy) who will serve as a support and confidant.

God Seekers: The Minyan, Grades Eleven and Twelve

Have you ever wondered who/what we're praying to?! How and why do we want to encounter God at all? This *minyan* will explore ideas about what God means to us and our Jewish identities through a variety of different texts, from modern fiction to Buddhist ideas and Jewish philosophy. Throughout the first half of the year we will explore the question of who is God, and we will develop our own individual theologies. During the second half of the year we will think about the question "Where is God, and how can I meet/experience/perceive God?" One of our goals will be to integrate our personal theologies into our own Jewish prayer experiences in the *minyan* itself.

This *minyan* is appropriate for individuals who want to engage in serious theological discussion and investigation.

Whereas *tefillot* are not trans-denominational, other areas of Jewish life are common to all students irrespective of personal denominational identification. Where *halakhah* is invoked, it is for the purpose of inclusiveness. The following is excerpted from student and parent manuals:

Jewish Life at the Heschel School

The core communal values that the Heschel School expects every student to adopt and infuse with personal meaning are not solely intellectual; they project directions and define contexts for specific behaviors. Every area of Jewish life creates a context for active student participation. To be a Heschel student is to be active inside and outside the school community.

Our students and graduates should continually strive to

- demonstrate spiritual sensitivity by recognizing the challenges and opportunities of meaningful prayer
- cultivate a habit of gratitude, including an awareness that food comes from the Creator, and the fact that we have food to eat suggests a moral obligation to give to others
- participate in ongoing *hesed* and communal outreach programs
- recognize the mystery of the created world and steward it in a responsible way
- talk about and seek ways of demonstrating pride in being a member of the Jewish community and Jewish people
- recognize that Torah study plays an important role in one's self-understanding
- demonstrate an unwavering concern for, and support of, a vibrant, strong, democratic, Jewish State of Israel

Tefillah

The Heschel High School begins the day with *tefillah*. All students are required to participate in a *shacharit minyan* (morning-prayer service) of their choice. The standard *minyan* is traditional and egalitarian.

tarian, reflecting the school's dedication to a mastery of Jewish texts and prayers along with the philosophical commitment to the ways in which egalitarian thought has shaped the Jewish community in America. However, the Heschel School also remains equally dedicated to the importance of pluralism within the school's community, in order to sustain a model in which Jews who disagree with each other on religious and social issues can find ways of forming honest, trusting, and respectful relationships through discourse and study, and it offers a daily Orthodox *minyan* and egalitarian *minyan*, as well as a variety of alternative *minyanim*. In any given year, these may include a learner's service, women's *tefillah*, *Iyyun tefillah* dedicated to the study of prayer, a *hesed minyan*, meditation *minyan*, musical *minyan*, and a Sephardic *minyan*. All *minyanim* and *tefillah* groups include a daily routine of fixed prayer, whether traditional in form or not. In addition, all males are required to wear *kippot* (not other types of head covering) and *tefillin* during all *tefillot*. The expectations for females regarding *tallit*, *tefillin*, *kippah*, and other forms of practice connected to *tefillah* will vary depending upon the specific *minyan*. We do not expect all students to think about God and their relationship to God in the same way. However, we do expect all students to participate actively in the *minyan* of their choice during *tefillah*.

Meals

How we eat together reflects our individual and communal sensibilities. The blessings we recite before and after a meal reflect our recognition of the abundance we enjoy and our obligation to share it. The four blessings of the Grace after Meals, *Birkat haMazon*, acknowledge that God enables food to grow from the earth; that the Land of Israel is the part of the earth with historic significance for us; that Jerusalem nourishes us spiritually; that life, with its pleasures, bounty, and health, is worth living.

We expect all Heschel High School students to begin and end their meals with words of blessing. A double sink in the cafeteria provides students with a facility for ritual hand washing (*netilat yadayim*). On special occasions, when we eat together formally, we will recite *Birkat haMazon* collectively. Otherwise, we expect students to recite a ver-

sion of *Birkat haMazon* by themselves. As an expression of the Heschel School's pluralistic philosophy, students may request alternative versions of *Birkat haMazon*.

Kashrut

The Heschel School is committed to both appreciation of diversity within Jewish tradition and our own community observance of certain *mitzvot* and *halakhot* (Jewish laws). Our observance of *kashrut*, as explained below, is guided by the concern that all members of our community feel comfortable eating at both lunch and school functions and that no one be in the position of judging another's level of *kashrut* observance, or of being judged. Heschel High School students are expected to adhere to the school's *kashrut* standards while in the building, or at any school-sponsored event outside the building.

Food that students bring to school

Cold, non-meat products may be brought to school as long as there are no non-kosher ingredients in them. We ask students to bring only *pareve* (non-meat, non-dairy) or dairy products into the school in order to avoid mixing meat and milk.

No home-cooked or baked goods should be brought to school for sharing with others. Packaged food brought to be shared with other students must be marked by the sign of a professional *kashrut*-supervision organization or individual. A simple "K" does not indicate an acceptable standard for school use. Food prepared by kosher bakeries, restaurants, caterers, and other food suppliers who have kosher certification is permitted.

The school maintains a strictly kosher kitchen under the supervision of Dean of Judaic Studies Rabbi Dov Lerea. All school kitchen appliances and utensils are kosher according to *halakhah*, and these facilities and utensils are used to prepare food for school lunches and other occasions.

Microwave ovens in the cafeteria

The microwaves in the cafeteria are public ovens, used by students and teachers. Therefore, using the microwave requires balancing two

values that are central to our school: inclusive respect of every individual, and the commitment to *kashrut*/Jewish dietary laws. In order to balance these values, our procedure for using the microwave in the lunchroom includes the rules listed below. Technically, as long as food is double-wrapped, it can be placed in the microwave oven without causing the microwave to become non-kosher. Using two zip-lock bags, saran wrap, or paper bags can be considered “double wrapping.” If any member of the Heschel community has a question regarding the *kashrut* of the oven, or of the foods being placed in the oven, he/she is encouraged to speak directly with the dean of Judaic Studies, in his capacity as the rabbinic authority for the school.

1. No shellfish permitted under any circumstances.
2. No meat permitted in school unless served under special circumstances.
3. All food placed in the microwave must be “double-wrapped” using either zip-lock bags, saran wrap, or paper bags.

Dress Code

Clothing should be comfortable and appropriate to a learning environment that includes the study of Torah. Students should not wear clothing that is ripped or contains inappropriate language or images. Tops and shirts must cover the midriff, lower back, and shoulders completely and may not be cut low in the front or back. Tank tops are not permitted. Skirt and pant length should approach the knee and be neither too tight nor too loose. A student whose attire does not conform to dress code will receive a reminder at the first offense and will be asked to change. After the second offense, the student will be asked to go home and change clothing.

Kippot

School policy on wearing *kippot* reflects the school’s respect for diversity as well as tradition, and for the range of religious practice found within the Heschel School community. Boys are required and girls are encouraged to wear *kippot* during *tefillot*, *Tanakh*, and *Talmud* classes, in the cafeteria during meal service, and at activities in the *Beit Midrash*.

Tikkun Olam

Students, faculty, and administration collaborate throughout the year in many ongoing *hesed* initiatives. The Student Life bulletin boards provide a central clearinghouse for information about *hesed* programs throughout the city. *Hesed* is an integral component of the mission and vision of the Heschel School. The high school dedicates three half days to *hesed* programs: on the day before Thanksgiving, on the Friday before Purim, and on Lag ba'omer. Attendance is required. A reminder notice of these days will be sent to parents and students. Beginning in the 2008-2009 academic year, each advisory group will be required to engage in a *hesed* activity at least once a year.

We expect every student to engage in the *hesed* initiatives organized through school and/or activities that students might discover on their own. Some examples of ongoing projects include clothing drives, toy drives, canned food drives, CD drives, and specific projects that have been adopted by a grade, such as support for victims of terror in Israel during the Intifada, support for the Jewish community of the Abuyadaya in Uganda, support of tsunami victims in Asia, and support for recovery and rebuilding efforts along the Gulf Coast in the wake of Hurricanes Katrina and Rita. Students form a *Va'adat Hesed* through the Student Senate, whose goal is to disseminate information and organize student activities to ensure that *hesed* work permeates the culture and life of the school. The high school does not have a formal community service requirement, but it is our expectation that all students participate in ongoing community service activity on their own time. The director of student life maintains files on student community service.

Shabbatonim

Shabbat is a primary vehicle for participating in the life of the Jewish people and for cultivating an individual spiritual life. As Asher Greenberg (known as *Ahad haAm*), the great cultural-Zionist thinker, remarked, "More than the Jewish people kept *Shabbat*, *Shabbat* has kept the Jewish people." Therefore, together with students, we plan *Shabbatonim* each year that provide opportunities for religious as well as social growth and connectedness to the Jewish community.

Our *Shabbaton* policy reflects the same dialectic that guides life at the school. The overarching structure of our *Shabbatonim* is determined by *halakhic* restrictions of activity (which make it possible for us to detach ourselves from habits that depend heavily upon technology and that extend our control over our environment). Responsibility for interpreting the *issurei melakha* (activity restrictions) for our *Shabbatonim* rests with the Dean of Judaic Studies and the High School Head. We ensure a variety of *tefillah* options. Our *Shabbaton* program always includes *Torah* study on themes of pressing contemporary importance and interest, as well as good food, good company, and good times.

Heschel Environment and Torah

We expect individuals' behavior and language to reflect awareness that the entire building is a place of Torah study, from the deliberations of the Student Senate to the casual conversations and interactions among students in the hallway. Heschel students may seek opportunities to study Torah beyond the academic requirements of the curriculum. They may collaborate with faculty to find ways of scheduling and using the *Beit Midrash* or work independently with a faculty mentor. We expect Heschel students to recognize and respond to the importance of Torah texts, setting standards for behaviors and sensibilities.

Holiday and *Rosh Hodesh* Celebrations

The Heschel School prepares for Jewish holidays in a variety of ways: communal celebrations, text study, and reflective discussions. On *Rosh Hodesh* (the first day of the month on the Jewish calendar), we bring new or challenging perspectives on a variety of timely issues to the students' attention through our Ron Sumner Memorial *Rosh Hodesh* Program. As with *hesed*, these programs are informed by the collaboration of students with the Director of Student Life and other faculty mentors.

The Israel Experience

The Abraham Joshua Heschel School supports the principles of Zionism, through which we celebrate our people's return to their spiritual and ancient homeland and their reestablishing of a society dedi-

cated to principles of democracy and Jewish culture, religion, and life. The Heschel School remains dedicated to supporting our return to the Land of Israel and the State of Israel through meaningful, experiential engagement with the land, the people, and the issues of the State. This manifests through the content of both the general studies and Hebrew Language and Literature programs and through our annual, student-centered celebrations of *Yom HaZikaron*, *Yom HaAtzmaut*, and *Yom Yerushalayim*. The Heschel School encourages and takes great pride in students who pursue opportunities to spend time in Israel whether during their tenure at the school or after. The school itself continues to support and develop Israel programs for its students.

What are the outcomes that we foresee for our graduates? To date we have graduated only three classes. Many of our oldest graduates are only juniors in college and others are sophomores or freshmen. The vast majority involve themselves in some form of Jewish life on campus, whether through *Hillel* or *Chabad*. More than a third of our graduates (and in previous years almost half) choose to take a gap year between high school and college. Those students spend at least a semester in Israel. Some combine *tikkun olam* activities with touring and/or studying in Israel. A handful opt for full-time *yeshiva* study. It is too soon to tell if our aspirations for our graduates mesh with their own. We hope that our graduates will demonstrate, through their choices, actions, and affiliations, an appreciation of their place in the covenant. We hope that they will see themselves as agents in their own lives, capable of change, and bringing change to their communities and the wider world. We hope that they will want to live in a community of co-religionists, that some will take on Jewish leadership. We already know that many value the specific Jewish, progressive education they received and we hope that some will want to be educators. We strive to give our students skills to enable them to parse dense texts of our tradition; we hope that they will continue to demonstrate the desire to do so. Anecdotally, we hear that some of our aspirations are also theirs, but it is too soon to talk about trends. We are fairly certain that they will be open and respectful of others they encounter, Jews and non-Jews alike. We know that they will appreciate that we all have more to gain from living in community together, that our commonalities as

Jews are greater than what keeps us apart. Like *Beit Hillel* and *Beit Shammai*, we hope that our graduates will continue to articulate powerfully what they believe in and find a way to live together.

APPENDIX I

CLASSROOM POLICIES AND PROCEDURES: *LIMUDEI QODESH*

Teachers' names have been deleted.

As teachers of *Limudei Qodesh*, we hope to create a community where love of learning is paramount; where students feel safe, both physically and intellectually; where risk-taking is valued as an indispensable component of furthering our learning; and where students see *each other* as well as the teacher as repositories of knowledge and resources for furthering their own learning. We hope that our community will be a place that values questions of all sorts; a place where reasoned, reflective analysis will be at the center of our discussions; and a place where students will feel encouraged and empowered to build their own relationships with the texts we are studying. The following policies are intended to help us build a community that reflects these values.

Student Responsibilities

I. Coming to Class Prepared to Engage in Learning.

In order to participate in the learning of this class, you will need to come to class with your computer, your *Tanakh* or *Gemara*, paper and writing utensil, and any other books necessary to do the work for that session. The classroom will contain books, paper, and writing utensils that are available for students who have forgotten theirs. Students who show a pattern of coming to class unprepared (by coming unprepared three times over the course of the semester) will meet with us to determine a specific behavior modification plan to help them develop this skill, which is crucial for success in school and success in life in general.

II. Assignments

The completion of specific assignments to be produced (outside or inside class) and handed in (such as homework, producing a learning

portfolio, projects) is crucial to the learning that we hope will occur in this class. Homework will often be used as a way to productively prepare for the next session's class. Therefore, if you do not do the homework you will be hampered in your ability to be a full participant in the next class session. Often, students will be asked to read texts at home prior to our discussing these texts in class. In cases where it is clear to us that a student has not done that reading, we will ask the student to turn in a written synopsis of the major points. This will both help them to do the work necessary to participate in the learning of the class, and give them practice in abstracting the major points of a text or reading. Since the completion of assignments in a timely fashion is necessary for full participation in this class, late work will be accepted only at our discretion. Ability to complete and submit assignments promptly will be noted on the student's assessment record.

III. Creating and Maintaining a Safe Environment Conducive to Learning

All of us share responsibility for ensuring that this class is a safe place where learning can occur. Below we have listed those behaviors that we feel will contribute to the establishment and maintenance of such an environment, without which learning cannot occur.

Respectful Behavior: You are expected to act respectfully towards all members of this learning community, both students and the teacher. This means listening to others, showing that you take their views seriously through engaging their views in respectful ways, and making sure that you communicate respect both verbally and through body language. Respect for our physical space manifests itself in our communal responsibility to keep our space neat, free from graffiti and litter. This includes not touching those items marked "For Teachers Only" without first asking permission. When we see you acting in ways that are not respectful, we will approach you discreetly, point out the disrespectful behavior, and ask you to pay more careful attention to your behavior in the future. In the event that we determine that there is an ongoing problem, we will meet with you to discuss the acceptable param-

eters of behavior that will allow you to remain a member of this classroom community

Disruptive Behavior: Disrupting takes time away from the learning of the class and is unfair to all members of this learning community. Disruptive behavior means deliberately engaging in off-task behavior that prevents you from participating in the learning, engaging with other students in a way that takes them off task and prevents them from participating in the learning, and any other behavior that requires excessive teacher intervention in order to bring you and/or others back on task. When we see you disrupting the class, we will approach you discreetly and tell you to stop. If you continue to disrupt, we will approach you and ask you to leave the classroom. In order to be readmitted to our class, you will need to meet with us in person to discuss the incident.

Dishonesty: People cannot feel safe in an environment that tolerates dishonesty. Lying, cheating, and plagiarism have no place in this classroom. Students are responsible for doing any work they sign their name to. If we discover dishonest behavior, we will meet with the student(s) to discuss an effective course of action to ensure that the behavior is not repeated. No credit will be given for work that is the result of dishonest behavior.

Use of Computers in Class: Our computers provide a powerful tool that can aid in the learning process. Unfortunately, computers present tremendous opportunities for engaging in activities that distract students from learning. Students are expected to use computers during class time solely for activities that are related to their learning. Any use of instant messaging or e-mailing, unless specifically requested by the teacher, distracts from learning and is not allowed in class. Students may access the internet only when specifically requested to do so by the teacher, and then only for the specific activities in which the class is engaged. It is never appropriate to play computer games during class. At any point in class, the teacher might ask either the whole class or individual students to close their computers in order to better focus on the work of the class. Students who misuse their computers will lose the right to use their computers for the rest of the class and will

have to take notes with paper and pen. If misuse of computers becomes an ongoing problem for a student, then we will meet with the student, his/her parents, and the principal to determine how the student can utilize his/her computer in class while not being distracted by it.

Teacher Responsibilities

I. Coming to Class Prepared to Help Students Engage in Learning

We will come to class on time.

We will have our lesson prepared.

If no one in class knows the answer to a thoughtfully posed question, we will research the answer ourselves and report back to the class, or help another member of the class do so.

II. Responding to Student Work

All out-of-class work will be looked at/ referred to/built upon during class, in a timely fashion.

We will provide clear standards and rubrics to identify what constitutes good work for each graded assignment.

When we as the teacher comment on your work, we will do so in a timely fashion and in ways that will help both teacher and student better understand exactly what you are learning.

We will not ask you to do work, inside or outside of class, if we have not given you the tools to do the work adequately.

III. Creating and Maintaining a Safe Environment Conducive to Learning

We will work to create an environment that acknowledges and appreciates intellectual risk-taking.

We will never ask our students to do anything in the classroom that we would not ask of ourselves.

We will not allow students to treat each other in a disrespectful way, including but not limited to bullying, name-calling, and more subtle forms of verbal and non-verbal behavior that indicate disrespect.

We will meet with you to discuss the content of the course, your grades, or any other issue related to class.

Classroom Policies and Procedures: U.S. History

As members of this community, it is our joint responsibility to create an environment that supports and encourages learning. In order to establish an effective, safe, and intellectually nurturing setting for learning, we need a commitment to certain prerequisites. The following are the basic requirements for this course.

Preparedness

In order to participate actively and engage effectively with the course material, students and teacher must be prepared. It is expected that you will bring laptops, binders, paper, writing utensils and any course texts to each class. You are expected to complete your assignments on time so as to ensure your ability to participate constructively in class. Preparedness is a factor in the class participation grade.

Class Participation

In order for students and teacher to gain as much as possible from each lesson, it is imperative that all members of the class participate actively and constructively. Active and constructive participation includes participation in class discussion, engagement in group and individual work during class time, and demonstration of respect for peers and the teacher. Class participation counts significantly toward the course grade.

Respect

In order to foster and maintain a collaborative classroom environment, it is imperative that all members of the class be respectful to one another. A respectful class environment is one in which all feel comfortable sharing their ideas without fear of humiliation; it is also an environment where none acts with the intention to belittle or humiliate another. It is then possible for the class to engage in thoughtful and meaningful conversation so as to help each person learn to the best of his or her ability.

Tardiness and Absence

Our studies require the attention of the whole class from the beginning until the end of the period. It is expected that both teacher and students arrive for class on time. Students who enter class after the end of the bell will be marked late. Punctuality is a factor in the class participation grade. If you are absent you must check First Class and

contact your peers to see what you missed and what assignments are due. If you cannot complete the work by the deadline you must speak with me before the assignment is due.

Restroom

If you must visit the restroom during class, leave and return quietly and quickly, and sign out and in on the sign-out sheet.

Eating and Drinking

You may not eat in the classroom, but you may have water or another drink.

Proper Use of Technology

Students can enhance their learning experience through the proper use of their computers and other forms of technology. It is expected that everyone will bring their computers to each class, and that they will use them only in ways directly related to the course. Misuse of technology impedes learning, distracts focus from the task at hand, and directly affects the individual's ability to interact with the class and the material. The use of computer research to answer questions to evade or minimize critical thinking is not permitted. Misuse of technology, such as, but not limited to, playing games, surfing the internet, communicating with others on topics unrelated to the class, is not permitted. Improper use of the computers can result in a loss of computer privileges. Proper use of technology is a factor in class participation as well as assignment grades.

Homework

Unless specified otherwise, all work must be typed in standard format. At this point, all homework must be handed in in hard copy. It must be printed out BEFORE the bell rings. Please label all homework assignments in the following manner. I will provide titles for the homework assignments.

Your name	example:	Abraham Cohen
Section		Social Studies 11c
Date		9/8/08
Homework Title		Revolution begins, chapter 1

Late Work Work more than three days late will not be accepted. Late work will be downgraded.

Extension Policy You are expected to turn in all your assignments on time.

In the case of a planned absence, an illness, or a family emergency, we will work out a schedule by which you will make up the missed work. If you are absent on the day a major assignment is due, you are expected to e-mail the assignment to me. Requests for extension after a deadline will not be considered.

Return of Assignments Students learn best when they receive timely feedback on assignments. You can expect quizzes and tests to be returned before the next quiz or test. Projects will be returned in a timely manner as well. Students who feel that the feedback is unclear or who have questions should make an appointment to discuss the assignment with me at the earliest convenient moment.

Academic Honesty is a core value of the Heschel community. Students and teacher alike must take care to present all ideas accurately, citing another's work where appropriate. No one may use another's work product (with the exception of work that is assigned as collaborative); present another's work as his/her own; omit citing the ideas, conclusions, and organizational framework or language of others, whether from a known or anonymous source. This includes, but is not limited to, all assignments, homework, classwork, research, and information about the content or answers to tests and quizzes.

Plagiarism and cheating will not be tolerated, under any circumstances. Overlooking such offenses calls into question the integrity of the entire Heschel community and undermines the very principles of trust and respect upon which our community is built. Consequences of plagiarism and/or cheating are defined in the Student Handbook and will be discussed in class during the year.

Collaboration You may work together with a classmate on regular nightly homework assignments in the following manner only: You may discuss (by phone, e-mail, etc.) the work together, but each of you must write out the work IN YOUR OWN WORDS and each of you must submit the assignment separately.

Communication with the Teacher A productive learning exchange is predicated on a trusting and respectful relationship between students

and teacher. I am available as a resource for you both during and outside of class. You should make an appointment to see me during lunch, before or after school, or during a free period if you need extra assistance. Out of respect for students and colleagues, I will not meet with students during advisory, *tefillah*, or your other courses. You may also communicate with me via e-mail. I will make every effort to ensure that students feel comfortable and supported in class. If you ever feel I have been unfair, you should make every effort to let me know as soon as possible. If, after approaching me, you are still uncomfortable, you should speak with members of the *Va'adat Tzedek*.

APPENDIX II RESPONSIBILITIES ALONGSIDE TEACHING

DAILY:

TEFILLAH

You will be actively involved in helping to support the *tefillah* program either by serving as a **minyan facilitator**, (already identified) **participant** (please let us know if you would like to be a daily participant in one of our *minyanim*), or **support** person. If you are a support person, you will be either taking attendance, monitoring hallways, or greeting at the door according to the period one rotating schedule. Please note that every faculty/staff member works to ensure that our period one *tefillah* program successfully meets the needs of our students.

LUNCH

Please make yourself available during student lunch hours to meet with students around classroom issues. There is no formal lunch-duty assignment but most faculty members have lunch in the student cafeteria and foster a low-key presence.

WEEKLY:

ADVISORY

Full-time faculty/staff serve as advisors to students. Advisors meet with their group of students once weekly on Fridays. All advisors will meet with their grade deans periodically and with our school psychologists. In addition, advisors are required to contact parents of their students

at least once in a quarter. It is recommended that you have lunch with or initiate contact time outside of advisory with your advisees at least once a month.

FACULTY MEETING every Tuesday from 4:50—5:50. **DEPARTMENT MEETING**, weekly, TBA with your department chair.

MEETINGS/ASSEMBLIES/PROGRAMS

All faculty members are required to attend during-the-school-day programs and to sit among students to maintain decorum.

CLUBS

Faculty members/specialists serve as club advisors. Most clubs meet on Wednesdays.

STUDY HALL COVERAGE

Faculty members cover study hall for ninth graders.

LUNCH DETENTION

Students will serve detention during lunch period on Mondays and Wednesdays. You will receive a schedule. Please mark your rotation day on your personal calendar.

OCCASIONALLY:

GRADE TEAM MEETINGS as needed and scheduled by deans, psychologists, administration

SUBSTITUTING FOR ABSENT COLLEAGUES

Faculty members are asked to sub (students will have work to do) for absent teachers up to six times in each semester.

WEEKEND, SHABBATON/TRIP CHAPERONING/FACILITATION

All faculty members are required to attend the full-school *shabbaton* at the end of October. Three other *shabbatonim* and a ninth-grade overnight are scheduled throughout the year. Students also participate in other multi-day programs for which travel is required.

PARENT-TEACHER CONFERENCES, 12/11,12/14, **ADVISOR CONFERENCES** 3/02 These include one Sunday each year.

BACK TO SCHOOL NIGHT, 9/15, 6:30 **NEW PARENT/STUDENT RECEPTION** 2/24, 7:00.

APPENDIX III

LIMUDEI QODESH COURSE DESCRIPTIONS

I include the table of contents page of the course booklet to illustrate that *limudei qodesh* courses are positioned first.

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Limudei Qodesh

Limudei Qodesh classes are designed to generate learning experiences that provide students with the skills, knowledge, and most important, the disposition to continue to interact with biblical and rabbinic texts throughout their lives. Students are encouraged to see this ongoing interaction as part of their own constantly developing and growing identity as Jews. Stressing the value of critical thinking, classes are designed to help students learn the skills necessary to engage in close, thoughtful, and reflective readings of the text. Students learn both to raise questions based on their textual studies and to develop the skills necessary to locate textual evidence to support their own conjectures and interpretations. In order to help students develop the textual skills necessary to continue to learn texts in the original language after high school, classes stress the grammatical and hermeneutical structures central to understanding biblical and rabbinic texts.

All four years of the curriculum cohere around an examination of the ברית *brit* (covenant) between God and the Jewish People. Among

the fundamental questions that guide the students' textual explorations over the four years are the following:

- What does it mean for humans to be in a ברית *brit* relationship with God?
- What are the responsibilities and expectations of both parties?
- What forms of leadership and authority can help to sustain this relationship over time?
- What role does law play in this relationship, and what are the religious values and institutions that serve as the legal structure for safeguarding the relationship?

Students in ninth grade study those moments in ספר בראשית (Sefer Bereshit, the Book of Genesis) when the Divine-human relationship is most sharply defined as an expression of ברית *brit*. Through selected סוגיות (sugyot, portions) from the Talmud, מסכת ברכות (Masekhet Brachot, Tractate Blessings), students examine תפילה (*tefillah*, prayer) as a manifestation of the *brit*. Building on the contextual and textual framework from ninth grade, *Limudei Qodesh* in tenth grade explores the concept of *brit* at the national level. In the eleventh grade, students further explore the covenantal relationship between God and nation as they move forward together through history, focusing on the concepts of continuity and transition. Twelfth grade students conclude their study of Tanakh as they investigate the impact that the covenantal relationship has on the rise and fall of the Israelite nation. Issues of theology form the core of the twelfth grade courses in *Talmud* and Jewish thought, as students work towards articulating their own personal theology and how this theology affects their lives.

Ninth Grade לימודי קדש (*Limudei Qodesh*): Bible and Talmud

Ninth grade *Limudei Qodesh* focuses on the ברית (covenantal relationship) between God and human beings. The year begins with an exploration of those moments in ספר בראשית (*Sefer Bereishit*, the Book of Genesis) when the Divine-human relationship is most sharply defined as an expression of ברית. We study the development of this concept through an exploration of major personalities in בראשית (*Bereishit*, Genesis), from *Noach* (Noah) through *Ya'akov* (Jacob). Utilizing

the conversations between God and each major figure, and the actions and reactions that surround their relationships, we probe the underpinnings of those interactions, examine the formulation of their covenant, and interpret the ties that bind them to each other.

The second half of the year turns to an examination of תפילה (*tefillah*, prayer) as a manifestation of the ברית between God and human beings. Selected סוגיות (*sugyot*, portions) from Talmud ברכות (*Masekhet Brachot*, Tractate Blessings) serve as the textual basis for this exploration. The two halves of the course are unified by the following set of guiding questions that form the lens through which we view ברית in all of its various manifestations:

- How does ברית inform the relationship between God and people?
- What are the ramifications of the mutual nature of the ברית?
- How does the ברית as expressed in these foundational Jewish texts reflect itself in our lives today?

In ninth grade, *Limudei Qodesh* is taught as one integrated and unified course that utilizes the meeting time of two separate courses, תנ"ך (*Tanakh*, biblical texts) and תלמוד (*Talmud*).

Ninth Grade LQ *Sha'ar*: Introduction to Bible and Talmud

This double-course embraces the responsibility of introducing the ninth grade *Sha'ar* students to Jewish studies at a day school, and begins the two-year process of preparing students to join their peers in eleventh and twelfth grade *Talmud* and *Tanakh*. As such, we explore issues in Jewish holidays, the covenantal narratives of Genesis, and selected sections from the Talmudic Tractate *B'rachot*. The texts are chosen with an eye toward four distinct but linked goals: (1) skills-building and introducing the students to Hebrew texts at an appropriate pace for their learning; (2) familiarizing the students with ever-present Judaic realities in the school setting, (3) developing the students' personal understandings of their relationship to the tradition and observances of Judaism, (4) paralleling the non-*Sha'ar* ninth grade curriculum—offering all ninth graders the opportunities to explore similar themes with an emphasis on how the texts we look at

depict the relationship between God and human beings. The course also attempts to take advantage of its small number of students, allowing for the tailoring of materials and assessments, to whatever extent possible, toward each student's abilities.

Tenth Grade לימודי קדש (*Limudei Qodesh*)

Building on the conceptual and textual framework from ninth grade, *Limudei Qodesh* in the tenth grade explores the concept of ברית (covenantal relationship) at the national level. The following set of guiding questions frame the nature and scope of our investigations this year, direct our selections of text, and serve as a link between the study of biblical text and rabbinic texts:

- How does the ברית between God and each patriarch serve as a foundation for a formalized covenant between God and nation?
- What is the relationship between Divine commandments and human morality?
- How are הלכות (Jewish laws) both a reflection and an enactment of the values of the ברית?
- In tenth grade, *Limudei Qodesh* is divided into two separate classes, one in תנ"ך (*Tanakh*, biblical texts) and one in תלמוד (*Talmud*).

Tenth Grade תנ"ך (*Tanakh*): Bible

This course studies the way in which all laws—both “religious” and “civil”—serve to actualize the nationalization and codification of the ברית between God and humans. The course is divided into two semesters: the first semester focuses on חומש (*Chumash*, Five Books of Moses), and the second on נביאים (*Nevi'im*, Prophets). During the first semester students study the majority of ספר שמות (*Sefer Shmot*, the Book of Exodus), emphasizing both narrative and legal material. The second semester continues to explore the theme of national enactment of the ברית through events in ספר שופטים (*Sefer Shoftim*, the Book of Judges).

Tenth Grade *Sha'ar* תנ"ך (Tanakh): Topics in Bible

The focus in tenth grade *Sha'ar* תנ"ך follows the covenantal relationship as it shifts from an individual relationship to a national one that is codified in law. Following the Jewish people as they leave Egypt, experience the revelation at Sinai, receive the Torah, build the משכן (*mishkan*, Tabernacle), and encamp in the desert, this course explores the making of a nation. The text for this course is ספר שמות (*Sefer Shmot*, the Book of Exodus). This course is designed to help students build the necessary Hebrew skills to make a smooth transition into eleventh grade תנ"ך.

Tenth Grade תלמוד (Talmud)

This course examines the interplay between civil laws and religious values. Based on the assumption that laws regulating the relationships between human beings are a manifestation of the ברית between God and humans, this course explores the legal and religious ramifications of one human being's causing physical damage or harm to another. The text for this course is the eighth chapter of מסכת בבא קמא (*Masekhet Bava Kama*, Tractate Bava Kamma). The chapter contains rabbinic expositions of selected legal material studied in the תנ"ך course.

Tenth Grade *Sha'ar* משנה ותלמוד (Topics in Talmud)

This course builds on the introduction to rabbinic literature that *Sha'ar* students encounter. The classroom environment supports the collaborative reading of a variety of Mishnaic texts, investigating the broad range of legal and theological issues, frames of mind, and ways of thinking that characterize classical rabbinic texts. Students learn the skills necessary to investigate these texts in Hebrew, including becoming familiar with the technical expressions and legal concepts embedded in the *Mishnah*. As quickly as the students' ability levels allow, the course moves into Talmudic texts, as a way of building upon the students' burgeoning grasp of rabbinic literature and as a preparation for eleventh grade Talmud class. Texts studied are from two Mishnaic *sedarim* (orders): *moed* (holidays) and *nezikin* (property), and from the Talmudic tractate *Bava Kamma*.

Eleventh Grade לימודי קדש (*Limudei Qodesh*)

The eleventh grade *Limudei Qodesh* curriculum further explores the covenantal relationship between God and nation as they move forward together through history, focusing on the concepts of continuity and transition. In the context of the evolution of the ברית from an individual to a national level, students investigate the institutions and structures that now allow for the enactment and expression of the values inherent in that ברית, as its parties respond to a changing world. The curriculum examines the changing forms of leadership that emerge in the biblical and rabbinic periods, and the legislative and judicial institutions that structure Jewish society, and help the community enact its value system. As in tenth grade, *Limudei Qodesh* is divided into two separate classes, one in תנ"ך (*Tanakh*, biblical texts) and one in תלמוד (*Talmud*).

Eleventh Grade תנ"ך (*Tanakh*): Bible

This course explores the challenges that face the nascent Jewish nation as they struggle to live within the covenantal relationship. Focusing on ספר במדבר (*Sefer Bamidbar*, the Book of Numbers) chapters 11 through 27, the first semester investigates issues of leadership, transition, and authority during the desert years. The second semester focuses on ספר שמואל (*Sefer Shmuel*, the Book of Samuel, volumes one and two) and the interplay, tensions, and challenges among three forms of leadership: priestly, prophetic, and monarchic.

In eleventh grade, an honors option, in which the language of instruction is Hebrew, is available for students.

Eleventh Grade תלמוד (*Talmud*)

Talmud in the eleventh grade focuses on fundamental Jewish religious values as they are manifested in the rabbinic justice system. Beginning with the biblical injunction:

צדק, צדק תרדוף ("You shall pursue justice" Deuteronomy 17), and continuing with an exploration of Tractate *Sanhedrin*, students examine various ways in which that command manifests itself in the court system. What elements go into creating a legal system that ensures fair-

ness and equality to everyone? What are the fundamental procedures that are vital to the workings of rabbinic בתי דין (courts), and what are the values and principles those procedures reflect? What happens when two fundamental principles that are at the heart of the legal system come into conflict with each other? In what ways does the rabbinic justice system, which derives its authority from God's commandments and which is intended to promote religious values, differ from the secular legal system in the United States?

Twelfth Grade תנ"ך (Tanakh)

Honors Bible: The Book of Kings and Selections from The Prophets (Year-Long Course)

Investigating the rise and fall of kings culminates the progression from the previous three years of *Tanakh* study. *The Book of Kings* is *Tanakh* at its most subtle, and perhaps most interesting, with plot twists involving battles for succession, political intrigue, wars, miracles, untold wealth and unparalleled fall from grace, destruction, and despair. But most of all, the Book of Kings forces one to engage in issues of theology: how God is involved in wars and the world, why do bad things happen to good people, does God want kings to fail, are the people at fault for their sins, and how useful is prophecy to the success of a nation? The Prophets convey the emotions of God in a palpable way unmatched in *Tanakh*, asking readers to consider God's perspective and how it relates to their own. As an honors course, this class will focus on skills-building and textual analysis.

The Books of Jonah, Esther, and Ruth (Fall Semester only)

This class explores the biblical texts of *Yonah*, *Esther*, and *Ruth* and their connections to the Jewish holidays on which they are read. Why is *Yonah* read on Yom Kippur, *Esther* on Purim, and *Ruth* on Shavuot? How does the reading of these texts give meaning to the experience of those holidays? Students will engage in a close reading of each text with an emphasis on literary analysis and explore the personal relevance of these narratives as we celebrate the cycle of the Jewish year.

Multiple Approaches to the Study of *Tanakh* (Spring Semester only)

This course is for those who enjoy studying *Tanakh* and wish to explore famous narratives not covered in the ninth through eleventh grade curricula. In addition, it is designed for students who are open to investigating different approaches to the study of *Tanakh*. Texts include: *Akeidat Yitzhak* [Binding of Isaac], the story of יוסף [Joseph], and the monarchy under שלמה המלך [King Solomon] including the building of the בית המקדש [Temple]. Each narrative provides an arena for students to focus on a different approach to studying *Tanakh*. Those methodologies will include: an in-depth exploration of rabbinic commentaries and their differing methods including פשט [simple meaning] versus מדרש [midrash], the literary approach, the use of archaeology, and the documentary hypothesis. The class will also focus on some of the philosophical issues that these different approaches raise.

Twelfth Grade תלמוד (*Talmud*)

Twelfth Grade Honors תלמוד *Talmud* (Year-Long Course)

The goal of this course is first and foremost to continue to develop the necessary tools for independent *Talmud* study. A great portion of the course will be dedicated to studying in *hevruta*, to build upon and extend students' independent work in decoding and interpreting the *Gemara* and its classical commentaries. We will be studying the complete fourth *perek* of מסכת ברכות (Tractate *Berakhot*) among other texts.

Theology in Talmudic Texts (Semester-Long Course): **People vs. God**

In ninth through eleventh grades, students study biblical texts that emphasize the direct interactions between God and our ancestors. However, by Talmudic times God no longer spoke to people. How did the rabbis who wrote the *Talmud* have a relationship with God, when God did not overtly communicate with them? How much was God involved in their legal decision-making? How did they deal with the tension of believing in God while terrible things were happening around them? This course also explores how students relate to God in their world today. The core texts for the course are Talmudic and sup-

plemented by readings from modern philosophers. The focus of the course is on the content of theological issues, as opposed to improving Talmudic reading skills.

Twelfth Grade *Limudei Qodesh* Electives

Jewish Philosophy (Semester-Long Course)

This course explores central questions and themes in Jewish thought, with an eye to helping students formulate their own positions on issues. Students look closely at texts from biblical, rabbinic, medieval, and modern times and trace how thinking about these questions has developed historically. The course is organized topically around the following issues: faith and doubt, revelation, Jewish community, Jews and non-Jews, and women and the Jewish tradition. The course opens with an exploration of an individual's relationship to God and then turns to questions of the larger Jewish community. What is the role of community in Judaism? How does the Jewish community relate to those outside of it? How does the Jewish community address diversity within it? In this seminar-style course, students are expected to share their thinking, listen, and respond to others through class discussion, presentations, and reflection papers.

Ethics (Semester-Long Course)

How are traditional Torah values relevant to one's life and the choices that one makes? Seeking to explore the values that the Jewish legal tradition applies to real-life issues, the ethics course surveys some core *halakhic* texts and brings them into dialogue with contemporary ethical topics such as war, abortion, homosexuality, organ donation, and sexual ethics. The course includes skills-building but is heavily discussion and reflection based. Students complete weekly journal assignments and produce a substantial final research project regarding an ethical issue of their choice. This course emphasizes creating meaning from the text rather than developing skills for independent study.

APPENDIX IV

***Limudei Qodesh* Teachers Reflect on Working in a Pluralistic Jewish School**

Teacher 1:

Though I do not any longer orient myself squarely within the mainstream Orthodox camp in ideology or in praxis for various reasons that I won't delve into here, I do continue to value *halakhah* as the central framework that informs my personal orientation to committed and serious Jewish religious living. As a person who values Orthodox values and who simultaneously works in a highly heterodox school setting, I have experienced a number of religious tensions during my tenure at the Heschel School. Most notably, as the facilitator of the Meditation and Sacred Music Minyan—which is fully egalitarian and which does not follow halakhic norms as understood by and applied within Orthodoxy—I have been struggling to balance the tension between the halakhic requirements (and my personal preference) to pray with a halakhic *minyan* on the one hand, and the students' need for a *minyan* that resonates with their personal spiritual sensitivities and which allows for fearless open exploration of spirituality and the deepest religious and existential questions. Certain values have proven useful in navigating the tension with some semblance of integrity. First, on philosophical grounds I have never wished to serve merely as a moderator in the *minyan*; I always saw myself as a co-suppliant participating in the prayer experience *with* my students. I wanted to model a specific approach to prayer and community for them, and I felt that praying with an Orthodox quorum prior to arriving at school would undermine this goal, sending the message that what we do in our *minyan* is not genuine prayer. Second, I have decided that providing students with a rich prayer experience and an unfettered exploration of their inner lives is more valuable to me than fulfilling my personal obligation to pray with a halakhic *minyan*. In the battle against intermarriage and cultural assimilation, I feel that the only antidote is to steer clear of the numbers game and focus instead on rich and impassioned Jewish learning and living. Such an attitude toward Jewish practice can be nourished only within an environment that celebrates a healthy spirit of exploration and curiosity rather than operating from fear and sup-

pression. “Doing Jewish” seriously is not a monopoly held exclusively by the Orthodox community. Throughout my rabbinic and graduate studies and tenure as a rabbi and educator, I have continued to encounter and work with Jews who are non-Orthodox but whose Jewish practice is deeply and seriously rooted in tradition and a deep connection with Torah and *mitzvot*. Discourse with my colleagues at the Heschel School continues to confirm that experience. Among many, one common ingredient that seems to consistently season serious Jewish living is a rich prayer life that engages the tension between traditional forms and subjective, heartfelt inner expression and contemplation. It is this tension that I want to model for my students, and which I feel is indispensable to teaching young Jews how to live rich Jewish lives. So I have decided to craft a *minyan* experience that in some ways undermines the possibility to fully harmonize all of my personal religious needs, but that allows me to feel that I am doing young Jews and Judaism a service by teaching Jews how to pray deeply and activate their inner lives. In my experience, this can be done only in a setting that is fully open to exploration and questioning and that is free of dogma and sacred cows. In short, that one can successfully grapple with this tension by challenging and poking at the boundaries is exactly what I am trying to model for my students. I want them to learn that one does not need to water down tradition in favor of subjectivity. Additionally, one need not accept tradition unquestioningly without any personal input or an attempt to infuse it with personal meaning. With some reflection, one can oscillate back and forth between the two, striking a delicate, graceful balance that fosters deep, heartfelt commitment to serious and engaged Jewish living. In the process of teaching and modeling this process, I have found that I continue to reap the benefits of greater clarity about my own ability to hold the balance, which in turn helps me to present my students with deeper, more pointed questions that lead them to personal self-discovery within a uniquely Jewish communal, intellectual, and spiritual setting.

Teacher 2:

I hope that the forum will be devoted to larger denominational/theological issues. What does it mean to teach non-Orthodox without

having *kiruv* in mind? What is it like to be surrounded by Jews who do not toe the Orthodox party line?

I find that the difference between working in the non-Orthodox world versus the Orthodox world is that this situation is not one dominated by fear. It doesn't ask "how will this compromise me" or "how will this hurt my religious standing." That's an atmosphere born of optimism and the belief that we can learn from each other in ways that cannot be approximated in the Orthodox world.

To work in the—or this—non-Orthodox world is to *not* have answers for everything at every time (heretical in some areas), and while I understand why that issue is not for everyone, it's why I choose to work in this type of Jewish world. The ability to explore ideas and religion, conceptions of God, the religion itself, in a freedom that comes from lack of fear, is liberating.

Whereas the Orthodox often feel that they need to teach the non-Orthodox—working in the non-Orthodox world involves learning that there is much for the Orthodox to learn, which, when combined with Orthodox observance, is very powerful. The Forum essentially identifies the non-Orthodox as the "other." Working here is an affirmation that they are not.

I do understand the dangers, and the counterarguments. I'm not saying it's for everyone

The final irony is that as someone who has spent his entire life firmly in the Orthodox world, not even on the left of YU but firmly in the center, it is only in the non-Orthodox world that I find my religion, religious expression, ideas, observance, etc, respected. In YU, you're either to the right or to the left of everyone else. The Orthodox world emphasizes differences and fears them. This world embraces the differences and emphasizes commonalities, allowing for a community beyond your own little sect/branch that behaves like you.

While I'll admit that the values of the school are clearly not Orthodox, they are also clearly pluralistic. Therefore, while it's trite to say that working here does not raise religious issues for me, I don't think it really does. *Kol isha* issues are always resolved by the fact that I am allowed to leave performances. *Tefillah* is never an issue because we have multiple options. I am aware that I could be asked to staff an

egalitarian *tefillah*, but there is a good reason that it has never happened, largely because the school is pluralistic and understanding. So *tefillah* becomes a non-issue.

Kol isha is an issue in the following way: though I am allowed to leave, as one who is invested in seeing student performances, it is personally extremely difficult to get up and leave—especially if I did not know that the issue would arise beforehand. But those moments are really few and far between, and they boil down to my own resolve. Those instances always offer teaching moments, as the students always notice when I do or do not leave, and always ask about it.

Dress code is an issue, but it is an issue at every modern Orthodox day school, and the *tzniut* issues are just as problematic in those schools as they are here. So teaching here did not put me in a situation of greater compromise than teaching in a co-ed modern Orthodox day school, and is far better than working in the business world.

Teacher 3:

When I was looking for a place to teach, I specifically wanted to teach somewhere that took text skills seriously and learned texts in their original languages. However, I would not feel comfortable teaching in an Orthodox school where my religious practices would be judged and I would have to be careful about not saying anything too “radical” about Torah or Judaism in general. I wanted to teach at Heschel and enjoy teaching there because I am given the opportunity to teach Jewish texts seriously, closely reading the texts in the original and analyzing the language, while also engaging in a serious OPEN discussion about the students’ relationships with God and with Judaism. The students know that they can freely discuss their own religious ideas and/or issues without feeling restricted or judged by me or by the school.

Teacher 4:

I find teaching at a pluralistic school exciting and refreshing, even with the practical “issues” that arise from that pluralism. Whereas in schools associated with particular movements, there are boundaries that force students to parrot beliefs not their own (to the detriment of

their own development or, for that matter, the internalization of those values held by the movement), a pluralistic school provides students with an opportunity to engage, and be engaged by, the tradition of text and interpretation. Respecting students' values encourages students to take others seriously and to consider their relationship with Torah important enough to move beyond lip service and superficial understanding (which often leads to naive rejection).

A greater danger, from my perspective, is that one must assert the authority of the school in enforcing *mitzvot* that are meaningless outside the practice of *halakhah*. In other words, I find myself uncomfortable telling students that they must observe *kashrut* within the confines of the school or put on *tefillin* during *tefillah*, "because it is a school rule." Because pluralism precludes reference to a shared commitment to *halakhic* practice, one is forced (after discussions of meaning/tradition/spiritual opportunity" to recourse to the one shared legal system, which is that of the school. This, to me, is problematic from the standpoint of my understanding of the *halakhah*.

Teacher 5:

I chose to work at a community Jewish day school because I believe in educating students to think independently rather than giving them answers. I believe that having real dialogue with people who have different beliefs and religious lifestyles about their differences can deepen each person's belief and make their approach to religion more complex. I also believe that this kind of education strengthens the Jewish community as a whole by building respect, empathy, and deep connections between different kinds of Jews.

Still, being a modern Orthodox teacher at a pluralistic Jewish day school can be challenging. One of the key challenges for me is *tefillah*. I agreed to facilitate an egalitarian *tefillah* group, but I do not personally pray in egalitarian *tefillah*. I pray in the morning on my own before I get to school and then guide the students' *tefillah* through saying the words with them. How can I create an inspiring *tefillah* experience for my students when I myself am not praying in the formal sense of fulfilling my prayer obligations? One of the most powerful ways to educate students about *tefillah* is to provide them with a role model

of someone who is praying with *kavanah* and is truly moved by those prayers. I do not feel that I can be a role model of someone who prays with *kavanah* through my prayer in the egalitarian *tefillah*.

Teacher 6:

When people ask me what it's like to teach in a pluralistic school, I often tell them about the way my *Tanakh* students talk about G-d. There are some students who deny G-d's existence outright, or put "G-d" in quotation marks. Even more common is for students to analyze a story and come to the conclusion that G-d was too harsh, cruel, mistaken, or just plain wrong. This way of talking about G-d as a fallible character in the story just like any other, did not happen in the Orthodox day school that I attended as a student. We started from the assumption that G-d was right, and we tried to figure out the story from there. The G-d of *Tanakh* was the same perfect G-d that we pray to and strive to become close with. This is that G-d that we learn from and try to imitate. The "G-d critical" comments surprised me at first, but the more that I have learned with the students at Heschel, the more I have come to appreciate this approach. Without the constraint of needing to see G-d as perfect, the text can be read closely and literally, without skimming over challenges to that assumption. Therefore, a wider range of possible interpretations is opened up that would be otherwise closed. With the help of my students, I have been able to learn stories again in a fresh way. From the perspective of the Egyptian citizens, G-d was destructive and cruel. From the perspective of *Bnei Yisrael* in the Desert, G-d punishes quickly in response to their requests. One student told me that she believes G-d doesn't always do the right thing, and that's why it is so important for us to pray and act in the world based on what we believe is right, to argue with G-d the way *Avraham* did over the destruction of *Sdom*. While this critical approach raises challenges about whether and how the G-d of *Tanakh* relates to our thinking about G-d in our lives today, I think there is much to be gained from a truly open discussion of the text that is not based on Orthodox assumptions.

NOTES

MISSION STATEMENT

1. The Abraham Joshua Heschel School is an independent school named in memory of one of the great Jewish leaders, teachers, and activists of the 20th century. Unaffiliated with any single movement or synagogue, the Heschel School sees as essential the creating of a community with families from a wide range of Jewish backgrounds, practices, and beliefs. The school is devoted to equal participation—boys and girls, men and women—in all aspects of the school's religious, intellectual, and communal life.

The Heschel School is dedicated to the values and principles that characterized Rabbi Heschel's life: integrity, intellectual exploration, traditional Jewish study and practice, justice, righteousness, human dignity, and holiness. It regards the texts of the Jewish tradition and the history of the Jewish people as fundamental resources for developing ideas, beliefs, behaviors, and values to shape and inspire the lives of individuals in our time.

The school's approach to education is governed by profound respect for students. It nurtures their curiosity, cultivates their imagination, encourages creative expression, values their initiative, and engenders critical thinking skills. In an academic setting that values open, engaged inquiry, the school's curriculum interweaves the best of both Jewish and general knowledge and culture throughout the day. Within the context of this integrated and interdisciplinary approach, the school honors the intellectual integrity of the core subjects.

Our educational ideals are drawn from the strands of the Jewish, Western, and world traditions to which we belong. They are reflected in our deep concern for the whole child and the balance in each student's academic, aesthetic, emotional, intellectual, physical, and spiritual growth. In addition, the school seeks to create an environment that encourages the professional and personal growth of teachers, administrators, and staff.

Among the specific goals of the Abraham Joshua Heschel School are the following:

The Heschel School is committed to fostering a lifelong love of learning. It seeks to engender the understanding that the discovery of personal meaning and the growth of individual identity can emerge from the rigors of study.

The Heschel School is dedicated to creating an environment of intellectual challenge and academic excellence.

The Heschel School seeks to create an ethical learning community that encompasses the students, staff, parents, and all those who join in the work of the school. The school values both the uniqueness of each individual member and the relationships they form with one another.

The Heschel School is dedicated to cultivating the spiritual lives of its students and nurturing their commitment to Jewish values. The school helps students learn about and respect a range of Jewish prac-

tices and encourages them to embody these traditions in the way they live their lives; students learn the skills that enable them to participate fully in Jewish life.

The Heschel School is dedicated to building bridges between different sectors of the Jewish community, and between the Jewish community and other communities, as expressions of our religious imperative to unite human beings through justice, shared humanity, and mutual respect.

The Heschel School is dedicated to engaging our students in a relationship with the language, culture, land, and people of the State of Israel.

The Heschel School is dedicated to inspiring its students to become responsible, active, compassionate citizens and leaders in the Jewish and world communities

2. I am particularly grateful to have had the input of Roanna Shorofsky, Head of School, Rabbi Dov Lerea, Dean of Judaic Studies, Ruth Satinover Fagen, currently *Limudei Qodesh* department head, Peter Geffen, Founder, Judith Tumin, and a small subcommittee of board members as well as Richard Hanson, a mentor from PEJE.
3. Steve Bailey, "Educating for *Menschlichkeit*: A Kohlbergian Model for Jewish Day Schools" in *Wisdom from All My Teachers: Challenges and Initiatives in Contemporary Torah Education*, ed. J. Saks and S. Handelman (Jerusalem: ATID/Urime, 2003), pp. 137-158. Clark F. Power, Ann Higgins, and Lawrence Kohlberg, *Lawrence Kohlberg's Approach to Moral Education* (New York: Columbia University Press, 1989).

The High School is committed to collaborative governance in which all constituents have a voice. Such governance accords students the right to be heard, for their reasoned needs to be taken seriously, and the right to be treated fairly and respectfully by administrators and teachers at all times. However, exclusive authority is retained by administration and faculty in the following three areas:

- Religious policy as defined in the Educational and Religious Policy handbook
- Academic issues and graduation requirements
- Health and safety

With the exception of the above areas of authoritative responsibility, students can creatively and critically participate in their own educational process. Even within these three areas, students have the right to be heard and to be treated fairly and respectfully at all times by administrators, teachers, and peers. Although not all policies may be subject to democratic vote, students and teachers have the right to discuss and understand statutory policies—secular and religious.

During the first few days of school, teachers distribute written statements

of policies and procedures for their specific classes. These cover as many areas of classroom procedure as possible. These include classroom preparation (what students must bring to class), homework, attendance, lateness, what is considered disruptive behavior and its consequences, what is considered respectful behavior among students and between student and teacher, requirements for papers, reports, tests, quizzes and projects, consequences for missed deadlines, restroom policy, and grading. In addition, teachers list their responsibilities to the students in their classes. Students and teachers discuss these policies and may modify them before a vote is taken to adhere to the policies discussed.

4. From the Website of the Office of Studies in Moral Development and Education, at the College of Education, the University of Illinois, Chicago, <http://tigger.uic.edu/~lnucci/MoralEd/>, accessed March 01, 2009.

At Heschel, the Just Community includes two *va'adot*, (committees) *Tzedek and Hesed*. These have been jointly defined by administration and students as follows:

V'adat Tzedek has two roles in the high school community. It deals with problems of fairness that arise among students, between teacher and students, and between administration and students. In this context, *tzedek* means that both parties have a right to be treated with respect and to have their needs balanced so that both sides can accept a resolution. The second function of *V'adat Tzedek* is to foster meaningful and positive interactions between students and teachers. It is the goal of *V'adat Tzedek* to strengthen the bonds that are created in and outside the classroom. In this context, *tzedek* is used as in the biblical verse *tzedek tzedek tirdof* (Deuteronomy 16: 20) where the community is charged with creating and maintaining structures and procedures to allow the people to successfully live by its core values.

The *va'adah* has several functions. It offers an opportunity for members of the school community to voice their personal concerns for respect and fairness with confidentiality and without fear of reprisal. It trains students in conflict negotiation and demonstrates that students are not always right while teachers are not always wrong, and vice versa. It helps students develop a more honest and open relationship with people of any age and status. The *va'adah* is a conflict negotiation committee and is authorized to recommend a particular resolution to the High School Head by which the parties agree to be bound.

The *va'adah* plays an integral role in helping to acclimate the freshman class into the high school community. By providing ongoing activities for advisory groups and senior buddies, it provides members of the ninth grade with meaningful group bonding experiences. The *va'adah* will also suggest educational and experiential programs for all grades and advisory groups.

The *va'adah* comprises one elected student representative from each grade and a faculty and administrative representative.

Va'adat hesed is a subcommittee of the Student Senate that oversees all school-wide *tikkun olam* activities. The *va'adah* has several functions. It brainstorms, plans, and runs school-wide initiatives. It also must approve of any

school-wide student-run event and/or drive. All students are welcome to submit names of charities they would like the school to work with or their own work plans to the *va'adah*. The *va'adah* will oversee student-run programs. In expanding the scope of *hesed* in our school community, they have created weekly after-school volunteer opportunities (by advisory to a local soup kitchen) as well as club and sport teams projects. The *va'adah* also helps to calendar *tikkun olam* programs. The *va'adah* will make every effort not to turn down initiatives, but may ask students to postpone initiatives to a better time.

Va'adat Hesed President: *Va'adat hesed* President must be an upperclassman and eligible to run for office. Eligibility will also be determined based on prior involvement in the *hesed* club, *minyán*, and *hesed* initiatives. S/he will conduct all *va'adat hesed* meetings.

Va'adat Hesed Representatives: Each grade will elect two representatives to the *va'adat hesed*. All students must be eligible to run for office. Eligibility of tenth through twelfth grade representatives to the *va'adat hesed* will be determined based on prior involvement in the *hesed* club and attendance on school-wide *hesed* days. There is no eligibility requirement for ninth graders.

5. Samples may be found in Appendix I
6. Job responsibilities alongside teaching may be viewed in Appendix II
7. *Limudei Qodesh* course descriptions may be found in Appendix III

5

The American Model: Internal Orthodox Debate with a Focus on Birthright and Other Similar Programs

Mark Dratch

How does the Orthodox Jewish community relate to intermarried Jews, their non-Jewish spouses, and their children? Not only is intermarriage a violation of religious law,¹ but it has devastating consequences on the fabric of Jewish society: assimilation, abandonment of Jewish practice, and loss of Jews to the Jewish community. In the past, the community has taken a hard line, often ostracizing intermarried Jews as a way of maintaining the boundaries of the community through threat of social shunning. The practice of sitting shiva for a child who has intermarried is related to the tradition that Rabbeinu Gershom sat shiva for his son for fourteen days at the time of his apostasy.²

Sholem Aleichem best depicted this response in *Tevye the Dairyman* as he describes Tevye's total rejection of his daughter Chava's relationship with Chvedka, a non-Jew. He rejects the relationship as well as his daughter. Ultimately, Chvedka turns out to be a beast and Chava leaves him.

Attitudes toward intermarrieds have changed over the years. As the general Jewish community became more acculturated to the American society, absorbed more American values, and became less religiously observant and ethnically distinct, the rate of intermarriage rose dramatically. The 1990 National Jewish Population Study has shown that "slightly more than half of all Jews who marry choose a spouse who was neither born nor raised a Jew. Although these numbers have been subject to significant skepticism and dissent, all agree that the rate of intermarriage is significant—the lower rate still posited an intermarriage rate of "only" 43%.³ Just 25 years ago, only approximately 10 percent of marrying Jews chose non-Jewish partners.

Once again, Sholem Aleichem's work offers an insight into contemporary attitudes. *Fiddler on the Roof*, the popular stage adaptation of his novel, reflects the mores of 1960s America and has Tevye not fully rejecting his daughter and her marriage, but begrudgingly accepting her situation and wishing her well.

This acceptance of intermarriage and the intermarried expressed itself in many ways. Liberal synagogues began accepting non-Jews as members of their congregations. Many liberal rabbis began officiating at wedding ceremonies between Jews and non-Jews. In 1979, less than 10 percent of Reform rabbis were willing to officiate at mixed marriages, by 1996, 46 percent of Reform rabbis, with various stipulations, were willing to do so. "Outreach" became the catch phrase for a proliferation of initiatives and programs that sought to include intermarried Jews and their non-Jewish families in Jewish communal life. More parents, grandparents, and families accept the phenomenon and, after some remonstrance and acts of disapproval, often embrace the non-Jewish partner. Leaders in the Jewish community openly advocate embracing intermarriage. Books written by Edgar Bronfman, past president of the World Jewish Congress, (*Hope, Not Fear: A Path to Jewish Renaissance* (St. Martin's Press, 2008)), and Harvard Law Pro-

fessor Alan Dershowitz (*The Vanishing American Jew: In Search of Jewish Identity for the Next Century* (Little Brown and Co., 1997)) are just two examples of this positive attitude toward intermarriage and the advocacy of a policy that was anathema to Jewish life just a generation or two ago. Daniel Pearl, the *Wall Street Journal* writer who was kidnapped and murdered in Pakistan in 2002, and who died with the words, “My father’s Jewish; my mother’s Jewish; I’m Jewish” on his lips, was married to a non-Jewish woman.⁴ A 2000 American Jewish Committee survey found that 50 percent of American Jews said that opposition to mixed marriage is racist!⁵

Orthodox communities continued to maintain a hard line, rejecting intermarriage and distancing themselves from the intermarried. Rates of intermarriage among the observant Orthodox were much lower than in more liberal parts of the community. Conversion was a *sine qua non* for acceptance by Orthodox families and synagogues—and many Orthodox frowned upon such conversions for both sociological and halakhic reasons.

Nevertheless, intermarriage is not unheard of in Orthodox circles, even among the children of the strictly observant and well educated. And Orthodox synagogues that count in their membership lesser-observant families confront the issue as larger numbers of their children and grandchildren intermarry. In addition, Orthodox Jews who engage with the larger Jewish community by participating in community institutions and organizations, by serving in positions of community leadership, and by interacting with non-observant family members, neighbors and friends often confront this issue as well. Furthermore, children born to Jewish mothers and non-Jewish fathers are themselves Jewish and many are concerned about their spiritual and educational needs.

Needless to say, the reactions of the Orthodox community are not monolithic and, like the general community, have also softened (on the part of some) over the years. While all insist on endogamy as the ideal and educate their children to this end, there are different approaches in dealing with those who marry out. Some maintain a hard line and shun those who are intermarried from both personal and communal events, others are more inclusive; some advocate conversion of the

non-Jewish spouse, others do not; some find ways to include intermarrieds in family and communal life, others do not; many congregations will permit the circumcision or naming of the Jewish children of these couples in their synagogues, some do not.

It is valuable to take a step back to evaluate the efficacy of these traditional responses to intermarriage, as well as to review the principles underlying them. The goals of the Orthodox community are many, but in this context they include the safeguarding of Rabbi Soloveitchik's Covenant of Destiny and Covenant of Faith, the survival of the Jewish people and the fulfillment of Torah and *mitzvot*. Intermarriage poses a serious threat to both and by asking these questions we are in no way advocating intermarriage or seeking to make it more acceptable. Our challenge is how to best assure endogamy.

It is obvious that despite all of our efforts the rate of intermarriage is high and continues to grow. Despite the plethora of Orthodox outreach programs (trying to inspire greater commitment of Jews to Jewish observance), the growth of formal and informal Jewish educational programs, and the hard-line policies toward intermarrieds, we have been unsuccessful in reversing this trend. What then should our attitude be toward those who marry outside the fold?

This is not the first time in our history that we are faced with such an existential crisis. The fruits of modernity, especially the abandonment of traditional practice by many, presented similar challenges to the rabbinic leadership in recent centuries. Specifically, let us focus on how the observant community responded to *mehalelei Shabbat*, those who publicly and flagrantly violated Sabbath restrictions. The question was a weighty one for many reasons: the nature of the violation was severe, Sabbath desecration was a major step toward the abandonment of all ritual practice, Talmudic sources viewed Sabbath desecrators as idolaters, and *hillul Shabbat* was a violation of age-old communal norms that alienated the desecrators from the Jewish community. *Hillul Shabbat* endangered both covenants of Faith and Destiny.

Yet, accommodations were made.⁶ Non-observant Jews were viewed as not being responsible for their actions: they were the products of anti-religious influences, they lacked proper education, they were *tinikot she-nishbu*, or they were victims of *'ones* (duress).⁷ R. Yaa-

kov Ettlinger, *Teshuvot Binyan Tziyyon ha-Haddashot*, no. 23, applied the category of *'omer muttar* (a circumstance in which sinners believe that they are actually engaged in permissible activity) to many contemporary Shabbat violators. Whether such a characterization regards these individuals as *karov le-meizid* or *'ones* may depend on a host of circumstances including their family and religious backgrounds, religious and educational experiences, and the like.⁸ Either way, they were not read out of the community. Recently, Rabbi Yoel bin Nun argued that they could be considered as members of a *kahal shogeg*, an unintentionally sinning community.⁹ In fact, on the basis of a comment by Ramban to Numbers 15:22, he argues that any sin perpetrated by a community at large is, by definition, considered *shogeg* (unintentional). Therefore, the severity and the consequences are mitigated. He argues that with Sabbath violation and other transgressions so pervasive, the entire non-Orthodox community is considered to be *shogeg* (unintentional sinners).

The result of these analyses was that since the majority of Jews violated Shabbat, its violation was no longer considered anti-social behavior. And some of those who violated the Sabbath still engaged in ritual observances like making Kiddush or attending a *hashkama minyan* (an early prayer service which then enabled them to go to work). For many, their ritual laxness did not undermine their identity with and concern for the Jewish people or their fundamental belief in the value of *mitzvah* observance. Many of them still upheld the Covenant of Destiny and were, therefore, not rejected by the traditional community: in many congregations they still received *aliyot* and other honors, membership was made available, their children were welcomed into schools and youth programs, etc. A *modus operandi* was found that on the one hand did not legitimize *hillul Shabbat* but that, on the other hand, welcomed the lesser observant.

Might the same be applied to intermarried Jews today? Many Jews who intermarry today do not do so as an act of rebellion against the Jewish people. For most, marrying a non-Jew is a natural consequence of their family and religious backgrounds and a reflection of their acculturation into American life, or a function of who they happened to meet and with whom they fell in love. And many of those who do

marry Jews do so by accident; they could just as easily have married a non-Jew. Many of those who intermarry continue to identify as Jews, some look for ways to affiliate with Jewish communal institutions and continue to observe, to one degree or another, Jewish holidays and traditions.¹⁰

In fact, according to these approaches to *mehalelei Shabbat*, the classical category of *poresh mi-darkei tzibbur*, which refers to those who cut themselves off from the community, may not apply to today's intermarrieds. Rambam, *Hilkhot Teshuvah* 3:11, writes that this separatism results not only by the lack of ritual observance as part of the Jewish collective, an issue which was redefined because of contemporary circumstances, but also by lack of empathy for the welfare of the community and a lack of identification with its trials and tribulations: "rather he goes on his own path as if he were one of the nations of the world and not of [the Jewish people]."

In fact, one's mere identification as a Jew is itself significant. In an important passage in *Tzidkat ha-Tzaddik* (no. 54), censored from most editions, R. Tzaddok ha-Kohen writes:

The essence of Judaism is to be called by a Jewish name, as it is said, "One shall say, 'I am the Lord's,' [another shall be called by the name of Jacob and another shall write on his arm, 'of the Lord,'] and he shall be called by the name 'Israel'" (Isaiah 44:5). If he has no other attribute except that he is called by the name Israel—that is sufficient... and of this it is said, "Ephraim is connected to idols—let him be" (Hosea 4:17), for they are connected to one nation, and have not separated themselves to join with non-Jews to be part of them.

Thus, according to R. Tzaddok, a Jew, even one who commits the most egregious of sins, idolatry, fulfills the "essence of Judaism" as long as he identifies as a Jew.

What are our obligations to those partners who remain Jewish despite their intermarriage? What are our responsibilities to the children of Jewish mothers whose fathers are not Jewish? What are our responsibilities toward families who remain committed and connected to the Jewish community, even to the Orthodox community, whose children

and grandchildren have intermarried? What is our relationship to intermarrieds who may approach our rabbis or congregations for help, support, or membership? What are our relationships to be with Jewish leaders in Federations, Jewish Community Centers, and other Jewish or Zionist organizations who are intermarried? Might the categories historically applied to Sabbath desecrators apply to them as well, thus keeping them within the Jewish fold and justifying positive and inclusive relationships with them?

And what should be our attitude to the children of patrilineal Jews, those who have Jewish fathers but whose mothers are not Jewish? While *halakhically* these children are not Jewish—with all of the implications regarding marrying a Jew, being counted as part of a *minyán*, and so on—there are many such children who have been raised as Jews and who identify positively with the Jewish community, Jewish life, and Israel. Are they to be treated no different than any non-Jew? Do they have any unique or special status that informs our attitudes and interaction with them?

Chief Sephardic Rabbi Ben Zion Meir Chai Uzzi'el argues that although patrilineal Jews are not Jewish, *zera Yisrael hem*, they have Jewish ancestry and thus particular care must be taken not to alienate them from *torat Yisrael u-mi-kerev ha-Yahadut le-olam*, the Jewish religion and the Jewish people. Rather, we are obliged to welcome them into the community with the hope that they might convert. He contends that a harsh stance against these children may not serve to limit intermarriage but may actually alienate their Jewish fathers further from Jewish life, preventing any hope of repentance.¹¹ Furthermore,

An assimilated Jew or one who is alienated from Jewish life [often] turns into an enemy of the Jewish people, as history witnesses [has happened] in many cases and in many generations. And even if we will not be concerned with this and say, “let the chord follow the pail,” nevertheless, we certainly have an obligation toward their children to bring them close [to Judaism]. This is not only true when the mother is Jewish and, therefore, her children are Jewish, but even if they are the offspring of a non-Jewish woman they are *mi-zera Yisrael* (of Jewish descent), and they are considered lost sheep. And I am

afraid that if we do not accept their parents for conversion they will call us to justice complaining, “You have not brought back the strayed; you have not looked for the lost (Ezekiel 34:4).” This rebuke is harsher than the one [warning against] accepting converts (*Yoreh De’ah* 265:12). Concerning this it is said, “Balance the loss sustained by the performance of a *mitzvah* against the reward gained by its performance, and the profit of sin against its injury” (*Avot* 2:1).¹²

Citing a verse from the Book of Ezra, R. Azriel Hildesheimer cites Scriptural support for considering patrilineal Jews as *zera Yisrael*: “They have taken their daughters as wives for themselves and for their sons, so that the holy seed has become intermingled with the peoples of the land” (Ezra 9:2). Because of this unique status, he asserts that the conversions of such children have priority over the conversions of other non-Jews; such conversions restore these children to their rightful sanctity and to their proper place among the Jewish people. He also dismisses as precedent for contemporary public policy Ezra’s coercive initiative which forced Jewish husbands to divorce their foreign wives: these women were members of the seven nations indigenous to the Land of Israel, a violation of the biblical prohibition; the biblical prohibition does not apply to other non-Jews.¹³

And yet this analysis makes us uncomfortable, to say the least. Intermarriage is a religious prohibition: “Neither shall you make marriages with them; your daughter you shall not give to his son, nor his daughter shall you take for your son. For they will turn away your son from following Me, that they may serve other gods” (Deut. 7:3-4), and many extend the biblical prohibition beyond the seven nations to all nations.¹⁴ Intermarriage is a consequence of rampant acculturation and abandonment of traditional Jewish practice and Torah observance. And intermarriage is for most the final step out from the Jewish community. Is it really possible to “draw them in with our right hand and repel them with our left”? What are the best policies to protect the integrity and the future of the Jewish people and of Torah observance, of teaching our children and preventing them from intermar-

rying themselves? What is the best policy for supporting and servicing intermarrieds and their families who are themselves Jewish?

Many advocate a harsh attitude. Rabbi Herschel Schachter goes so far as to argue that while one who is intermarried retains *kedushat Yisrael*, the sanctity of Jewishness, that person is not part of *kelal Yisrael*, the Jewish people.¹⁵ He stipulates that membership in *kelal Yisrael* includes four prerequisites: belief in the oneness of God, the fulfillment of the *mitzvah* of circumcision, not marrying a non-Jew, and belief that God gave the land of Israel to the Jewish people. These requirements would exclude large parts of the Jewish people—even many who are married to Jews—from membership in *kelal Yisrael* and does not seem to reflect the accommodating approaches of those responses cited above. Furthermore, this approach provides an opening for constantly shifting and narrowing parameters of who is included and who is excluded from the Jewish people. Dr. Norman Lamm writes:

A few years ago I met with one of the most prominent Hasidic rabbis. In the course of a pleasant conversation, I complained about an article by the editor of a newspaper published by this group, in which he wrote that he doesn't understand why there is such a tumult about *Kelal Yisrael* (a term denoting the totality of the Jewish people), when after all, "according to our calculation there are no more than about a million people who belong in this group." I asked the Rebbe if I and my parents and wife and children and grandchildren are considered part of *Klal Yisrael* (Hebrew for "the Jewish People"). His painfully ambiguous and evasive answer was, "Rav Lamm, *ihr fregt tzu harb a kasha*" (Yiddish for: "Rabbi Lamm, you are posing too difficult a question").¹⁶

Some oppose retaining any ties with those who have intermarried, even family members, arguing that Jewish survival depends on Jewish parents' raising and educating Jewish children who will continue our heritage; intermarriage achieves the opposite.¹⁷ R. Yitzhak Weiss, *Teshuvot Minhat Yitzhak* III, 65, quoting *Teshuvot Hakham Tzevi*, no. 38, excludes an intermarried male from being counted as part of a *min-*

yan. He reasons that he is disqualified because of his continuous and impudent violation of Torah law. Although *Hakham Tzevi* is dealing with a case of Sabbath desecration, R. Weiss holds that intermarriage is more severe. While he allows dispensation for *mehalelei Shabbat* because they have the status of *tinok she-nishbah*, “since the majority of Jews has not stumbled in this matter [of intermarriage], we are obligated to stand against the breach as much as possible.” And what might R. Weiss say today when the majority of Jews *have* stumbled in this matter of intermarriage?¹⁸

Yet attitudes like these have not been successful in stemming the trend of intermarriage and run the risk of making Torah and Orthodoxy less relevant to individuals and families in the larger Jewish community. Just as we have come to terms with Jews who are *mehalelei Shabbat*, accepting and working with them without condoning their violation of Torah law, is it possible, or even desirable, to rethink our attitude and engagement with intermarried families? Consider: Is the Orthodox community today as successful as it is in preventing the intermarriage of its children because of its harsh response to those who deviate, or because of its positive efforts in Jewish education, observance, commitment to Israel, and family life? Are we succeeding, to the extent that we are because of an unforgiving left hand, or because of a welcoming and embracing right hand?

Of relevance is the position of R. Hayyim Soloveitchik in a debate concerning a similar crisis with significant communal consequences. The issue was the registration of uncircumcised males as Jews in the community *pinkas*, the result of a growing phenomenon by Jewish parents who were rebelling against traditional Jewish practice. Most of those present argued for a hard line, hoping that their refusal to register these babies as Jews would stop this anti-circumcision campaign. R. Hayyim opposed this approach, arguing that there is no *halakhic* source that suggests that an uncircumcised male is not Jewish. Further, he questioned why his colleagues wanted to be strict in the case of circumcision when they had not imposed similar restrictions on Sabbath desecrators or those who eat forbidden fats and blood, equally severe transgressions. He encouraged the inclusion of these uncircumcised

boys in the community registry. Whether R. Hayyim was speaking from a purely *halakhic* perspective or whether he felt that as a matter of communal policy a more accommodating approach was better is unclear. R. Joseph Soloveitchik suggested that his grandfather's response reflected the former and that the opinion of the other rabbis may have been a better political policy.¹⁹

However, R. Moshe Feinstein, *Iggerot Moshe, Orah Hayyim*, II, no. 51, articulates a more liberal position and permits according an intermarried Jew the honor of opening the Ark in the synagogue as long as it is clear that the bestowal of the honor in no way justified or accepted his intermarriage. R. Feinstein offers this lenient position in a specific case of great need and benefit to the community; he does not delineate the parameters of need or benefit that would allow for this openness in other cases. And in the case of exceptional circumstances, R. Yehi'el Ya'akov Weinberg allowed a father to attend the marriage ceremony of his son who was marrying a non-Jew.²⁰

Many Orthodox synagogues today try to find ways to achieve a balance in their responses to intermarriage. Rabbis preach against it, schools teach that it is prohibited, and parents reinforce this message to their children. At the same time, babies of Jewish mothers are circumcised and named in synagogues although, often, no official announcements are made congratulating the family. Jewish children are welcomed into many schools regardless of observance or parentage. Efforts to bring the family closer to Jewish observance and conversion are common in many communities, although the *halakhic* parameters of such conversions are the subjects of heated debate.

Furthermore, in light of the impassioned debate currently raging about conversion to Judaism, increasingly exacting requirements and standards, and the disqualification and rejection of many prior conversions along with the converting rabbis, Orthodox communities need to rethink the attitude toward conversion and make it a more welcoming and viable option for those who are contemplating intermarriage or for those who already are married to Jews or who are members of Jewish families. Congregations need to find ways, without compromising the integrity of committed Jewish families, to reach out

to intermarried couples and their families so that liberal communities will not be the only option that they have if and when they choose to engage in Jewish life.

The Orthodox community is in a position to teach and model important behaviors and attitudes that can stem intermarriage. Bernard Susser and Charles S. Liebman suggest that “the minimal requisites of a workable Jewish survival strategy” include “the justification of boundaries, the sanctioning of communal difference, and the vindication of specifically Jewish cultural content”²¹ and “Jewishness must ... involve life-informing commitments and affiliations.”²² Other scholars posit that “the only way to ensure Jewish identity is— like the Orthodox— to demand sacrifice and commitment to Jewish behavior and ethos” and “they feel that in addition to observance, it is commitment to Jewish learning that has been the key to Orthodox empowerment.”²³

For a number of decades, the Orthodox community has been engaged in *kiruv*, formal and informal Jewish educational programs whose goals are to inspire, influence, and educate nonobservant Jews, hoping to introduce them to and welcome them to Orthodox Jewish life. Programs as far ranging as Yeshiva University’s Torah Leadership Seminars and James Striar School, the work of Chabad, Aish HaTorah, Ohr Somayach, NJOP, NCSY, and many more programs and organizations, not to mention the work of hundreds of congregational rabbis and their communities, have invested much time, effort, and resources to this venture. Anecdotally, the successes seem impressive and there are few communities in which *ba’alei teshvuah* are not found as both leaders and members.

Yet the Orthodox community continues to grow. A 2006 study by Ukeles Associates for the American Jewish Committee found that Orthodox Jews make up 11 percent of the American Jewish population; among 18-29-year-olds, the percentage rises to 16 percent; and among children, the percentage of Orthodox is higher. A 2007 study by University of Manchester historian Dr. Yaakov Wise found that “*Haredim* are set to account for a majority of Jews in the U.K. and U.S. by the second half of the century.”²⁴ Almost three quarters of British Jewish births are to ultra-Orthodox families, bringing the Orthodox to 17 percent of the British Jewish population.

“My work, and that of Prof. Sergio Della Pergola [of the Hebrew University], reveal a similar picture in Israel. By the year 2020, the ultra-Orthodox population of Israel will double to one million and make up 17% of the total population. A recent Israeli Central Bureau of Statistics report also found that a third of all Jewish students will be studying at *haredi* schools by 2012,” said Wise.

“In America too, where the Jewish population is stable or declining, ultra-Orthodox Jewish numbers are growing rapidly. Prof. Joshua Comenetz at the University of Florida says the ultra-Orthodox population doubles every 20 years, an increase which he says may make the Jewish community not only more religiously observant but more politically conservative,” he added. Whereas the United States’ Orthodox population was 360,000 in 2000 (7.2%), the community grew to 468,000, or 9.4% of the Jewish population, in 2006.

The increase in these numbers can be attributed to many factors: the high birth rate and the low intermarriage rate in the Orthodox community, the low birth rate and high intermarriage rate in the non-Orthodox communities, the intensity of education and religious experiences, and many others. The presence of *ba’alei teshuvah* is a contributing factor as well.

Nevertheless, this is not a reason for Orthodox triumphalism or back-slapping. The loss of any Jew, observant or non-observant, to the community and to Torah observance is cause for sadness and alarm. And the overall numbers of the Jewish population are diminishing. Despite all of the efforts of the various *kiruv* movements and programs, larger numbers of Jews continue to intermarry and lead non-traditional lives. And the longer we Jews live in America, the less the religious, ethnic, cultural, and familial connections Jews have with Judaism and with Israel. The stark truth is that most American Jews are not interested in Orthodoxy and will not become Orthodox.

How then do we reach out to them and contribute to their sense of Jewish identity and their connections to Israel and the Jewish people? For many decades in the United States battles were fought by the Orthodox community against the liberalization of Judaism. Many Orthodox rabbis were in the forefront of efforts to discredit and undermine non-Orthodox expressions of Judaism and refused to cooperate with

them or meet with their leaders. The famous 1956 ban by the eleven *Rashei Yeshivah* of participation in the Synagogue Council of America is but one example of this approach. In many cities there exist two boards of rabbis, one for the Orthodox and one for the others. The concern was that meeting with them granted them legitimacy and recognized them as rabbis and their movements as legitimate expressions of Judaism.

This view was not unanimous. Rabbi Joseph Soloveitchik permitted the Rabbinical Council of America and the Orthodox Union to participate in the SCA, distinguishing between what he referred to as issues *kelapei hutz*, of general concern to the Jewish community as it related to the larger world in which cooperation with the non-Orthodox was appropriate, and *kelapei penim*, internal Jewish matters in which cooperation was improper.²⁵

In practice, many Orthodox rabbis in smaller communities found that the only way to have a connection to the larger community and an influence on Jewish life was to cooperate with liberal rabbis and non-Orthodox congregations. Some did so through Boards of Rabbis, others in the context of Federations, Israel Bonds, and the like. Congregations cooperated with each other in *Yom ha-Shoah* commemorations and pro-Israel rallies. Those in larger cities often felt that the strength of their congregations and community did not require such cooperation. In speaking recently with a number of colleagues throughout North America, my impression is that this dichotomy between smaller and larger communities, as well as “in town” and “out of town” communities, is not so clear-cut. Often a rabbi’s involvement with non-Orthodox rabbis and congregations is a function of his *hashkafah*, his religious worldview, rather than his geography. There are rabbis in all communities who have engaged with the non-Orthodox, and there are those who do not.

Dr. Norman Lamm advocates cooperation and addresses the “legitimacy” issue,

Facts cannot be wished away by theories, no matter how cherished. And the facts are that Reform, Conservative, and Reconstructionist communities are not only more numerous in their official memberships than the Orthodox community, but

they are also vital, powerful, and dynamic; they are committed to Jewish survival, each according to its own lights; they are a part of *Klal Yisrael*; and they consider their rabbis their leaders. From a *functional* point of view, therefore, non-Orthodox rabbis are valid leaders of Jewish religious communities, and it is both fatuous and self-defeating not to acknowledge this fact openly and draw the necessary consequences—for example, establishing friendly and harmonious and respectful relationships and working together, all of us, toward those Jewish communal and global goals that we share and that unite us inextricably and indissolubly.

As an Orthodox Jew, I not only have no trouble in acknowledging the functional validity of non-Orthodox rabbinic leadership, but also in granting the non-Orthodox rabbis and laypeople may possess *spiritual dignity*. If they are sincere, if they believe in God, if they are motivated by principle and not by convenience or trendiness, if they endeavor to carry out the consequences of their faith in a consistent manner—then they are *religious* people...

But neither functional validity nor spiritual dignity are identical with Jewish *legitimacy*. “Validity” derives from the Latin *validus*, strong. It is a factual, descriptive term. “Legitimacy” derives from the Latin *lex*, law. It is a normative and evaluative term.²⁶

The concern that cooperation grants legitimacy is heard often by those who restrict their cooperation. However, it is important to note that, except in rare cases,²⁷ there is no cooperation between Orthodox and non-Orthodox groups on *halakhic* matters. Further, non-Orthodox groups have increasing less concern about gaining legitimacy from Orthodox Jews, except as they perceive their rights and options limited in areas like conversion. In fact, it is this author’s opinion that increased distancing from liberal groups and community organizations does not decrease the viability of non-Orthodox groups but, rather, decreases the relevance and influence of Orthodoxy and Torah in the greater Jewish community.

Support for this restrictive approach might be drawn from the *neki-ei ha-da'at*, the pure-minded, cautious, and pious ones of Jerusalem, about whom the Talmud states, "The *neki-ei ha-da'at* in Jerusalem used to act thus: They would not sign a deed [as a witness] without knowing who would sign with them; they would not sit in judgment unless they knew who was to sit with them; and they would not sit at table without knowing their fellow diners."²⁸ The reason for their caution was to prevent themselves from associating with unscrupulous people,²⁹ to prevent a perversion of judgment,³⁰ or to protect the dignity of Torah.³¹ Caution and separatism seem to be the ideal. However, it is important to note two important points:

1. The *neki'ei ha-da'at* are noteworthy because their exclusivist behaviors were the exception and not the rule;
2. The *Bi'ur Halakhah* notes that this separatism was not practiced in his day. He explains that when engaged in a *mitzvah* activity, a *talmid hakham* is not demeaned by his engagement with others. On the contrary, he elevates the pursuit and has a positive influence on those around him.

Thus, despite the history of lack of engagement that stems from the time that these liberal groups were in formation and there were hopes that their growth and development could be stopped and their influence limited,³² Orthodox indifference has no impact on them or their followers today. In Dr. Lamm's terms, Orthodox engagement with the non-Orthodox does not and cannot offer them legitimacy, but participation and cooperation might bring the influence of Torah to larger numbers of Jews alienated from Orthodoxy.

This cooperation with the larger, heterogeneous community can create opportunities for positive influence on large numbers of non-Orthodox Jews. The growing crisis of intermarriage and the reality that most Jews will not become Orthodox *ba'alei teshuvah* call on us to reassess our goals of *kiruv*. We must simultaneously encourage the embrace of Orthodoxy for those who are interested, while at the same time set out to influence positive attitudes toward Torah, pride in Jewishness, and positive predispositions toward Israel for the majority who, at this time, will not become Orthodox. This is not a defeatist at-

titude. Rabbi Herschel Schachter reports in the name of Rabbi Ya'akov Kaminetsky that any success, even just preventing a Jew from marrying a non-Jew, is a victory in this effort.³³

Thus, the involvement of Orthodox Jews in the greater Jewish community presents opportunities for non-Orthodox Jews to meet, interact with, and get to know Orthodox Jews. It is a chance to offset negative stereotypes, to stem anti-Orthodox rhetoric, and to share, in a subtle and non-threatening way, the beauty of Torah. Isn't this what the Talmud means when it states:

It was taught: "And thou shalt love the Lord thy God," (Deut. 6:5)—that the Name of Heaven shall become beloved because of you. If someone studies Scripture and *Mishnah* and attends on the disciples of the wise, is honest in business, and speaks pleasantly to others, what do people then say about him? "Fortunate is the father who taught him Torah, fortunate is the teacher who taught him Torah; woe unto those people who have not studied the Torah; for this person has studied the Torah, look how fine his ways are, how righteous his deeds!" Of him Scripture says: "And He said unto me: Thou art My servant, Israel, in, whom I will be glorified" (Is. 49:3). But if someone studies Scripture and *Mishnah*, attends on the disciples of the wise, but is dishonest in business and discourteous in his relations with people, what do people say about him? "Woe to him who studied the Torah, woe to his father who taught him Torah; woe to his teacher who taught him Torah! This man studied the Torah: Look, how corrupt are his deeds, how ugly his ways"; of him Scripture says: "In that men said of them: These are the people of the Lord, and are gone forth out of His land" (Ez. 36:20).

The Talmud is clear. The impression one makes and the impact one has on others is not through the scrupulousness of one's ritual observance—such observance is basic and fundamental, a *sine qua non* for Orthodox Jews—but, rather, through one's ethical behavior. Therefore Orthodox involvement in programs like Birthright Israel and March of the Living, participation in community organizations

like UJA Federation, engagement with non-Orthodox Jews through community functions and Torah learning—all of which may not be run according to an Orthodox agenda or with the goal of making Jews fully observant—can have many positive benefits. And “even” if this cooperation merely changes attitudes or brings greater respect for Orthodoxy, and “even” if it brings others to a greater love of God and Torah without increased observance, much is achieved.

While some lesser observant Jews may be drawn to intensely Orthodox programs and, ultimately, be absorbed into the greater Orthodox world, many will not. The Orthodox community needs to meet them on their terms, cooperating where we can and respectfully distancing ourselves where we cannot. And an important caveat: the benefits to this engagement are mutual. There is much that Orthodox Jews can learn from others. There are many Jews who are passionate about their commitments to Judaism and Israel and the Jewish community; we can benefit and be inspired by them. There are many organizations that are vibrant and successful; there is much we can learn. Their world experiences can bring new insights and approaches that will benefit our part of the community. And we, like they, will be cautious and discriminating.

The challenges of intermarriage and assimilation are great. The consequences of failing to address them properly and effectively are devastating. The methods of dealing with them are not perfect; each has its benefits and its risks. Whichever path we choose—*lo tukhal lehit'alem*, we cannot ignore our responsibility to our God, His Torah, and our people.

NOTES

1. “Neither shall you make marriages with them; your daughter you shall not give to his son, nor his daughter shall you take for your son. For they will turn away your son from following Me, that they may serve other gods.” (Deut. 7:3-4).
2. ‘*Or Zaru’a*, II, no. 428. *Teshuvot Maharam miRutenberg*, no. 544, suggests that he mourned only at the time of his son’s death, out of an overwhelming sense of loss. *Teshuvot Radbaz*, III, states that was because his son died without having returned to the Jewish fold.
3. Jack Wertheimer, “Surrendering to Intermarriage,” *Commentary* 111, 3 (March 2001), 26.

4. This declaration served as an inspiration for many Jews and led to the publishing of *I Am Jewish: Personal Reflections Inspired by the Last Words of Daniel Pearl* (Jewish Lights Publications, 2005), with contributions by Jews across the entire spectrum of the Jewish community.
5. Steven Bayme, "Intermarriage and Jewish Leadership in the United States," *Changing Jewish Communities*. Jerusalem Center For Public Affairs, no. 7, April 16, 2006, at <http://www.jcpa.org/cjc/cjc-bayme-06.htm>.
6. See Orthodox Forum's *Jewish Tradition and the Non-Traditional Jew*, Jacob Schacter, ed. (Jason Aronson, 1992).
7. *Iggerot Re'ayah* I:138.
8. See Dov Linzer, "The Discourse of Halakhic Inclusiveness," at www.yctorah.org/component/option.com_docman/task,doc_download/gid,637/.
9. "*Kahal Shogegu-Mi she-Hezkato Shogeg 'o To'eh*" *Akdmut* X, Kislev 5761.
10. See *Teshuvot Shevut Ya'akov* I:20, in which Rabbi Jacob Reischer, seventeenth-century Prague, deals with a question concerning the permissibility of *hametz* owned by the non-Jewish wife of a man who, despite being intermarried, conducted himself in all other matters according to Jewish practice.
11. *Teshuvot Piskei Uzi'el be-She'eilot ha-Zeman*, no. 61.
12. *Teshuvot Piskei Uzi'el be-She'eilot ha-Zeman*, no. 65.
13. *Teshuvot* Rabbi Azriel Hidesheimer, I, *Yoreh De'ah* no. 229. See *Tur*, 'Even ha-'Ezer 16.
14. *Hil. 'Issurei Bi'ah* 12:1; 'Even ha-'Ezer 16:1-2.
15. *Eretz ha-Tzvi*, 17:4-5, pp. 121-123.
16. "Integrity or Unity: Which?" excerpts of an address at The Orthodox Union National Rabbinic Centennial Medallion Awards Dinner, by Norman Lamm, President, Yeshiva University, on February 25, 1998. <http://www.yu.edu/lamm/O-U-print-98.html>.
17. Chaim Jachter, "Intermarriage, Sex Education, and Modern Orthodox Rebalancing—A Reaction to Noah Feldman, Part 1" at http://koltorah.org/ravj/Intermarriage_Sex_Education_and_Modern_Orthodox_Rebalancing_1.html.
18. See Ariel Picar, "*Ha-Pesikah ha-Hilkhatit Bat Yameinu ve-Hitmodedutah im Ba'ayat ha-Hitbolelut*," *The Rappaport Center for Assimilation Research and Strengthening Jewish Vitality*, Bar Ilan University, The Faculty of Jewish Studies, 5763.
19. *Sefer Torat Hayyim*, p. 56.
20. Eizik Sher, "Talks with HaRav Yechiel Yaakov Weinberg *zt"l*, author of the *Seredei Eish*," *Yated Ne'eman*, November 5, 1999, pp. 43-44. I thank Prof. Marc Shapiro for this reference.
21. Bernard Susser and Charles S. Liebman, *Choosing Survival* (New York and Oxford, 1999), p. 88.
22. Susser and Liebman, pp. 136-137.
23. Adam Ferziger, "Training American Orthodox Rabbis to Play a Role in Confronting Assimilation: Programs, Methodologies and Directions," *The Rappaport*

- Center for Assimilation Research and Strengthening Jewish Vitality, Bar Ilan University, The Faculty of Jewish Studies, 2003, p. 18.
24. Jonny Paul, "Three of Four Jewish Births in UK are Haredi," *The Jerusalem Post*, Aug. 1, 2007.
 25. Aaron Rakeffet-Rothkoff, *The Rav: The World of Rabbi Joseph B. Soloveitchik* (Ktav, 1999), pp. 47-48.
 26. Norman Lamm, *Seventy Faces* (Ktav, 2002), pp. 138-139.
 27. See, for example, the description of the Denver multi-denominational conversion board in Samuel Freedman, *Jew vs. Jew: The Struggle for the Soul of American Jewry* (Simon & Schuster, 2007), pp. 80-114, or the proposal for a joint Orthodox-Conservative Bet Din for divorce in Aaron Rakeffet-Rothkoff, "The Rav: The World of Rabbi Joseph B. Soloveitchik" (Ktav, 1999), pp. 48-49.
 28. *Sanhedrin* 23a.
 29. *Hil. Sanhedrin* 2:14.
 30. *Hil. Sanhedrin* 22:10.
 31. *Bi'ur Halakhah* to *Orah Hayyim* 170, s.v., *lo hayu*.
 32. This was not a universally held position. Consider, for example, the debate between Hirsch and Bamberger.
 33. *Eretz ha-Tzevi*, p. 123.

6

The Orthodox Professional in Non-Orthodox Communal Agencies

Marc D. Stern

At least until Bernard Madoff single-handedly forced a major contraction of Jewish philanthropy, there was something of a golden age for Orthodox Jews working in professional capacities in secular communal agencies. Almost wherever one looked, one found Orthodox Jews in professional capacities. Some examples:

- At the American Jewish Committee, founded by German Reform (if that) Jews, several important positions, including the editor of the American Jewish Yearbook, the head of the legal department, and, perhaps most important, the director of the Jewish communal affairs department, were Orthodox Jews. High-placed officials at the ADL are also Orthodox.

- The head of the Boston Federation (who spoke at the Forum last year) is an Orthodox Jew who has done much to introduce Torah study into every corner of Jewish life in Boston. That program has been emulated by Federations elsewhere.
- Malcolm Hoenlein heads the President's Conference, and before that was head of the Soviet Jewry movement.
- For many years, I have been legal director at the American Jewish Congress and am now also its acting co-Executive Director.
- Several key figures in the Anglo-Jewish press are Orthodox.
- Until the controversy of a year or two ago, Rabbi Israel Singer headed the World Jewish Congress. Betty Ehrenberg is now indispensable at the World Jewish Congress, American Section.
- Perhaps most astoundingly—for education is a place where ideological differences are sharp and unavoidable—the Forum's own Erica Brown is in charge of adult education for the Washington Jewish Federation.

All this was largely unimaginable more than 30 years ago when I first took a job in the field. In the 1940s and 1950s the array of positions held by Orthodox Jews listed at the beginning of this essay would have been wholly unimaginable.¹

The absence of Orthodox Jewish professionals in those earlier years was likely not the product of self-imposed Orthodox isolation. The *hareidi* community was not then as important in the Orthodox community as it is today. The famous *p'sak* of the *Rashi ha-Yeshiva* against participation in mixed organizations (even if it applied to secular Jewish organizations as opposed to religious ones like the Synagogue Council of America) was not then accepted by much of the Orthodox community that possessed the training and skills necessary to work in communal agencies.

Similarly, R' Moshe Feinstein's *p'sak*² against participation in Federations did not immediately influence much of the Orthodox com-

munity. The Telzer Rashei Yeshiva earlier solicited the Cleveland Federation's support for the Hebrew Academy of Cleveland, and the Academy continues to do so to this day. The Rav affirmatively encouraged me to take my position.³

The problem was, rather, that these agencies were bastions of a secular, Americanized Judaism that was not hospitable to Orthodox Jews and Judaism. Orthodoxy was then, and earlier, widely regarded by the Jewish establishment as a vestigial form of Judaism whose demise was imminent and that was not integrated, nor desirous of being integrated, into the American scene.

Marshall Sklare, the eminent sociologist of American Jewry, pronounced himself certain that Orthodox Judaism had little future in America. (One of his grandsons, a member of the Ner Israel Kollel, recently published *hiddushim* on *Baba Metzia*.) Others were even more certain than Sklare.⁴

I cannot prove the existence of systematic employment discrimination against Orthodox Jews. In any event, it seems doubtful that many Orthodox Jews would have sought employment in those agencies, and even more doubtful that they would have been hired for policy-related positions. As late as the mid 1980s I encountered some doubts by lay-people about a promotion because I was Orthodox.

Rabbi Nochum Dessler, principal of the Hebrew Academy of Cleveland, founded in the early 1940s under the patronage of the Rashei Ha-yeshiva of Telz (Cleveland) described at the *shiva* for my mother-in-law how in the early 1940s the founders of that school approached the Federation for support.

The Federation, then firmly and exclusively in the grip of an Americanized leadership, wanted to hold the meeting in a non-kosher restaurant because, Rabbi Dessler hastened to explain, they did not know better and had little—that is to say, no—experience with day school education, then regarded as an alien and un-American institution.

Such questions and attitudes would be all but unthinkable today. In part that mindset is due to the fact that Orthodox Jewish professionals are now commonplace in Jewish communal institutions. In part, too, it is a reflection of the unexpected vitality of Orthodox Juda-

ism, and, again at least until recently, its commitment to the common Jewish enterprise.

The presence and labor of these Orthodox Jewish professionals have helped to dispel the idea that Orthodoxy is not a vibrant and important part of the Jewish community, and that it and its adherents have nothing useful to contribute to American Jewish life. Whether that commitment will withstand the isolationism so dominant in much of the Orthodox community, including much of the supposedly modern Orthodox community, and the loss of ethnic and religious commitment for much of the non-Orthodox community, remains much in doubt.

Changes in Communal Organizations Threaten the Role of Professionals

In considering the effects of an Orthodox presence in “secular” organizations, it is necessary to acknowledge that the influence of professionals on the Jewish communal agenda is (again, at least until the recession and Madoff’s one-man wrecking enterprise) decreasing. As I noted in an earlier contribution to the Forum,⁵ at least in community relations agencies, that balance of power has shifted decisively from either professionally dominated agencies, or real lay/professional partnerships, in favor of leadership by a small group of wealthy individuals, many of whom are dismissive of professional Jews and who, convinced of their own wisdom, show little regard for the knowledge, views, and experience of professionals.⁶

My impressions of a change in power are shared by many in the communal world, including some of the most able communal professionals. Thus the rise of the Orthodox professional comes at a time when the influence of professionals is diminishing. Any inquiry into the current influence of Orthodox Jewish professionals may therefore be misleading as a predictor of the future.

Equally important as the increase in lay control of communal agencies, which at least purport to have some sort of obligation to represent the larger Jewish community, is the growth of privately controlled philanthropic foundations of wealthy families or individuals. Those foundations diminish the role of Jewish communal profession-

als, and indeed the community as a whole, in setting communal priorities and policies. These foundations generally have a narrow focus and operate on the certainty that the founder's (or board's) vision is *the* best way forward. Here, too, the role of professionals is diminished, although some of these foundations employ very able Orthodox and non-Orthodox professionals of their own. They simply function in different ways.

These trends are unhealthy not because career communal professionals are omniscient or prescient. I have no illusions that Jewish professionals are always right in their judgments. Institutions can easily get trapped in old, familiar and unproductive ways. We all make mistakes like anyone else. It is particularly easy for us to fall into the trap of simply doing what is familiar and comfortable. Too many of us are careerists.

Who among us, whether employed in the for-profit or not-for-profit sector, can be expected to say the skills I have nurtured for 20-30 years are no longer relevant, or less important than other, newer skill and knowledge sets? Many of us took communal jobs because, in part, we are risk averse. That tendency to an abundance of caution at times does not serve the community well.

But the opposite is not true either. There is, and should be, no question that most Jewish professionals took their jobs out of a sense of deep Jewish commitment and bring considerable skills to their work. It is assuredly not true that the ability to succeed in finance, medicine, law, real estate, or (in earlier times) the garment district is a guarantee of perspicuity when it comes to communal interests.

It also is not true that communal needs require no special expertise or that experience is irrelevant to deciding Jewish communal policy. Everywhere else one looks—from business to medicine to *halakhah*—specialization is the order of the day. Somehow, this trend is assumed not to be true for secular Jewish communal life, where a small cadre of non-specialist laypeople are increasingly powerful.

Identifying the Orthodox Jewish Professional

In one important sense, I am uncomfortable speaking of Orthodox professionals, since this notion entails making judgments about a per-

son's level of *shmirat ha-mitzvot* (religious observance) and some definition of what ideological criteria includes one in the Orthodox camp. These are the very judgments that one must without fail set aside to be an Orthodox professional in non-Orthodox communal settings. Truth be told, even professionals working for Orthodox organizations must suspend religious judgments, since they work with colleagues from other Jewish groups. Whatever groups in the Orthodox community may say about not working with the non-Orthodox, they work with non-Orthodox groups on a non-judgmental basis all of the time.

Who, exactly, is Orthodox? Many may think this question is easy to answer on the "right" of the community; it is supposedly less easy on the "left," where, by and large, secular Jewish communal professionals reside. Is membership in, or regular attendance at, an Orthodox synagogue sufficient? Is it wearing a yarmulke or only skirts? Keeping kosher? Rejecting all theologically questionable modern biblical scholarship? Rejecting the theory of evolution?

If the question is "can I accept an invitation to eat at that person's home," a religious judgment is inevitable. Such judgments are generally unhelpful and often irrelevant at the professional level. If it is hard at the inter-professional level, where one works with people daily over long periods of time such that one's religious beliefs inevitably become known, it is even harder to make such judgments with regard to laypeople, with whom relations are on an entirely different and more fraught basis.

The unhappy fact is that many of our colleagues—professional and lay—do not keep kosher homes (increasingly, they know little of how to keep kosher) and are either intermarried themselves or have siblings or children who are. They not only are not *shomer Shabbat*, or regular synagogue attendees, but have little idea of what it means to be *shomer Shabbat*, fast on *Tisha B'Av*, rest on *Shavout*, not wear *shatnez*, or avoid violations of *lifnei iver*. They believe—sincerely—that choice in abortion is *the Jewish position*, not as a matter of tolerance, but of substance. They are also deeply committed to the survival of Israel and Judaism.

It is easy to be too concerned with labeling people, both those within and outside the Orthodox community, as Rabbi Robert Hirt

pointed out at the Forum. That habit is a peril to be avoided, but so is a repudiation of all line-drawing.

In terms of *tochacha*, rebuking or warning the sinner, there are real limitations on what one can say to one's colleagues or lay leaders about religious matters. One can talk about intermarriage in the abstract, but then only with caution, under the rubric of continuity. Certainly, one cannot refuse to deal with intermarried colleagues or laypeople. More targeted campaigns must be the responsibility of others. (In fact, the idea that an Orthodox professional might be able to engage in this *mitzvah* systematically while carrying out his or her duties is so foreign, so beyond the realm of the possible, that I did not even discuss it in the first draft of the paper.)

This suspension of religious judgment with regard to communal work is essential and is indispensable to functioning in the communal context. One after all works for the entire Jewish community, not just the Orthodox community. A division of labor is essential. Purposeful religious outreach cannot and should not be the responsibility of professionals in secular Jewish organizations.

The suspension or muting of religious judgment is certainly not cost free. On the personal level it requires a dulling of religious sensibilities and acceptance of the religiously unacceptable, a damping of religious outrage. On a more practical plane, non-judgmentalism means a host of practical problems—from how to deal with wedding invitations to interfaith marriages to how to speak of contentious religious issues.

These problems are as ubiquitous as intermarriage itself. Employees of for-profit businesses also have to grapple with the problem of relations with the intermarried, or refusing dinner invitations from co-workers, surely not easy when one is dealing with professional colleagues.

As difficult as these problems are generally, they are more difficult in the communal context, where they take on additional significance not merely as an expression of personal religious belief, but (whether intentionally or not) as expressions of an idealized Jewish life. Decisions based on one's personal desire to avoid departure from religious

norms are inevitably burdened with great tension precisely because they imply something about communal norms.

An example: I had a conversation with a lay leader during a meeting in a hotel restaurant. He ordered ham (or bacon) and eggs and later asked the waitress for a glass of milk, jokingly telling me that he was compounding the felony. I didn't think it appropriate to respond with a discussion of *ein issur chal al issur* (one prohibition cannot be superimposed on another prohibition) or even a warning about the prohibition on pork. There was no question that my interlocutor knew the latter and would have been bewildered by the first. My silence no doubt contributed to a lasting working relationship, but did it signal that I did not regard his eating pork products as wrong? I don't think so, but I cannot be absolutely certain.

A *rebbe* of mine at *Kerem B'Yavne*—R' Binyamin Beiri—told us that someone once praised R' Kook for his tolerance of Sabbath desecrators. R' Kook is said to have responded that “the easy part is being tolerant of those who come to build Israel but who don't observe the Sabbath; the hard part is not becoming tolerant of Sabbath desecration.” That is a difficult balance that communal professionals need to struggle to maintain.

Chabad's great success in *kiruv* is precisely in the fact that all Jews are welcome with open arms—even those whose actions are wholly at odds with *halakhah*. The approach works, and works marvelously; but at what spiritual cost to *Chabad shlichim* (representatives), and, it might be added, Orthodoxy in general?

Sometimes accommodation of religious needs can make matters even more complicated, as when one is taken to a “kosher facility” whose *hechsher* is doubtful, or, when asking about a *minyan* to say *kaddish*, ends up in a traditional synagogue without a *mechitza*. I never did persuade a Federation director in upstate New York that the reason I didn't eat the kosher tuna she provided when she found out I kept kosher was that I didn't like tuna. That possibility ran contrary to one of the most firmly held beliefs about Orthodox dietary habits. I am sure she believed that I did not trust her assurances that the tuna was in fact kosher.

Communal professionals are committed to serving the entire community as it is. Much as we do not like it, full acceptance of intermarriage, or gays, or consumption of non-kosher food is simply a given for many of the people we represent. In fact, in many circles acceptance has gone far beyond the level of bare tolerance, such that it is the Orthodox position on these matters that is a distinct and unpopular minority point of view. A refusal to welcome intermarriage (or most other departures from *halakhah*) is widely perceived as a repudiation of the obligation to serve all *k'lal yisroel*.

If I were to refuse to advise a party to intermarriage about the role religion plays in a child custody case, but did respond to a *ba'al t'shuva* seeking the same information, I would be serving not the community but some vision of Orthodoxy. I would be asked to do that working for the O.U., but it is inconceivable working for AJCongress.

A compensatory benefit of being even-handed is that when I am asked by non-Orthodox groups about such matters, my judgments are respected even when they are not what the questioners want to hear. Perhaps it counts for something that as a result of keeping my religious opinions to myself, I have represented or advised literally every group in American Jewish life—from the wholly secular, to the Reform movement, to Satmar.

The average Orthodox Jewish communal professional draws—and could draw—no distinction between other secular organizations (ADL) and religious groups (Union of Reform Judaism and its Religious Action Center, the various organs of Conservative Judaism, and the Reconstructionists). I have never thought it in the least problematic to lecture on the few subjects within my competence in a Reform or Conservative synagogue. I refuse to do so on Shabbat, always explaining with somewhat less than the full story, that I don't accept speaking engagements on Shabbat. Not cooperating with what some in the Orthodox community unhelpfully call deviationist movements is just not conceivable.

And not only because it would not be tolerated. Those movements are the spiritual home of millions of Jews. If they did not exist, some few Jews would find their way to Orthodox synagogues. Most would

drift away entirely, as almost half of American Jewry already has. Some may think this is a good thing. I do not; neither as a matter of faith in the Jewish people,⁷ or simply as a matter of pragmatic utility—absent a critical mass, no one in power pays you any mind.

No one should be deluded. Without organized non-Orthodox Jewry, Israel's standing in Congress would be all but non-existent. Moreover, working with these groups, and other groups outside the Orthodox community, often leads to contacts which are beneficial to the entire Jewish community, as well as the Orthodox community. These are contacts not shared by my Orthodox colleagues.

The work of employees of secular Jewish organizations often requires them to work with non-Jewish religious groups of various kinds. In general, except for those directly engaged in interfaith work, this activity involves public policy issues which can and are usually discussed and debated without any theological discussions. Differences may be rooted in theology, but routinely these can and are discussed without it. Occasionally, there will be a need to explain a theological point undergirding a position, but this is rare, and usually calls only for a superficial and factual explanation.

But there are areas where theological debate is inevitable and unavoidable. For example, discussions, important discussions, about the place of Israel in the lives of Jews, as part of efforts to counter the harsh positions on Israel of mainline churches, often involve unavoidable discussions of theology that are not merely superficially descriptive, but probing, often raw. Without the ability to address the theological component, Jewish participation in these debates is greatly handicapped.

My own work has only infrequently taken me into those waters. When I have entered those lists, some of those engaged in interfaith efforts seem to me too ready to compromise or obscure important theological points for maintaining (illusory) good will. But I have also seen skilled colleagues—I'm thinking of an Orthodox colleague in particular—succeed in explaining to believing, mainline Christians the importance of Israel to the Jewish people precisely because they have a command of relevant theological materials, and they could and did enter the lists on these subjects with non-Jewish peers. These

discussions do not square precisely with the guidelines established in *Confrontation*, but they seem nonetheless essential and, in the hands of informed and committed professionals, not dangerous.

Jewish Communal Professionals Are Not Religious Missionaries

All the Orthodox Jews I know in secular communal life take it for granted that it is not their task to proselytize. We are not, and cannot be, a fifth column for *Aish ha-Torah* or even the Center for the Jewish Future to urge upon our colleagues or laypeople higher levels of religious observance. It should go without saying that one must be prepared to answer *halakhic* or other questions when asked—whether about the relatively trivial to the profound—*yahrzeits* to abortion, and to explain those and other matters coherently and authoritatively, as well as to be a model of religious observance. These are entirely different matters than urging religious practice on others.

Only once in my career did any staff member try proselytizing at AJCongress, a member of the support staff. It was a disaster. Having received several complaints, I quickly told this person to stop. He was doing far more harm than good.

Inviting colleagues to a Purim meal, a *bar mitzvah* or wedding *simchah* or having them pay a *shiva* call, can be illuminating and demystifying, especially since fewer non-Orthodox Jews have ever encountered such events. All this is far different than deliberate efforts at *kiruv*.

So much for the personal. What about at the communal level? Here the calculus is quite different. An alert and informed Orthodox communal worker can and should see to it that Orthodox sensitivities are accommodated—whether that means the availability of kosher food, a separate swim hour at the Y, or ensuring that meetings begin at times that allow Sabbath observers to fully participate. Most of these are by now relatively easy matters. Whatever the outcome, people understand when pressed that the institutional Jewish community cannot compel some of its members to participate in its functions if doing so requires them to act in violation of their religious principles.

Matters are more complicated in regard to public policy issues. In general, beyond the most junior levels, Jewish professionals have considerable discretion in shaping programs, picking issues, and bring-

ing competing policy concerns to bear on their work. Nothing forbids them from considering *halakhah* or Orthodox sensibilities in formulating a position or in introducing those perspectives to the intra-communal debate.

Here, Orthodox professionals have made an important contribution, putting issues on the table that would otherwise not be. Discretion can be abused, however, especially in light of one's obligation to one's employing agency. Silently burying an issue that would have organizational value to avoid a clash either with Orthodox values or with *halakhah* would apparently be a form of *gezel*.⁸

What of communal policy? That is, what burdens, if any, fall on the Orthodox communal professional who has some ability to influence policy? Sometimes there is little that can be done because the agency or communal position is firmly settled. In other circumstances, the best that can be achieved is an injection of an Orthodox point of view into the debate and an insistence that it be taken seriously and accommodated if possible. Sometimes, more can be accomplished. The hard part is knowing which is which.

If possible, one needs to remind one's organization that, to the greatest extent possible, it represents all of the Jewish people and that Orthodoxy is (still) part of that obligation. I think it fair to say that Orthodox professionals have increased the secular community's activism in support of religious liberty, a development that would not have occurred without their presence.

The question about policy in fact divides into two parts: those matters on which formal *halakhah* is silent but the Orthodox community overwhelmingly favors one position (i.e., aid to parochial schools, support for settlements; opposition to the Gaza withdrawal);⁹ and those on which *halakhah* has more direct relevance (i.e., abortion). Then there are mixed cases, such as who is a Jew; the underlying dispute has *halakhic* parameters, but when and how to raise the issue is a question of judgment.

Group-think in the Orthodox community (as in other faith or political communities) may represent unexamined and ill-conceived conventional wisdom, collective wisdom born of experience or mob mentality. It may reflect self-interest, in the good sense; it may reflect

ani v'afsi od—myself and nothing else; it may and often does represent a smug feeling that Orthodox Jews always know better. General Orthodox attitudes are entitled to a respectful evaluation, but they hold, and should hold, no unreflexive veto on the professional judgments of Orthodox professionals.

Matters controlled by *halakhah*, such as abortion or gay marriage, are obviously different. What follows, though, is not so simple. It is one thing—and unacceptable—for an Orthodox communal professional in a secular organization to insist on his or her own that Jewish law forbids abortion and therefore, in the name of the organization, unilaterally oppose legislation protecting abortion given overwhelming support among Jews for legalized abortion.

It is quite another—and even more objectionable—for that professional to passively accept organizational statements about abortion which distort Jewish tradition so that they read the relevant *halakhah* as if it were a National Abortion Rights Action League (NARAL) manifesto. It is not asking too much of an Orthodox professional to at least make the latter point. Having made the point, and as long as the resulting statement does not bear the Orthodox professional's name, I think no more can be required—except resignation if even this much is intolerable. To insist on resignation whenever an agency asserts a position in opposition to *halakhah* is to insist that Orthodox Jews cannot work for any secular Jewish organization with a broad public policy agenda.

Sometimes the Orthodox professional in a secular agency, alert to other points of view and perspectives, can inject considerations into the *halakhic* decision-making process. I can't speak of details, but in several matters in which I have been involved, my perspective from a perch at a secular organization injected issues into the debate which (properly or not) did not figure in the calculus of Orthodox organizations, given their overriding commitment to narrowly focusing on defending immediate Orthodox interests.

Almost yearly I get a call from a Jewish parent (frequently in an intermarriage) reporting from some out-of-the-way place that they are the only (first) Jew in the school district and that the Christmas program is so religious that their children being raised as Jews are un-

comfortable. Can I help them tamp down the Christian aspects of the Christmas pageant so that their children would better fit in?

There are all sorts of things that can be done to achieve that end, some legal, some political or educational. As a civil servant of a community dedicated in overwhelming numbers to the proposition that Jewish children should not be made to be uncomfortable by religious observance in the public schools, the required course of action appears easy.

But as an Orthodox Jew, indeed as a Jew interested in Jewish continuity, it is not so easy. Is it really in anyone's Jewish interest (certainly as understood from an Orthodox perspective) that children feel comfortable as the only Jew in a school? Should the community—that is, I as an Orthodox Jew—facilitate Jews in moving to communities where they are statistically bound to lose their children to assimilation and intermarriage simply because there is no critical mass of other Jewish children with whom to socialize? Should we tolerate policies relegating Jews to a second-class status to enhance their Judaism?¹⁰

How does one begin to answer such a question? And what to do if one's personal answer differs from the answer the majority of the community prescribes but there is no clear *halakhah* governing the matter, and one, in any event, cannot “prove” the correctness of one's own judgments?

The Orthodox Community's Declining Commitment to the *K'lal*

If, in dealing with the Orthodox, the problem for the Orthodox professional is how to express adherence to *halakhic* norms in the context of communal service, on the Orthodox right the problem is how to insist on a commitment to a larger, heterodox, Jewish community.

There is unquestionably a growing tendency in the Orthodox community to view the *k'lal* as mostly including *anshei shlomeinu* (people in our camp), people who share fundamental religious commitments. Others simply count for far less, except as targets for outreach. This view is manifest in the refusal to participate formally in joint efforts, whether protesting the intifada or in legal and other “political” endeavors.

An example: When the United States Congress was considering extending daylight savings time, Agudath Israel objected that the change would interfere with morning *minyan* during several weeks of the year. I pointed out that, on Friday afternoon, the change would during those same weeks also minimize *chillul Shabbat* (Sabbath desecration) by the non-Orthodox. The response was that for “our people” morning *minyan* was the marker of commitment. Shabbat observance could be taken for granted.¹¹

The tendency to separation is growing by leaps and bounds. *Magen David Adom* or other civil defense agencies in Israel are not worthy of support—we need our own *Hatzola*. In local communities, there is no impetus to improve municipal ambulance service. Instead *Hatzola* branches are created. *Hatzola* volunteers do marvelous work, but there is something perverse about investing large sums in *Hatzola* but not supporting modestly increased taxes to pay for better care for all.¹² The preference for “our own only” is indicative of a larger attitudinal problem.

Those who work for non-Orthodox communal agencies have inevitably rejected the narrow focus on *anshei shlomeinu* that characterizes that *hareidi* (and, increasingly, modern Orthodox) approach. We necessarily believe in the importance of considering the needs of all Jews. That commitment to *b’asher hu sham*—each Jew as he or she is, and the community as it is—is in considerable tension with a firm belief in the importance of *mitzvah* observance, which is largely not an important part of the lives of upwards of three-quarters of American Jews.

Does This Street Run Two Ways?

So far I have spoken largely of the Orthodox professional and what he injects into the non-Orthodox community. The street runs two ways. Perhaps some of the greatest value of Orthodox professional service comes in the transmission of non-Orthodox viewpoints into the Orthodox community—a contribution of increasing value to, and decreasing impact on, the Orthodox community as it becomes even more insular, with its own hermitically sealed institutions. Orthodox Jews don’t even read the same Anglo-Jewish newspapers and websites as does the rest of the Jewish community.

What concerns motivate the bulk of the Jewish community? Why? How does one approach a particular matter? How does Orthodoxy appear to those who share neither a commitment to *Torah min-ha-shamayim* nor an unshakable commitment to *havdalah bein yisrael l'aminim*, however we might define it (which need not be the most extreme position)?¹³ Is there something the Orthodox community believes without examination that, in light of the different perspectives of non-Orthodox Jewry, merits reconsideration?¹⁴ Does it impose unnecessary costs on that community?

Some of *k'lal yisroel's* most passionate, dedicated, and effective advocates are not Orthodox Jews. Many are unsung heroes of communal work, some of whose contributions to the well-being of Orthodoxy are greater than those of professionals in Orthodox agencies, but in whose homes one could not eat.

I may grimace when I get emails sent on Shabbat from those who follow closely the follies of international organizations hostile to Israel, but there is no gainsaying their commitment and contribution to Israel's well-being. It easily exceeds that of many in the *haredei* community who continue to treat the State of Israel with contempt, spend more effort on repudiating the *heter mechira* than combating Hamas, and are perfectly content to send other people's sons into battle in pursuit of their political/religious program while their own children are exempt from military service.

I hope I don't sound patronizing. I don't mean to be. Some of the people I am describing are dear friends; we attend each other's *smachot*, we rely on each other for professional (and sometimes personal) advice, and we enjoy each other's company. I would be more than pleased to have their achievements on my résumé.

Whether this reverse function of Orthodox Jewish professionals serving in the non-Orthodox community will continue into the future is an open question. The Orthodox community at large is increasingly sectarian (though there is, paradoxically, also an element less insistent on any denominational lines), more like a sect than a denomination; increasingly unshakably convinced of its own probity, rectitude, and wisdom; disdainful of those who don't share its religious or political commitments; and largely lacking in visionary leadership. It shows less

and less interest in the entirety of the Jewish people, except as targets for *kiruv*.

All these facts together make it less likely that the presence of Orthodox professionals in secular community agencies will in the future have much impact within the Orthodox community. What has been achieved until now may represent a high water mark, destined for irreversible decline.

Some *Halakhic* Musings

One of the most difficult issues the Orthodox professional faces is the question of what to do when an employing agency embarks on a course of action that either directly transgresses *halakhah* or that expresses a point of view contrary to *halakhah*? What, then, is an employee to do?¹⁵

The answer probably should depend on the level of the employee's position, the amount of responsibility he or she holds for implementing the policy, and whether he or she has any discretion in the way the policy is implemented. It also matters whether one is personally asked to lobby or vouch for a particular problematic position—advise a gay teenager directly about sexuality; or serve on an ethics committee in a hospital that may authorize removal of medical care from the terminally ill—or that are several steps removed from the questionable action. One needs also to at least examine whether the position has collateral effects which will be useful to the Orthodox community.

It should matter what percentage of one's work (or the organization's work) trenches on *halakhah*. I would advise someone differently about taking a legal position with the ADL, where most of one's work would involve combating significant or insignificant anti-Semitism, than, say, the National Council of Jewish Women, an organization a wholly secular colleague describes as a troop of holy warriors for abortion. I would feel differently about taking a legal policy position with Hadassah—whose views on abortion are not much different than NCJW's—than I would about an Israeli policy position with the same organization (the latter a position for a long time held by an Orthodox Jew).

The analysis would presumably be similar for educational positions. Should an Orthodox Jew take a position that requires eliding, for example, *Torah min-ha-shamayim* (but not denying it) or inviting non-Orthodox teachers and rabbis to teach? (These are variations on the question Rabbi Norman Lamm addressed several years ago when, in the wake of publishing a book on the subject, he spoke about *Shma* to an audience at HUC-JIR in New York.)

The issue, however, is not only what the speaker actually says. Professor Shalom Carmy properly noted in an e-mail to me that what he calls “peek-a-boo” tactics with regard to the Divine origin of all of Torah have “a pernicious effect precisely because (unlike *kashrut* or abortion) it legitimates those positions within Orthodoxy, and it makes it more difficult for forthright Orthodox Bible students ... and it too often corrodes the religious and intellectual integrity of the people who practice it.”¹⁶

These questions need to be answered well above my pay grade—and it is not clear how many rabbis have the knowledge to answer such questions well—but I think on balance the answer should be that such activities should be permitted, because they have the potential to do so much good, but only so long as doing so does not lead inevitably to confusion about what one believes.

Finally, since one owes one’s employer one’s best efforts to the success of the employer’s enterprise, how does an employee’s refusal to aid the employer’s policy square with that obligation? Is a protest sufficient? Does the presence of an Orthodox Jew in a non-Orthodox organization necessarily lend credibility to the organization and its positions, creating confusion about what Orthodox Judaism has to say not dispelled by private remonstrations? Is one’s employment in a professional role a form of *ha-chzkat y’dei ovrei aveira* (strengthening the hands of sinners)? Obviously I think not, but getting there *halakhically* is not so easy; it is a conclusion that depends on difficult judgments. I return to these below.

Another set of problems, though less common, involves direct responsibility for implementing a program which in and of itself violates *halakhah*. This year, when AJCongress was planning its convention, the

question arose whether to provide only fully kosher meals. The reality is that almost no one attending the convention kept kosher. (For those who did, kosher food would gladly have been provided at no extra cost.) Formal dinners were to be kosher, but what of breakfast and lunch? The alternative was kosher-style meals. The cost differentials are quite substantial. Not only is kosher food more expensive, it becomes still more so when hotel surcharges for outside catering are included. The convention planners kept pressing me to allow only kosher-style meals.

Even before Madoff, we were under tight financial constraints. The decision was for the first time mine alone to make this year—but the money was not mine. The decision is now moot—I owe this much to Madoff and the recession—but what should the answer have been? If it were my personal money, there would be no question—*halakhic* or otherwise. It was not my money. Does that change the result?

In community after community, Ys and JCCs have determined to open on Shabbat. The given reason, which cannot be discredited as a sham, is that given the large number of “un-churched” Jews, Shabbat programming is a way to reach out to these Jews and provide Jewish cultural programming in the spirit of Shabbat—by which of course is not meant activities consistent with the *halakhot* of Shabbat. Unstated, but also inevitably coming into the calculus, is that health and gym facilities are important—often the most important—draws for membership (Jewish and non-Jewish), and these compete with private gyms, which are open seven days a week.

Can an Orthodox Jew be an administrator of such a facility? Can she be in charge of programming including Shabbat programming? Would the Jewish context of such facilities be substantially impaired (or their openness to the Orthodox community diminished) if Orthodox Jews left the employ of such places in protest of Shabbat openings?

In Manhattan, two Ys are now open in one form or another on Shabbat. As far as I can tell, the major Orthodox synagogues in the relevant communities have not led any protests against the Shabbat opening policy. Neither are they calling for a boycott of those institutions. If *rabbonim* and *kehillot* don't see the necessity to even protest,

why should communal employees, who do not have many alternative career paths open to them, feel an obligation to commit career suicide?

I don't know of any Orthodox employee penalized for objecting to Shabbat programs at any Y, or for refusing to assist in planning them. It is an interesting legal question of what would happen if an employee refused to comply. Could he claim a right to religious accommodation, or could the institution claim that the employee could not challenge its religious policy? The ability of JCCs to claim a religious exemption from the civil rights laws in their hiring proved crucial recently when the Lancaster, Pennsylvania JCC fired an employee for being a member of Jews for Jesus. Should Orthodox Jews attempt to undermine that principle?

The more common, and more difficult, problem involves policy. I, frankly, am not sure how to apply *halakhic* principle to these issues. When I took my job at AJCongress (albeit in a position that carried far less responsibility—and that was far more useful—than my present one), the Rav told me that I would have to leave my job if—twice—I was asked to violate *halakhah*, apparently contemplating that a single violation might be tolerable. What I don't know is exactly what the Rav meant by a *halakhic* violation.

I am confident that he did not mean any position contrary to that asserted by most of the Orthodox community, since the Rav knew perfectly well that the American Jewish Congress opposed aid to parochial schools endorsed by that community. Moreover, he once remarked to me that, in the struggle for the *shechita* exemption to the humane slaughter law my colleague Leo Pfeffer had been correct to oppose the hoisting and shackling ardently defended by (at least much of) the Orthodox community.

Three related but not necessarily identical principles appear to be relevant.¹⁷ A professional or *posek* confronting such a question must grapple with issues of *lifnei iver* (placing a stumbling block before the blind), a rabbinic prohibition of *mesaya yedei ovrei aveirah* (assisting sinners), and, in many cases most relevantly, *machzik y'dei ovrei aveirah* (supporting or endorsing sin or sinners).

In this group, I need not review in detail the fundamental principles of *lifnei iver*; of *lifnei*, and not *lifnei d'lefeini*¹⁸ (one step removed,

not two); *tre ivrei d'nahara* (that the sinner must be unable to commit the sin without assistance); and, at least according to some, where the object is likely or exclusively to be used for forbidden purposes.¹⁹ The *Mishneh la'Melech*²⁰ adds the further caveat that one must not take a direct and active role in the sin itself.

Presumably, too, one should consider the important principle established by R' Shlomo Zalman Auerbach,²¹ that in considering whether an action constitutes *lifnei iver*, one must look not only to immediate baleful consequences, but also to those of a longer time frame.

There, R' Shlomo Zalman considered the problem of the applicability in present circumstances of the *halakhic* prohibition on offering food to one who will not recite a blessing. He concludes that today one may do so, because the sin of not saying a blessing is less significant than the disdain for religious Jews generated by refusing to offer them food:

Since all persons must direct their steps and arrange their affairs for the sake of heaven, I think, with regard to someone who has a distinguished visitor who is not observant but who still loves (respects?) *b'nei Torah*, and supports *Torah* institutions, if the host will not deal with him in a mannered way with regard to food and drink and because in [technical] law it is forbidden to offer him food and drink because he won't wash his hands and recite a blessing, and to ask him to do so would appear to be an insult and diminution to his honor ... and as a result it is possible that he will be driven further from *Torah* and will ... hate ... all those who go in the *Torah's* way
....

I believe that it is appropriate to feed him ... and not to worry about the stumbling block prohibition. ... Since the entire prohibition is placing a stumbling block ... and if [the host] won't give him [food] to eat, the guest will stumble over a [more serious] stumbling block, there is no [stumbling block] at all. On the contrary, there is a saving from a greater sin
....

This is similar to one who amputates a finger to save his entire hand. He is not called a tort-feasor, but a savior.²²

An appended note—apparently written by R' Auerbach himself—observes that the *Hazon Ish*²³ appeared to disagree, at least in cases involving certain violations. Nevertheless, this *p'sak* was later attacked by others, and again defended by R' Auerbach.²⁴

If one accepts this *p'sak*, then there is room to ask whether at a time when half the Jews in America belong to no synagogue, and fewer still attend even weekly, the value of some tie to Jewish life no matter how attenuated, may outweigh the immediate problem of facilitating *chillul Shabbat* at a Y.

R' Moshe Feinstein reached the opposite conclusion with regard to a youth *minyán* where it was likely that people would drive to *shul* on Shabbat to allow their children to participate.²⁵ R' Moshe wrote, though, shortly after the Conservative rabbinate had purported to permit driving to synagogue on Shabbat, so perhaps he was concerned that a lenient ruling would be understood as ratifying that ruling, when adherence of worshippers at Orthodox synagogues to Sabbath observance was far weaker than it is today.

Another view to consider is that of Rabbi Yechiel Yaakov Weinberg, discussing the question of whether a *shochet* (ritual slaughterer) could sell meat to butcher stores in which the meat would not be checked for wounds or defects which would render the animal *treifa*. There, he wrote, “except for fear of the later authorities, I would say that in a case in which the *machshil* [the person creating the stumbling block] intends to perform a *mitzvah*, there is no violation of the stumbling block prohibition.”²⁶ That is, where, as in the case of the ritual slaughterer, his actions are taken in pursuit of the performance of a *mitzvah*, he need not worry that someone else will use the performance as a springboard for a later, distinct, sinful act.

Rabbi Weinberg confronted a person performing a formal *mitzvah*. What of “public policies” that may benefit the Jewish community (how measured or defined?) in a tangible and measurable way, but which can also be utilized for *halakhically* illicit purposes? Are these

mitzvot, too? Do they fit within Rabbi Weinberg's rubric? It is possible to define *mitzvah* so broadly that Rabbi Weinberg's suggested principle becomes an antinomian one, presumably not what he intended?

Resolving the JCC/Shabbat question—which, of course, is largely about silence, not affirmative endorsement—then, would appear to require a *posek* to make judgments (guesses?) about the long-term efficacy of these programs on adherence to things Jewish, and what the long-term benefit of that association might be to both the individual and the community.

Our hypothetical *posek* might also want to consider whether the sheer number of Jews identifying themselves as such is important even to the fully observant community here and in Israel. Presumably, a *posek* who thought the entire State of Israel an act of Satan likely would have a different evaluation of the importance of maintaining a critical mass of American Jews (6,000,000, not 600,000 Orthodox Jews) than would someone who valued it highly. A *posek* who denigrated Jewish peoplehood or political power would presumably evaluate these questions differently than one who accorded them some weight. It should be said again, plainly, the Orthodox community alone will lack clout in the halls of Congress, state legislatures, or governmental bureaucracy. Like it or not, we need the political clout of the larger Jewish community.

These questions are largely sociological and require a firsthand familiarity with the masses of American Jewry across the country, not just those in Borough Park or Bergen County. Unfortunately, many contemporary *poskim* appear simply to lack the firsthand knowledge to make such judgments. My impression is that, unlike Rabbis Weinberg and Auerbach, most contemporary *poskim* are less inclined to use a wide-angle lens in making these judgments, preferring to focus narrowly on the immediate ritual issue before them.

As was already noted, when a professional (social worker or psychologist) is approached for advice in a situation rife with *halakhic* overtones (involving, say, guiding a sexually active teen who comes from an Orthodox home), she is within the heartland of *lifnei iver*. Whatever may be the rules in such situations, they are removed from

the case of policy analysis and advocacy, where typically one is several steps removed from the sin itself. One may be arguing to legalize a sinful activity in the name of personal autonomy, but that approach leaves several steps between actually urging sinful activity on anyone. In this regard, it must be emphasized, only *lifnei iver*, but not *lifnei d'lifnei* (one step removed, not two) is forbidden.

No one in the Jewish or larger community has an abortion or enters into a same-sex relationship solely because an Orthodox (or non-Orthodox) employee of a Jewish organization signs a brief, testifies before Congress, or generally presses a policy statement on the subject. Nor, realistically, does the outcome much depend on what Jewish organizations do.

Are these effective principles or are they simply a way of easing the conscience of an Orthodox employee desperate to avoid quitting and having to find another job, perhaps an impossible task given the narrow set of skills Jewish communal workers hone in their career? Again, others can judge better and more dispassionately than I.

For myself, at least for as long as I had colleagues in the legal department, I referred almost all abortion matters to one of them (I kept my hand in with regard to “conscience” amendments allowing doctors and nurses to refuse to participate in abortions). While no statement on abortion has ever gone out in my name, when my colleagues were unavailable, I have on occasion allowed a brief to go out in the organization’s name on the subject after determining that it was consistent with organizational policy.

This is by no means nothing; but neither is it the same as handing a *Nazirite* a cup of wine across a river or signing as a witness on an interest-bearing note.²⁷ It should also matter—and I have acted on this distinction—whether the claim is made that abortion is a matter of a woman’s choice under Jewish law, a falsification, though a common one; or that given the differing religious views on abortion and the “intrusion” on personal liberty, the state should not regulate abortion. The latter is at least a debatable political proposition and one that in the end can be invoked to defend the right of those with religious objections to refuse to participate in abortions; the former is beyond the pale for an Orthodox Jew.

Other lines of demarcation suggest themselves. In the case of lawyers, a possible distinction is between representing a party or simply filing a friend-of-the-court brief supporting a party's position because of implications a decision will have for the Jewish community.

In *Church of the Lukumi Babalu Aye v. City of Hialeah*,²⁸ a Santeria church challenged a city ordinance banning ritual animal sacrifices that are not for the purpose of food consumption. Santeria is a syncretic faith, combining elements of Christianity and pagan animism, including animal sacrifice. The case had dual significance for the Jewish community. Most immediately it had the potential to adversely affect kosher slaughter; and, more urgently, it was the first case to arise after a disastrous Supreme Court decision greatly limiting the scope of the Constitution's Free Exercise Clause.²⁹

I was asked to represent the church. I was told by a distinguished *posek* that I could not, because this church was without doubt idolatrous. However, I was told, an *amicus* brief in support of the church would be acceptable. (Query: For AJCongress it would have been advantageous for me to actually represent the party. How does that situation enter into the *halakhic* calculus?) Apparently, Orthodox institutions received similar advice, since they filed or joined briefs in support of the church's challenge to the ordinance. Some challenged this decision, arguing that any support for idolatry was impermissible, whether in the form of direct representation or a friend-of-the-court brief.

Others can decide who had the better of the argument on its *halakhic* merits; I want to focus on the public costs of the stricter position. In the pluralistic society in which we function, ideological litmus tests are a barrier to functioning in a political and judicial world where much does not meet even the most relaxed of *halakhic* standards. Because our judicial system relies on the principles of *stare decisis* (precedent) and equality between faiths, a decision adverse to ritual slaughter in the case of pagans cannot be ignored or distinguished on the ground that Jews are monotheistic and ought to be treated differently.

This does not mean that context is irrelevant, or that one should never pass up an opportunity to express a point of view because of whom one must perforce support. Nor should one overstate the im-

portance of friend-of-the-court briefs (although in several cases Jewish groups were alone in raising relevant issues). It is, rather, a call for rejecting the opposite position—that one must never associate with people or positions with whom one has fundamental disagreements. In the universe we inhabit, this is a prescription for political and legal impotence.

The *Religious Land Use and Institutionalized Persons Act* has enabled many synagogues to be built over local land-use objection. It has also, predictably, enabled Hindu temples to be built. I co-chaired the committee that drafted that legislation. Reaching agreement required accommodating the needs and concerns of all manner of religious and civil liberties groups. It cannot be that the Orthodox community would have been better off not having someone familiar with its needs present as point after point was negotiated. Yet it is also the case that the desire to be at the table can blind one to the harm one is doing. It can be enticing and seductive to be in a position of power, and near to those exercising political power, regardless of the sacrifice of principle involved.

These are also not decisions easily delegated to a rabbi, even if there were many with the political or legal savvy to make such decisions. The correct answer often needs a degree of professional expertise (often in arcane areas) as well as delicate and not easily explained “political” judgments. I’m certain that on occasion I’ve been seduced into wrong decisions or gone further than I needed to as a representative of an agency. It is equally clear that a rule of ideological purity would come at significant costs.

Much turns on the character and probity of the individual professionals and on their religious sensitivities and knowledge. There will often be no single, mathematically calculable, answer, nor anyone else to ask.

M’saye y’dai ovrei aveira

The rabbinic form of *lifnei iver*—*m’saye y’dai ovrei aveira*—aiding the commission of sin—might be relevant, though here, too, it is hard to provide exact guidelines of how much the act must facilitate the sin

to be forbidden. This rabbinic prohibition is designed, at least in part, as *Tosafot* observes, to separate another Jew from sin (*l'hafrisho me-is-sur*). *Rashi* in *Gittin* 61a (s.v. *al ha-Sh'viit*) explains that the prohibition is limited to cases when the aid comes while the sin is being committed,³⁰ a limitation fitting the case discussed in *Tosafot* in *Shabbat* 3a, involving moving an object from one domain to another on the Sabbath. R. Weinberg, in his previously mentioned *responsa* cites *Rashi*, (*Avoda Zava* 85b) “*v'asur l'sayea ovrei aveira, ela porshim me'hem k'dei she'lo yargilu b'kach*”—“it is forbidden to aid sinners, but we separate from them that *they* should not be accustomed to sinning.” Participation is, on this view, a form of indirect endorsement. How direct is direct, though, is not terribly clear.

This difficulty in defining impermissible assistance will come as no surprise to anyone familiar with the secular law's struggle with delimiting aiding and abetting or criminal facilitation. How far back does one trace liability? How much should be required of citizens to ensure that they are not assisting the primary actor to do wrong? Must we police others? Each of these questions is as troubling in *halakhic* analysis as it is in secular law. Nevertheless, it does seem that *misayeh* is applicable only by joint participation in sin, rarely a problem for a Jewish professional in community relations agencies.

Machzik Y'dei Ovrei Aveira

More relevant to the Jewish professional is the third prohibition of *machtzik y'dei ovrei aveira*—strengthening the hand of sinners, or perhaps better yet, encouraging or endorsing the actions of sinners. The *Mishna* states (*Sh'viit* 4:3): One can lease a field from a non-Jew in the Sabbatical year, but not from a Jew; and one may strengthen (or encourage) the hand of non-Jews in the Sabbatical year, but not the hand of Jews; and one inquires after their welfare because of the ways of peace.

In his commentary, Maimonides (*ad loc.*) explains, on the basis of *Gittin* 62b, that one may strengthen the hand of non-Jews only with words of encouragement, not actions—that is, one may wish the non-Jew success but may not actually aid him in his agricultural endeavors.

The *Yerushalmi* (*ad loc.*), however, records the view that one may suggest an interest in doing business with the non-Jewish farmer after the Sabbatical year by purchasing that which was planted and nurtured during the Sabbatical year.

Another *Mishna* in *Sh'viit* (5:6) states: There are implements that an artisan may sell during the Sabbatical year, for example the plow and all its accessories. This is the general rule: any [implement] that is designed for the purpose of sin is forbidden; that which can be used for forbidden and permissible purposes [may be sold].

Similarly, in *Mishneh Gittin* 5:9 we read: A woman may lend to her friend whose observance of the Sabbatical year is questionable, a sieve ... and or hand mill, or oven, but she may not sift with her, or grind with her; the wife of a *chaver* (one who observes laws of purity with regard to food) may lend to the wife of an *am-ha-aretz* (i.e., one not scrupulous in such matters) a sifter and may sift and grind ... with her, but once water is added to the flour and it [and the tithes in it] becomes susceptible to ritual impurity, she may not touch the dough, for we do not strengthen the hand of sinners. And in all these cases [the Rabbis] did not permit it, but for the ways of peace. One strengthens the hand of non-Jews in the Sabbatical year, but not the hand of Jews.

The category of *machzik y'dei ovrei aveirah*, strengthening the hands of sinners, appears to be different than the category of placing a stumbling block before the blind, in either biblical or rabbinic form.

First, and most telling, the terminology is different. If the *Mishneh* meant to categorize “encouraging sin” as a form of a “stumbling block” or “aiding,” there is no need for a separate category.

Second, since it is no sin for a non-Jew to work fields in the Sabbatical year, what possible stumbling block could there be in offering her words of encouragement? Third, at least according to the commonly accepted non-Maimonidean view that a stumbling block exists only when one assists a person in committing a sin that could not otherwise be performed by the person, how does saying “good luck” to a Jewish farmer planting a field in the Sabbatical year meet this condition? The farmer is already engaged in the sin; he is not undecided, asking advice. The words do not add anything physical or otherwise to what the farmer is already doing.

Nevertheless, Maimonides in his commentary to *Sh'viit* 5:3 insists that the *machzik* prohibition is one of placing a stumbling block before the blind. Apparently, equanimity in the face of sin can be taken as its endorsement, and hence as a biblically prohibited form of stumbling block. While Maimonides generally does not require “two sides of the river” for a violation of the stumbling block ban, the other questions listed above remain about this position.

Maimonides in his *Commentary on the Mishneh* to the parallel *Mishneh* in *Gittin* points out that all the leniencies in that *Mishneh* are a concession to “the ways of peace.”³¹ It would be odd to imagine permitting that which is biblically forbidden merely for the ways of peace. Indeed, Rashi in *Gittin*³² identifies the prohibition as one of the rabbinic form of *m'syayeh*, although he does not explain the use of disparate terms.

One principle that emerges from the *Mishneh* in *Sh'viit* 5:8, regarding the sale of an ox to a farmer not observing the Sabbatical year, is that what is permitted is only that whose purpose is ambiguous. Since an ox can be used for forbidden purposes (e.g., plowing) or permitted ones (e.g., eating), we are entitled to assume (*talinan*) that the permitted use is the intended one unless the purchaser explicitly insisted the forbidden purpose is intended. If he does, the sale is forbidden.

If so, asks *Tosafot*,³³ why invoke the principle of *darkei shalom*, in the *Mishneh* in *Gittin*? Since each of the vessels mentioned in the *Mishneh* has a permissible use, the principle of *talinan* (we assume a permissible use is intended) should be sufficient. What does the *darkei shalom* principle (ways of peace) mentioned in the *Mishneh* in *Gittin* as the basis of the leniency add to the analysis?

There are three answers to this question. The *Hazon Ish* suggests that the *talinan* presumption will vary in strength from case to case. In some cases, the presumption of permissible use is itself sufficient to overcome the “strengthening” concern, but not in others. Nachmonides³⁴ suggests that *talinan* principle works only where, as in the *Mishnayot* in *Sh'viit*, the person gains benefit from the transaction. The *Mishneh* in *Gittin*, however, deals with a loan of an object where there is no benefit to the owner.

By contrast, *Rabbeinu Tam* suggests that the *Mishneh in Gittin*, relying on the ways of peace, deals with a case where there is no permissible use. In such cases only *darkei shalom* is available as a permissive factor. A refusal to sell household goods does not generate animosity; hence in such a case it would be forbidden to sell to someone who certainly intends to use it for illicit purposes. A failure to loan a household item would generate animosity, therefore such loans are permissible.

From Nachmonides' and R' Tam's answers, it is likely that they do not see *machzek y'dei ovrei aveirah* as a biblical prohibition, *contra* Maimonides. Financial loss or communal upset would not set aside a biblical prohibition.

Rabbi Weinberg writes in the *responsa* cited above concerning the *shochet* that *Rabbeinu Tam*'s assumption that a sale does not generate ill will applies only to a sale of household goods, but not to a commercial sale, where, on the heels of a refusal to sell, ill will would be generated. Surely, this is true today where public accommodation laws ban religious discrimination.

Similarly, building on Nachmonides, and a series of other authorities, including the *Meshiv Davar*, R' Weinberg concludes that "what is permissible for *darkei shalom* is also permitted for one's livelihood," a rationale apparently applicable to the case of a communal employee.

One must ask whether maintaining communal unity through employment of Orthodox professionals would come under the rubric of *darkei shalom*. R' Weinberg's closing peroration is noteworthy:

And [in support of the lenient approach] it is the fact that by [selling them slaughtered meat] he brings them "under the wings of the presence of Judaism, as they see that God-fearing Jews excel in the characteristic of kindness and mercy. And exemplary conduct in the area of ... social ethics is a greater attraction than words of rebuke of people who only preach nicely. And our people—merciful ones the children of merciful ones—do acts of kindness and charity with whomever is a descendant of our father Abraham, even if they have drifted far from observance of our Holy Torah."³⁵

One last source. The *Gemara Nedarim*³⁶ reports that U'la was traveling to Israel in the company of two people. One slashed the throat of the other. The killer asked U'la if he had in fact killed his companion. U'la, afraid for his life,³⁷ told him to make sure the person's throat was fully slit. When he reached Israel, he asked R' Yochanan "Perhaps, God forbid, I strengthened the hands of a sinner." R' Yochanan answered that he was merely acting to protect his own life.

It is hard to imagine suggesting that it is permissible to encourage murder merely to save one's life, although such a reading cannot conclusively be eliminated. The easiest-to-defend reading assumes that the victim was already dead and that U'la was simply urging the murderer to vent his anger completely. U'la was concerned lest he be seen as having endorsed the murder, *ex post*; R' Yochanan reassured him that since his motive was solely self-preservation, not endorsing a vile act, he need not worry himself.

U'la's case and that of the *Mishnayot* in *Sh'viit* and *Gittin* regarding encouraging a non-Jew in the Sabbatical year involve different kinds of "criminal facilitation" than the sale of objects with an impermissible end use. In the latter case, one offers tangible assistance to the sinner; in the former, one leads someone to confuse sin with a desirable or endorsed activity. Such endorsement confuses the sinner as to his moral status and might lead others to sin themselves. The latter is the rubric most relevant in our context. The question is whether the "ways of peace" are sufficient to overcome this concern, and whether *darkei shalom* can be extended to cover the value of having an Orthodox presence in non-Orthodox circles.

At a JCPA meeting many years ago, the interfaith affairs specialist at the AJCommittee was speaking about evangelicals and their adherence to the literal truth of the Bible. He mocked that belief and then added, disparagingly, "but then we Jews have those theological primitives [my phrasing, his thought] who believe the entire Torah was given at Sinai."

I was the next speaker, assigned to address some by now forgotten constitutional issue. I began by doubting that anyone wanted to pay attention to what I had to say since I held the primitive religious views

that had just been dismissed. Did everyone in the room become a *ba'al t'shuva*? Certainly not. This is not a Shlomo Carlbach story. Did I make the point that that prior speaker's personal religious positions (biases?) needed to be discounted and not taken as gospel, because a familiar figure to them held those very views? Perhaps.

This review suggests that there are a range of factors to consider in evaluating the problem of *ha-chzakat y'dei ovrei aveira*. They suggest a need for an examination of contextual features, including benefits to participants, and possible financial loss. But we are left with a difficult question about the value of an Orthodox presence in non-Orthodox surroundings.

The Future

Whatever achievements Orthodox Jews have in the secular field are, as matters stand now, not likely to be replicated in the next generation.

First, the entire communal relations field is shrinking rapidly, and was doing so even before the current financial crisis. As was noted above, whatever funding is available is increasingly shifted to private foundations. The success of the Orthodox community masks the depressing erosion of secular Jewish identity and Jewish organizational life.

Second, communal salaries lag well behind those in the private sector and are inadequate to sustain the burden of providing one's children a yeshiva education, a fact noted in several reports issued by the AJCommittee under Steven Bayme's thoughtful leadership.³⁸ Orthodox Jews may have the commitment lacking elsewhere in the community, but they simply can't afford any longer to take communal jobs, especially in entry-level positions.

Third, it is harder to find common ground between Orthodox Jews and the rest of American Jewry—whether the subject is Israel and the peace process or domestic policy on a wide variety of issues. I suppose we agree on opposing anti-Semitism, but not on much more. The common peoplehood I grew up with appears to be dissipating.

Fourth, there is a real shortage of people to whom one can turn for advice on these matters. It is a cliché (and, I think, in large part an ill-founded one) to decry the absence of *poskim* of *halakhic* stature. Command of the material is not what is missing; it is breadth of vision, courage to depart from that which is regarded as acceptable and to defy a regnant *halakhic* consensus. Missing most of all is an organic connection with the whole American Jewish community.

Fifth, Jewish civil service jobs are less attractive because increasingly these jobs consist of figuratively carrying the briefcases of wealthy lay leaders. Discretion and initiative are no longer encouraged. In my side of the communal world—very broadly defined—I am hard-pressed to think of any rising star under age 50. But be the cause whatever it is, the fact is as I have described it. Harvard and Yale would be less attractive places for young scholars if there were no academic “stars” younger than 50.

Jewish communal life is no different—and a generation from now there will be a shortage of talent unless steps are taken now to correct current trends. I’m not holding my breath. I have had an interesting career, but those who come after me will likely have far less interesting ones.

CONCLUSION

Some readers may remember a set of dueling speeches offered at the University of Notre Dame by Governor Mario Cuomo and Representative Henry Hyde. Governor Cuomo labored to explain why a Catholic should be allowed as a matter of Catholic doctrine to hold public office, even if, as a result, he or she had to sanction abortion. Representative Hyde argued to the contrary.

At the time I thought that Representative Hyde had the better of the argument, that Governor Cuomo’s arguments were little more than an effort to avoid grappling with the question of whether his obligation to his conscience compelled his resignation. Rereading my essay, I wonder if I am not guilty of the same lack of candor—or is life simply more complicated than I thought?

NOTES

1. My own path to AJCongress was purely accidental. A lawyer working on a project at Columbia Law School asked me on the way to our law school *mincha minyan* whether I wanted part-time summer work at AJCongress summarizing cases. A full-time job offer followed. Today (until Madoff) an Orthodox law student could easily seek out a career in Jewish public service that I could not have imagined.
2. *Iggerot Moshe*, Y.D. (1) # 149.
3. Indeed, Orthodox participation in AJCongress was originally not limited to staff positions, but included organizational representation. When AJCongress was truly a congress, with “representatives” from other organizations participating in its deliberations, the National Council of Young Israel and the late Rabbi Emanuel Rackman participated actively.
4. See K. Caplan, “The Ever Dying Denomination: American Jewish Orthodoxy,” in M. Raphael, *The Columbia History of Jews and Judaism in America* (2007), 167-188.
5. M. Stern, “On Constructively Harnessing Tension Between Laity and Clergy” in S. L. Stone, *Rabbinic and Lay Communal Authority*, 129, 154-157 (2006).
6. It may be more accurate to say that there is a return to power of lay people. The founders of the AJCommittee, Jacob Schiff and Louis Marshall, for example, were independent forces, not dependent on a large cadre of professionals. Some at the Forum indicated to me privately that better relations exist in local Federation agencies. I don’t doubt that there are some healthy relationships. But the trend described in the text seems accurate across the community and parallels trends in philanthropy generally.
There are, of course, other factors at work, including a possible gravitational shift from national agencies to local ones.
7. See Rabbi J. B. Soloveitchik’s *Al-ha-Teshuva* and *Kol Dodi Dofek*.
8. Query: What are the *lifnei iver* implications where temporal goods point one way, spiritual goods another? A *ba’al tshuva* once approached several *kiruv* workers and myself for advice. He had finished law school but did not have a job. Should he nevertheless take a year off to learn? I told the *kiruv* workers that they needed to tell him that he would be harming his career if he did so. They felt that if they did so, he would not take time away from a legal career to study and therefore not grow spiritually. We each thought the others’ advice a violation of *lifnei iver*.
9. More precisely, following the Rav’s position that *halakhah* requires the matter to be decided with regard to national security, and on which professional judgments are relevant.
10. At an earlier forum, Rabbi Aharon Lichtenstein posited that the answer might be yes. Others did not agree.
11. Contrast this with a recent *p’sak* of the Karliner/Stoliner rabbi. He asked the municipality of *Pisgat Ze’ev*, where his *kehilla* (community) is located, not to close the street in his community’s neighborhood. Doing so, he said, would cause

- people to drive longer distances on *Shabbat* (and generate resentment). I recently heard of this *p'sak* from R' Yaacov Bleich, the chief rabbi of the Ukraine.
12. Rabbi Saul Berman relates that he once asked the Rav whether he could collect funds for *pidyon shivuyim* (redeeming captives) to help a congregant make bail. The Rav said no. Rabbi Berman objected that jails were dangerous places and inmates subject to assault. The Rav said: in that case you are obligated to seek to improve the jails for all, not plead specifically for Jews.
 13. See D. Berger, "Jews, Gentiles and the Modern Egalitarian Ethos: Some Tentative Thoughts," in M. Stern (ed.) *Formulating Responses in an Egalitarian Age* (2005) at 83 ff.
 14. With regard to Israel, much of the American Orthodox community has descended into extreme religious/nationalist chauvinism, promoting policies that are politically untenable—whether in Israel or in the larger world—and which offer no foreseeable path to peace.
 15. For purposes of discussion, I focus only on "line employees" with some responsibility for either devising or implementing policy. I have not thought about support staff, such as accountants or clerical staff.
 16. Similar problems will confront a Hillel director or an army chaplain asked to arrange a Reform or Conservative prayer service.
 17. For a comprehensive treatment of the issues, including a discussion of the *mitzvah* of rebuke (*tochacha*), see N. E. Rabinovitch, "Kol Yisrael Areveim Zeh Ba'zeh, 11 *Techumim* 31 (1990).
 18. *T. B. Avoda Zara* 14; see, for a quick summary, *Ritva; Avoda Zara* 6b s.v. *Minayan*.
 19. See *Minchat Shlomo, Shi'vit* 5: s.v. *lifnei iver*; *Ritva; Avoda Zara* 63a.
 20. *Malveh v'loveh*, 4:2.
 21. *Minchat Shlomo (Kama)* 35.
 22. R' Nathaniel Helfgot called my attention to a similar idea expressed by R' Akiva Eiger to Y.D. 181:6. R' Eiger there suggests that there is no *issur* of *lifnei iver* in a situation in which one's assistance ends up minimizing the level of *issur* that the fellow would have done if one did not offer help. So, for example, R' Eiger suggests there is no *lifnei iver* for a woman to shave the head of a man who was planning to shave himself, for if he had done it himself he would have violated two *issurim*, while she has no *issur* of being *makif*. In this case, since she ended up lessening the sin, there is no *lifnei iver*. This might have some relevance to some of the Orthodox involvement in minimizing some *aveirot*. This may be an application of the general principle of minimizing *issurim* when possible. See *Yoma* 83a.
 23. *Chazon Ish Shiviit* 12.
 24. II *Minchat Shlomo (Tinyana)* 100 (3). The editor of the second edition added a note to the initial responsa that, R' Auerbach, when challenged, limited this *p'sak* to private matters, not departures from established communal customs. It is noteworthy that this *responsa* generated so many challenges.

25. *Iggerot Moshe, Orach Chaim* (I) # 98-99
26. *S'reidei Eish*, Y.D. 9:20.
27. See *Mishneh la'Melech, Malveh v'loveh*, 4:2 (barring direct participation in a usurious transaction as a lender, even where other lenders will make the same loan). The distinctions there offered to distinguish the case of the *Nazir* are not necessarily persuasive, but the *Mishneh la'Melech's* rule is accepted by contemporary *poskim*.
28. 508 U.S. 520 (1993).
29. *Oregon v. Smith*, 494 U.S. 872 (1980).
30. See *Shabbat* 3a, *Tosafot s.v. Baba*; *Rosh ad loc* 1:1.
31. As is indicated below, not all agree with this view.
32. 62b.
33. *T.B. Gittin* 61a, s.v. *Ma-shelet*.
34. *Gittin* 61a.
35. *S'reidi Eish*, *supra*, Y.D. 9; 26
36. *Nedarim* 22a. For a full discussion, including variant readings, see R. S. Z. Auerbach, *Minchat Shlomo ad loc*.
37. *Rashi*, *ad loc*, s.v. *amar lei*.
38. To make my larger point, Bayme's work has been crucially important in identifying problems from intermarriage to the cost of living Jewishly. It is inconceivable that he could have refused to study Reform or Conservative Judaism sympathetically.

7

Beyond the Pale? Reflections Regarding Contemporary Relations with Non-Orthodox Jews

Aharon Lichtenstein

Readers familiar with the Orthodox Forum's publications, monitoring their direction and annually awaiting the most recent harvest, may marvel somewhat at the choice of this year's topic. There is no question regarding its relevance and importance, both perpetual and contemporary, but the sense of *déjà vu* is unmistakable. "Theme: The Relationship of Orthodox Jews with Believing Jews of Other Religious Ideologies and Non-Believing Jews." Hadn't that, in effect, they seem to recall, some vividly and many faintly, been the substantive focus of the 1992 volume on *Jewish Tradition and the Non-traditional Jew*?¹ True,

almost a score of years have since elapsed; and granted that within a rapidly changing social and philosophic scene, each historical context colors discourse with the nuances of its own perspective; but must basic *hashkafic* issues be examined afresh once every decade and a half? Are the medieval analogues cited in that volume—laxity in the performance of basic *mitzvot* such as *tefillin* or *mezuzot*, or widespread sexual promiscuity—less instructive today than in still recent memory? And does not the debate over *Austritt*, which tore German Orthodoxy asunder in nineteenth-century controversy,² clearly anticipate, in 2010 as in 1990, current dilemmas? And, quite apart from the historical record, haven't the analyses of core principled elements, such as *tokhahah* or the dialectic tension between *ahavat Israel* or the obverse, remained largely stable? And so, we rightly ask ourselves, with Rabbi Yehoshua, מה הידוש היה בבית המדרש היום (הגיגה ג), "What novel teaching was there at the study hall today" (*Hagigah* 3a)?

In reply, I could suggest that even over a brief span, innovative factors can affect the course of thought materially; and that, in our case, among these we could single out the diffusion of postmodernism and the quest for heightened spirituality. Of possibly greater import is the fact that the respective volumes do not share identical subjects in the first place. As its title, formulated in the singular, clearly indicates, the earlier volume concentrated upon the relation to an individual deviant; and, while Dr. Judith Bleich's essay, "Rabbinic Responses to Non-observance in the Modern Era," correctly focused upon the shift from responding to personal malfeasance to confronting the challenge of freshly reared and organized movements and ideologies, the bulk of the volume maintains its personal emphasis.

Of more critical significance, however, is a further distinction, extending well beyond what may strike some as a nitpicking attempt to carve out space for some freshly minted wares. I refer to the limelight riveted upon belief,³ as opposed to observance—and, hence, upon the heretic as contrasted with the renegade. This topic per se deconstructs into two distinct units. At one plane, we perceive rejection of details of consensual theological doctrine, whether developed in the course of historical and collective assent, or whether forged in the crucible of animated and often acrimonious debate by authoritative theologians.

Admittedly, Jewish equivalents of the councils of Nicea or Trent are not readily identifiable, but, in a lower key, they may be discerned.

At a second plane, there are those who, not content with tilting swords with the Rambam over the catechetical weight of a specific codicil, question the very notion of Jewish dogma—either to the point of denying its historical existence or by asserting that it lacks all normative *halakhic* force. This position is most familiarly identified with Mendelssohn, who affirmed it quite unequivocally; but it was subsequently adopted by many in the early stages of the Reform movement who, for obvious reasons, so long as they still claimed allegiance to the *halakhic* canon, preferred to denigrate potentially divisive doctrinal elements while focusing upon ritual and ethical implementation; and it even gained credence among some avowed adherents of tradition who, in the similar interests of communal unity, preferred to be denominated as Orthoprax rather than Orthodox.

In actual fact, however, this position constitutes a skewed misrepresentation both of what had been and of what could have been. It is, of course, true that dogma occupies a less prominent station in *yahadut* than in Christianity—particularly, if the basis of comparison is Lutheran “justification by faith.” It is, further, equally true that we encounter in Hazal little of systematic theology, whose efflorescence gained momentum only after Rav Saadyah Gaon and the Rambam. But there is also little of systematic morality in Hazal, and Spinoza’s *Ethics* was as alien to their spirit as Luther’s *Ninety-Five Theses*. Would anyone therefore deign to assert that the ethical dimension did not constitute an authentic and integral facet of *yahadut*? It is of course arguable that Rav Yitzhak’s midrashic comment, cited by Rashi in his opening remark,

לא היה צריך להתחיל את התורה אלא מהחדש הזה לכם שהיא מצוה ראשונה
שנצטוו בה ישראל ומה טעם פתח בבראשית? (בראשית א:א)

The Torah should have commenced with the verse “This month shall be unto you the first of months” (Exod. 12:1), which is the first commandment given to Israel. What is the reason, then, that it commences with the creation? (Gen. 1:1, *s.v. be-reishit*)

as well as the rejoinder that *Bereshit* was included as a forensic weapon to fend off polemical Gentile attacks upon Jewish possession of *Eretz Yisrael*, clearly imply that Torah constitutes a purely legal codex, sans *hashkafic* and dogmatic components. However, at bottom, the discussion is confined, hypothetically, to what might have been rather than to what there is; it relates, primarily, to cosmology and historical narrative rather than to theology; Rav Yitzhak presumably relied upon alternate sources, written or oral, to posit cardinal doctrinal truths; and, in any event, it is problematic to base so radical a thesis⁴ upon this Aggadic riposte, which, furthermore, some *rishonim*⁵ challenged. There is no dearth of dogmatic formulations, and this normative force is reflected in declarations that whoever fails to subscribe to them is to be barred from the world to come.⁶

Moreover, *yahadut* could not have been imagined otherwise. Speaking of religion generally, Whitehead⁷ observed that some conception of the nature and the history of the world within which it is manifested and of what exists beyond it constitutes one of its indispensable components. How much truer, however, is the statement of *yahadut*, a historical religion not only in the sense that it was rooted in revelation in history, but also in the sense that the assumption and affirmation of certain historical events constituted a critical aspect of the woof and warp of Jewish living. Consequently, the content of the corpus of belief and its place within personal religious experience is, for us, *shlomei emunei Israel*, a major concern.

The precise *halakhic* status of belief is shrouded in controversy. The Rambam,⁸ largely followed by the *Sefer Hahinukh*,⁹ enumerated three separate *mitzvot* regarding conviction of the most cardinal of dogmas—the existence of the Ribbono Shel Olam. On the other hand, the Geonic author of *Halakhot Gedolot* omitted all such commandments from his count, as did Rabbi Eliezer of Metz in his *Sefer Yera'im*. In all likelihood, however, the omission is best ascribed, as the Ramban (who was himself ambivalent on the issue) contended, to the view that the duty to acknowledge authority cannot itself emanate by its own fiat, rather than to rejection of the norm of belief per se:

ההנראה מדעתו של בעל ההלכות שאין מנין תרי"ג מצות אלא גזירותיו יתעלה שגזר

עלינו לעשות או מנענו שלא נעשה אבל האמונה במציאותו יתעלה... הוא העיקר והשורש שממנו נולדו המצוות לא ימנה בחשבונן.

It appears that the view of the author of the *Halakhot Gedolot* is that the enumeration of the 613 commandments is limited to decrees that He issued as calls to action or prohibitions proscribing action, but the belief in His existence, may His name be extolled ... is the foundation and root from which the commandments stem and is thus excluded from their enumeration.¹⁰

As for the Rambam, just how far he extended his position is graphically illustrated by a passage in which he relates to the full range of the obligatory tenets expounded in his list of thirteen principles, rather than to belief in God alone. As a coda to that list, he avers:

וכאשר יהיו קיימים לאדם כל היסודות הללו ואמונתו בהם אמתית הרי הוא נכנס בכלל ישראל וחובה לאהבו ולחמול עליו וכל מה שצוה ה' אותנו זה על זה מן האהבה והאחווה ואפילו עשה מה שיכול להיות מן העבירות מחמת תאותו והתגברות יצרו הרע הרי הוא נענש לפי גודל מריו ויש לו חלק והוא ממושעי ישראל וכאשר יפקפק אדם ביסוד מאלו היסודות הרי זה יצא מן הכלל וכפר בעיקר ונקרא מין ואפיקורוס ומקצץ בנטיעות.

When all these foundations are established in a person and his belief in them is true, he is included among the community of Israel and one is required to love him and to show compassion upon him and all that God commanded us interpersonally, of love and brotherhood; even if the other has sinned out of temptation or by being overcome by his evil inclination, he is punished in accordance with the severity of his defiance, but he has a share [in the world to come], and he is considered among the sinners of Israel. But when a person casts aspersions upon one of these foundations, he has left the community and denied the essential principle, and he is called a heretic and one who uproots the foundational teachings.¹¹

The centuries that followed spawned some amelioration of these assertions, with both the primacy of belief and details of some of the tenets to which the Rambam referred undergoing challenge.¹² But the

place of belief as an essential component of our tradition remained secure. The blandishment of Tennyson's faith that lies "in honest doubt," with the prospect that it holds out for spiritual self-determination is, to many, appealing. The cadences of Torah are pitched, however, in other voices:

וידעת היום והשבת אל לבבך כי ה' הוא הא-לקים בשמים ממעל ועל הארץ מתחת
 אין עוד. (דברים ד:לט)
 תמים תהיה עם ה' א-לקיך.

Know therefore this day and keep in mind that the Lord alone
 is God in heaven above and on earth below (Deut. 4:39).

You must be wholehearted with the Lord your God.¹³

The implications of recognition of the importance of belief for the projected discussion at this Forum should be self-evident. Virtually by definition, the focus upon this aspect is more charged than delineation of the details of practical observance, inasmuch as it deals with the content of faith rather than with the degree of personal or communal commitment to it. Hence, with respect to the issues apparently on our table, dogmatic fealty is a two-edged sword. On the one hand, given the topic's importance, concern lest the purity and integrity of *hashkafah* be diluted or contaminated as a result of contact with non-believers, or that heretical or even quasi-heretical groups or ideas may be accorded a nuance of legitimizing recognition, is understandably acute. For many, that concern militates for sharp separation. On the other hand, precisely in view of the gravity of the subject, the sense of responsibility to safeguard Torah from spurious interpretation and to ensure maximal dissemination of *amittah shel Torah* is likewise greatly enhanced. Hence it is arguable that, if we can reasonably ensure protection of our own turf—a critical condition—our cause may stand to gain from interactive contact and discourse; and this, not only as a result of the self-knowledge which can spring out of contrast and differentiation—

כשושנה בין החוהים כן רעיתי בין הבנות כתפוח בעצי היער כן דודי בין הבנים (שיר
 השירים ב:ב-ג) –

Like a lily [rose] among thorns, so is my darling among the maidens. Like an apple tree among trees of the forest, so is my beloved among the maidens (Song of Songs 2:2-3) –

but out of possible enrichment, in the proper climate, of some of our own insights and perceptions.

I trust that I have adequately explained why I feel we are not treading water, not simply reconstructing a burnished rerun of half-forgotten discourse from which we wipe accumulated dust. That, however, is by no means my primary task. I have been charged with dealing with the issues currently at hand, with noting what presently exists and what can and what should exist if we mobilize the energy, the capacity, and, above all, the will, to bring it into being; and it is to that mandate that I now turn.

Let me open with an anecdote. In the course of his stay in Eretz Yisrael in the summer of 1935, the Rav visited the secular kibbutz of Kinneret. His host proffered some fruit, which the Rav naturally but politely declined. Sensing the reason for the refusal to partake of the offering, the kibbutznik observed that he presumes that it was grounded in concerns about *kashrut*; whereupon he proceeded to inform his thunderstruck guest that the local kitchen was absolutely kosher. When asked for the cause of this anomaly, he narrated the following story. Rav Kook once spent a Shabbat at the kibbutz, and he of course brought his own food. He ate each *se'udah* with the group, including participation in the *moza'ei Shabbat* fireside *kumsitz*. Upon taking leave of his hosts, he thanked them graciously and concluded with a brief wish. "I hope that next time I'll be able to eat together with you." Sure enough, the *haverim* voted to introduce *kashrut* in their public *hadar okhel*.

I am not so Pollyannish as to imagine that such a scenario could be repeated routinely. Rav Kooks are few and far between, and the response to the force of his personality also is not too common. Nor do I pretend that I would or could have emulated him, letting my yearning for fraternity overwhelm my concern about *tevel* and *orlah*. And I don't recall whether, relying upon the information to which he had

become privy, the Rav ate. My point relates to an entirely different continuum. Given the currently prevalent winds in our camp—or, for that matter, in that of our adversaries—let us assume that I, and my comrades, would have abstained. But to the accompaniment of which sentiment? How many would have felt and expressed Rav Kook's pain? And how deeply? Would we truly yearn for that “next time,” consumed by candid regret that it seems to be constantly becoming increasingly remote? And even if we sense that, under present circumstances, we have little choice but to confine ourselves inexorably behind barriers we have jointly constructed, could we at least fully internalize Beruriah's response to the iniquity which had infiltrated and possibly enveloped Rabbi Mayer, herself, and her community:

הנהו בריוני דהוו בשבבותיה דר"מ והוו קא מצעררו ליה טובא הוה קא בעי רבי מאיר רחמי עלייהו כי היכי דלימותו אמרה ליה ברוריא דביתהו מאי דעתך משום דכתיב יתמו חטאים מי כתיב חוטאים חטאים כתיב ועוד שפיל לסיפיה דקרא ורשעים עוד אינם כיון דיתמו חטאים ורשעים עוד אינם אלא בעי רחמי עלייהו דלהדרו בתשובה ורשעים עוד אינם.

There were once some highwaymen in the neighborhood of Rabbi Mayer who caused him a great deal of trouble. Rabbi Mayer accordingly prayed that they should die. His wife Beruriah said to him: How do you make out [that such a prayer should be permitted]? Because it is written “Let *hatta'im* cease”? Is it written “*hot'im*”? It is written “*hatta'im!*” Further, look at the end of the verse: “And let the wicked men be no more.” Since the sins will cease, there will be no more wicked men! Rather pray for them that they should repent, and there will be no more wicked.¹⁴

The *gemara* thence concludes with the report that Rabbi Mayer followed his wife's prescription, and it was indeed effective. That is, sadly, frequently not the case. But do we pine for it and do we lament our limitations?

Before we choose a course of action, we must effect a change of mindset and a change of heart. We must, at the very least, reduce the level and the scope of mutual demonization. So long as communal

leaders are viewed, respectively, as nothing but power-hungry iconoclasts or as benighted obscurantists, we shall, collectively, pay a heavy price. Unless—and until—we develop a propensity for mutual respect, acknowledging that there may be mediocrities and charlatans in various camps, but steadfastly refusing to tar indiscriminately, both the interests of *klal Israel* and the integrity of *Reb Israel* will be adversely affected. Unquestionably, where the most basic elements of our religious faith and existence are at stake—the totality of our relation to Torah, or critical aspects of that relation regarding the content of *emunot v'de'ot*, the character of *halakhah*, the substance of *Tanakh*, and the contours of our commitment, as *ovdei Hashem*—confronted by heterodox denominations, passions naturally and justifiably run high. History has amply demonstrated that internecine religious strife is often the most bitter, as combatants are animated by a sense of engagement in the encounter of the children of light with the children of darkness. For us, however, as Jews committed to the entirety of Torah, let vitriolic antagonism not prevail, routinely and consistently, as the sole or even as the dominant passion. Let us therefore be intent upon monitoring our motivation, with an eye to ensuring that if indeed we have been charged to enter the lists of fraternal strife, literal or figurative, we do so impelled by devotion and responsibility, but animated by the hope and the prospect of binding reconciliation.¹⁵

This martial imagery and some of its associations bear an attitudinal message relevant to significant facets of our personal and collective life. They do not, however, relate directly to the specific topic targeted for this conference. Participants are not being asked to consider whether and how to combat rival constituencies, but rather, whether and how to coordinate and cooperate with them in a positive spirit, well beyond an uneasy truce which is only galvanized into heightened unity by the impact of crises rocking our national boat. It is precisely at this juncture that the question of mindset confronts us. Many, in the most deeply committed sectors of the Orthodox world, on these shores, as in *Eretz Hakodesh*, harbor a profound distrust of competing camps and their leadership (often more so of the Reform and the Conservative movements than of the outright secular). Moreover, often in light of our resurgence, after sociological soothsayers had pro-

jected our impending collapse half a century ago, they extrapolate a continuation of this trend, paralleled by a corresponding decline of rival denominations, and they consequently find occasion for congratulatory triumphalism. I certainly share in the joy over the growth in *talmud Torah* in so much of our Orthodox world, of whatever stripe. And yet, we ask ourselves, at a time when, as Rav Michel Feinstein *z.t.l.* observed pithily, “Half of *klal Yisrael* knows nothing of *shema Yisrael*,” may we simply crow on our laurels? And does anyone imagine that if every non-Orthodox temple were to shut down forthwith, that on the morrow the membership would flock, en masse, to the nearest *shul* or *shtibet*? If indeed temple attendance and affiliation are waning, and on the assumption that the absentees are beyond the reach of our own message, is there not, beyond competition, as much cause for dismay as for gratification? If we are concerned, as we ought to be, about the future spiritual destiny of our siblings, and if we are convinced that, in certain areas, a measure of comity could enhance it, might the option not be at least worthy of consideration?

Lest anyone jump to fallacious conclusions, let me clarify. I am not in favor of untrammelled cooperation, let alone consolidation, merging, or agglomeration. I am not advocating joint rabbinical boards or similar initiatives which, for decades, obsessively traumatized or mesmerized many on the American Jewish scene. As *shomrei hadat* and *mahzikei hadat*, we have a sacred duty to protect and enhance the purity and integrity of Torah as we received it from our masters and as we are committed to transmitting to our successors. Beyond a certain point, no sheer quantitative gain can justify dilution or distortion; and, beyond a certain point, a blended structure is in danger of encountering just such a reality. Where and when they felt that the critical line might be transversed, *gedolei Yisrael* have resisted latitudinarian initiatives in the past and they shall presumably continue to do so in the future.

It should be clear, however, that this assertion complements its predecessor and in no way contravenes it. My focus is, again, on the mindset. How do we, personally and communally, perceive our relation to apparent adversaries, and how do we envision ourselves? Is ours a dual commitment—not, *has veshalom*, to two Torot, but to multiple

aspects of our unitary Torah, through which our historical community realizes its manifest destiny as *ממלכת כהנים וגוי קדוש*, “a kingdom of priests and a sacred nation”? Or is ours a monochromatic bond, all our efforts being single-mindedly directed, theoretically and practically, to the integrated realization of one overriding goal? Of course, in a sense, the whole of Torah is oriented—as, in a broader sense, is the religious life in its entirety—to creating an ideal world, one in which, as *ein od milvado* in the transcendental sphere, so in the terrestrial. Beyond doubt, we should all strive to pursue the counsel of the mishnah, *וכל מעשיך יהיו לשם שמים*, “Let all your deeds be for the sake of Heaven.”¹⁶ However, action “for the sake of Heaven” is itself multifaceted; and, as Rav Haym Volozhiner recognized,¹⁷ it is self-evident that, in another sense, *yesh od milvado*, as a palpable reality, to be perceived and confronted. And it is to that plane that we need to address ourselves. To take a simple concrete example, numerous *pesukim* incorporate the message of *לה' הארץ ומלאה*, “The earth and all its plenitude is Hash-em’s,” even as they concurrently assert that this self-same earth has been granted to man, entitled to partake of it and entrusted with nurturing and developing it. Moreover, in this latter capacity, he is commanded to share the terrestrial plenty with his Master’s divine treasury, on the one hand, and with the deprived and the disenfranchised, on the other—all of this, within the compass of a single and very partial department of human life.

How, at this diversified plane, do we relate to our specific problem? Confronted with the dual conclusion of the encomium to Jerusalem in *Tehillim* (122) — *למען אחי ורעי אדברה נא שלום בך* — “For the sake of my kin and friends, I pray for your well-being” and *למען בית ה' א-לקינו אבקשה* — “For the sake of the house of the Lord our God, I seek your good,” do we feel exclusive responsibility to the latter goal, relating to the first only when it in no way competes with the second—or, better still, when the two reinforce each other mutually? Or do we acknowledge a genuinely dual commitment—advancing both components in tandem wherever feasible, striving to coordinate divided effort where it is not, and recognizing candidly that the interests of the two may conflict, as each diverts attention and resources from the other? How genuine and significant a value are the interests, material and spiritual,

of אחי ורעי, “my kin and friends,” to us? In situations of conflict, do we cut the Gordian knot by affirming that those to whom the welfare of א-לקינו, “the house of the Lord our God,” is of little or no interest are, in effect, disbarred from the community of עמיתך or אחיך, “spiritual comrades and brethren,” so that we, in turn, assign sparse value to their concerns?¹⁸

Our ultimate aspirations are, in theory, reasonably clear—and they are greedy, relating not only to “believing Jews of other religious ideologies and non-believing Jews,” but to humanity as a whole. We yearn, at the eschatological plane, for a reality in which the world at large—the social as well as, in a sense, the cosmic—is suffused with pervasive faith, experiential as well as conceptual, and committed to acknowledgment of epiphanous *malkhut shamayim*. We make no attempt to conceal this undemocratic vision. On the contrary, we trumpet it forth, passionately. It is central to the *berakhah* of *malkhuyot* on Rosh Hashanah:

מלוך על כל העולם כולו בכבודך והנשא על כל הארץ ביקרך והופע בהדר גאון עוזך
על כל יושבי תבל ארצך וידע כל פעול כי אתה פעלתו ויבין כל יצור כי אתה יצרתו
ויאמר כל אשר נשמה באפו ה' א-לקי ישראל מלך ומלכותו בכל משלה

Reign over the entire universe in Your glory; be exalted over all the world in Your splendor, reveal Yourself in the majestic grandeur of Your strength over all the dwellers of Your inhabited world. Let everything that has been made know that You are its Maker, let everything that has been molded understand that You are its Molder, and let everything with a life's breath in its nostrils proclaim, “The Lord God of Israel is King, and His majesty rules over everything.”

But it is not reserved for rare festive prayers, occupying, as it does, an equally dominant place in the weekly recital of *nishmat* –

כי כל פה לך יודה וכל לשון לך תשבע וכל ברך לך תכרע וכל קומה לפניך תשתחוה
וכל לבבות ייראוך וכל קרב וכליות יזמרו לשמך –

For every mouth shall offer thanks to You, every tongue shall swear loyalty to You, every knee shall bend to You, all who

stand erect shall bow down before You, all hearts shall fear You,
and every innermost part shall sing praise to Your name – ¹⁹

and, perhaps even more significantly, in the presumably humbler context of the thrice-daily avowal of *aleinu*:

לתקן עולם במלכות ש-די וכל בני בשר יקראו בשמך להפנות אליך כל רשעי ארץ
יכירו וידעו כל יושבי תבל כי לך תכרע כל ברכ תשבע כל לשון לפניך ה' א-לוקינו
יכרעו ויפולו ולכבוד שמך יקר יתנו ויקבלו כולם את עול מלכותך ותמלוך עליהם
מהרה לעולם ועד.

To perfect the universe through the Almighty's sovereignty,
and all flesh shall call out in Your name, to turn all the earth's
wicked toward You, that all the world's inhabitants shall recognize and know You, that every knee shall bend, every tongue shall swear, before You, Lord our God, shall they bend and prostrate, and to the honor of Your name shall they call out glory, and they shall all accept the yoke of Your sovereignty, and You shall reign over them speedily for all eternity.

In envisioning this catholic prospect, a Jew of any stripe may be typically content, to think of the biblical millennium, as prophesied by Micah and Yeshayahu, jointly:

והלכו עמים רבים ואמרו לכו ונעלה אל הר ה' אל בית א-לקי יעקב ויורנו מדרכיו
ונלכה בארחתיו כי מציון תצא תורה ודבר ה' מירושלם (ישעיה ב:ג)

And the many peoples shall go and say, "Come, let us go up to the Mount of the Lord, to the House of the God of Jacob, that He may instruct us in His ways, and that we may walk in His paths," for instruction shall come forth from Zion, the word of the Lord from Jerusalem. (Isaiah 2:3)

The Orthodox Jew—and this is where the greed lies—almost invariably thinks solely of the ways and paths of our theological persuasion and *halakhic* tradition.

The aspiration is, then, both clear and enthralling. The implication for our present discourse is presumably equally clear. If we are charged

with ennobling the universal human spirit, at the plane of *bein adam l'havero* and, concurrently, enthroning *malko shel olam*, at that of *bein adam lamakom*, how much more pressing should be our normative duty to *knesset Israel*, in light of our personal and collective kinship and of its unique chosenness. Consequently, that duty should constitute a significant facet of our deliberations concerning our relation to spiritual "other." Does it? Surely, the impression prevalent among both interested laymen and professional historians is that discussion has focused upon the impact upon and within our own Orthodox ranks, with an eye to maintaining viability and vigor; to sustaining the provenance and the integrity of our tradition and its values; to containing the power and the influence of adversarial forces, present and future. Given the urgency and the potency of dangers and pressures, the emphasis upon coping with an agenda ranging from survival through continuity and striving for efflorescence, is fully understandable. But is it sufficient? And is it sufficiently balanced?

The aspiration for *tikkun* is, I repeat, clear and enthralling. I fear, however, that its implication for our issue is, in many respects, less consistently enthralling, for this scenario evidently relegates the epoch between the present and the Messianic era to a period of *teshuvah*. This process in no way demeans it. Its creative and purgative aspect, conjoined with the quest for grace and regeneration, renders *teshuvah*, at the personal plane, and, *a fortiori*, in the public sphere, as one of the most challenging and dramatic of developments. Its role as the defining characteristic in a lengthy process of transition does, however, complicate matters considerably—at time, in ways and in respects which may undermine *teshuvah* proper.

This concern bears directly upon our immediate issue of relationship to the non-Orthodox. For one thing, the modern liberal soul often recoils at the substance and tone of its presumed relationship to rivals, rejecting not only the attitude often encountered in circles close to Mercaz Harav, that the renegade is, deep down, a *homo religiosus* encased in a secular shell, but also being perturbed by the view of the "other" as so much prey waiting to be ensnared in a transmuting net. Moreover, the traditional community may find itself caught in a dilemma. On the one hand, it strives to imprint its stamp upon the

Jewish world in its entirety. On the other, it recognizes that, inasmuch as the process of *teshuvah* is, by definition, fundamentally spiritual, recourse to non-spiritual means may have counterproductive repercussions, which may dilute or defile the desired process. The exertion of excessive pressure, the assumption of an aura of omniscient superiority, the appeal to unspiritual motivation—all may serve to debase content and foment resistance.

The difficulties are real and the road probably lengthy and tortuous. Nevertheless, our commitment to the vision and our aspiration to contribute to its realization should constitute an aspect of our spiritual reality and ambition. I confess that in surveying these lines, I am troubled by traces of pretentious grandiloquence, if not downright bombast. Yet I do indeed submit that our overview of our issues cannot be confined to the local and contemporary, much less to confrontation between the RCA, the RA, and the CCAR. I see no satisfactory serious alternative to, minimally, raising fundamental concerns and at least familiarizing ourselves, across a broad canvas, with primary problems and sketching possible options and directions, which transcend current hot-button issues and domestic resolutions.²⁰

That task itself, is greatly complicated by a diverse set of significant variables. Among these may be obviously included: (1) the nature and degree, as regards both content and motivation, of deviation; (2) its sociohistorical content—personal or collective, within a Gentile or a Jewish, and, particularly, theocratically oriented, *halakhic* state; (3) the nature of the playing field, with which camp in dominance; (4) how viable are various initiatives, and what kind of response are they likely to elicit, in the Orthodox community, or in others? (5) apart from narrowly religious or theological ramifications, what might be possible national or social repercussions? (6) What is the prevailing climate and level of commitment to Torah, both practical and conceptual, in circumstances under consideration? (7) Are we authorized to pursue compromise directions, be it even in the interest of axiological and spiritual expediency; and if so, when is it desirable?²¹

I refer to these factors as variables, clearly implying that, individually and collectively speaking, they ought to have some bearing upon the course of decision and direction. I regard this view as almost self-

evident. Regretfully, I recognize that other *bnei Torah* may object to such flexibility, advocating instead a more consistent and narrowly formulated approach, replete with sharply defined and, in all likelihood, tougher directives. I do not for a moment question either the sincerity or the viability of alternate positions. But אין לדיין אלא מה שעיניו רואות, “a judge can only be guided by that which his eyes see.” I can relate to our cardinal issues only as I perceive them. Having stated my position, and with a watchful eye upon these variables and under which circumstances they should be assigned their respective weights, I proceed to outline the major challenges and possible courses.

I believe we can single out two primary areas, which both overlap and impact upon each other but which may also be viewed as separate components of our relationship to the “others.” The first concerns attitude and evaluation—not only our collective perception, but how we presume, in light of classic sources and traditions, that they are regarded celestially. The second relates to our own interaction, if any, with the non-Orthodox—of what scope and of which character.

As to the former, we turn instinctively to Scriptural expressions of divine affection or wrath. From the Rambam’s perspective, these will probably not shed much light on our dilemma, inasmuch as he neutralizes their literal meaning, given its anthropomorphic character.²² That view has not taken root as the mainstream tradition, neither among the philosophical community nor among the populace. Nonetheless, even along a broader front, to our dismay, this source provides relatively little guidance, inasmuch as, in light of the variables, prophetic expressions are often dramatically opposed, so that only a self-serving evaluation of the status of a given period could shed much meaningful light upon the fitting relation to it. Chapters in *Tehillim*, saturated with vehement hatred and containing liturgical pleas for the destruction of enemies, are presumably more relevant. We should bear in mind, however, that these generally constitute a defensive response to life-threatening personal danger, rather than a chapter in public conflict.²³ Moreover, for most of us, these *perakim* can offer meager direction. We are not, spiritually and psychologically, sufficiently pure to be able to harbor such a level of negative emotion.

We will probably get clearer guidance by turning to Hazal, among whom Rabbi Mayer and Rabbi Yehudah, each armed with a supporting proof-text, were apparently divided on this issue:

בנים אתם לה' א-לקיכם בזמן שאתם נוהגים מנהג בנים אתם קרוים בנים, אין אתם נוהגים מנהג בנים אין אתם קרוים בנים דברי ר' יהודה רבי מאיר אומר בין כך ובין כך אתם קרוים בנים, שנאמר בנים סכלים המה ואומר בנים לא אמון במ ואומר זרע מרעים בנים משחיתים ואומר והיה במקום אשר יאמר להם לא עמי אתם יאמר להם בני א-ל חי.²⁴

“You are sons to the Lord your God”; when you behave as sons you are designated sons; if you do not behave as sons, you are not designated sons; this is Rabbi Yehudah’s view. Rabbi Mayer said: in both cases you are called sons, for it is said, “They are sottish children” (Jer. 4:22), and it is also said, “They are children in whom there is no faith” (Deut. 32:20); and it is also said, “A seed of evil-doers, sons that deal corruptly” (Is. 1:4), and it is said, “And it shall come to pass that, in the place where it was said unto them ‘Ye are not my people,’ it shall be said unto them, ‘Ye are the sons of the living God’” (Hosea 2:1).

Elsewhere we hear of an analogous debate between a Sadducee and Rav Hanina, with the latter evidently inclined to Rabbi Mayer’s position:

אמר ליה ההוא צדוקי לר' חנינא השתא ברי טמאים אתון (פירש"י: "ודאי טמאים אתון ואין שכינה ביניכם שורה בטומאה) דכתיב טומאתה בשוליה אמר ליה תא חזי מה כתיב בהו השוכן אתם בתוך טומאתם אפילו בזמן שהן טמאין שכינה שרויה ביניהן.

A certain Sadducee said to Rav Hanina: now you are surely impure [Rashi explains: “You are surely impure and the Divine Presence dwells not in impurity], for it is written, “Her filthiness [impurity] was in her skirts” (Lam. 1:9). He answered: come and see what it is written concerning them: “That dwells with them in the midst of their impurity” (Lev. 16:16), i.e., even at the time when they are impure, the Divine Presence is among them.²⁵

These texts refer to the divine relation to *klal Yisrael*—the collective beneficiary of the special, and, up to a point, reciprocal—bond, inherent in its covenantal link to the Ribbono Shel Olam. However, elsewhere, a similar chord is struck at the personal plane. Commenting upon the affirmation of grace and commiseration, as a sequel to *ma'asseh ha'egel* and subsequent pardon, Rabbi Mayer notes:

והנתי את אשר אחון אע"פ שאינו הגון ורחמתי את אשר ארחם אע"פ שאינו הגון.
 And I will bestow grace on whom I will bestow grace, although
 he may not deserve it, and I shall have pity upon whom I shall
 have pity, although he may not deserve it.²⁶

And elsewhere, in yet another connection and an even more striking vein, the same context is depicted as the basis for a dialogue between Mosheh Rabbenu and the Ribbono Shel Olam concerning, again, the status of the wicked and their disposition:

דתניא כשעלה משה למרום מצאו להקב"ה שיושב וכותב ארך אפים אמר לפניו רבונו של עולם ארך אפים לצדיקים אמר לו אף לרשעים א"ל רשעים יאבדו א"ל השתא חזית מאי דמבעי לך כשחטאו ישראל אמר לו לא כך אמרת לי ארך אפים לצדיקים אמר לפניו רבש"ע לא כך אמרת לי אף לרשעים והיינו דכתיב יגדל נא כה ה' כאשר דברת לאמר.

When Moses ascended on high, he found the Holy One, blessed be He, sitting and writing "long-suffering." Said he to Him, "Sovereign of the Universe! Long-suffering to the righteous?" He replied, "Even to the wicked." He urged, "Let the wicked perish!" "See now what thou desirest," was His answer. "When Israel sinned," He said to him, "didst thou not urge Me, [Let Thy] long-suffering be for the righteous [only]?" "Sovereign of the Universe!" said he, "but didst Thou not assure me, Even to the wicked!" Hence it is written, And now, I beseech thee, let the power of my Lord be great, according as thou hast spoken, saying.²⁷

In a relatively minor key, the issue also surfaces in a marginal, albeit, familiar *halakhic* context. We recall that *tefillat Kol Nidrei* opens

with a preceding plea for dispensation to join in prayer with sinners. The source of this *minhag* is a passage in the Mordecai in *Yoma* who, in turn, bases it upon a *gemara* in *Keritut*, the gist of which is that the inclusion of miscreants within the structure of a *ta'anit* is one of its integral aspects:

אמר ר' שמעון חסידא כל תענית שאין בו ממושעי ישראל אינו תענית שהרי חלבנה ריחה רע ומנאה הכתוב בין סמני הקטורת.

Said Rabbi Simon Hasida, any fast in which no sinners of Israel participate is no fast, for behold the odor of *galbanum* is unpleasant and yet it was included among the spices for the incense.²⁸

As is common in numerous *hashkafic* debates, no definitive *psak* determines its resolution. Speaking out of my own experience, however, I can attest to the fact that, toward the conclusion of *Kol Nidrei*, while reciting the *pasuk* of *כי לכל הגר בתוכם כי לכל* and *ונסלח לכל עדת בני ישראל ולגר הגר בתוכם כי לכל*, “The whole Israelite community and the stranger residing among them shall be forgiven, for it happened to the entire people through error” (Num. 15:26), I have consciously thought that *lekhoh*, the entire, should include Shulamit Aloni. This notion may strike some as an illegitimate intrusion of subjective predilection upon a holy text and a sacred moment. I cannot agree. In areas that have been left open, we have a moral and *halakhic* right—possibly, a moral and *halakhic* duty—to take a stand; and in such cases we are entitled to include personal proclivity as a component of that stand. All the more so when the preponderance of Hazal’s explicit dicta on the issue can be mustered in our support.

This is not to deny that we encounter in Hazal some stridently harsh statements regarding ideological apostates. Indeed, as the Rambam, previously cited, stated, the non-Orthodox heretical lapse in belief is regarded more seriously than breach in observance; and the sequence concerning punitive levels in the *gemara* in *Rosh Hashanah* clearly reflects this priority. By way of exemplification, one might cite a *baraita* with respect to *avelut* upon the death of an apostate:

כל הפורש מדרכי צבור אין מתעסקין עמו בכל דבר אחיהם וקרוביהן לובשין לבנים ומתעטפין לבנים ואוכלין ושותין ושמהין שנאבד שונאו של מקום שנאמר הלא משנאיך ה' אשנא ובתקוממך אתקוטט תכלית שנאה שנאתים לאויבים היו לי.

Regarding he who separates himself from the ways of the community, none involves himself in his care; the brethren and relatives wear white and wrap themselves in white; they eat, drink, and celebrate, for an enemy of God has been eliminated, for the verse states, “O Lord, You know I hate those who hate You, and loathe Your adversaries. I feel a perfect hatred toward them, I count them my enemies” (Psalms 139:21-22).²⁹

We note, however, that this procedure, precisely because it is so severely punitive, is reserved, in light of the source cited, for *mesan'ekha*, Your adversaries, those who are not merely non-observant but who radiate and generate animosity to the Ribbono Shel Olam—who have, in effect, severed themselves totally from the world of Jewish living. The parameters of the term are open to flexible judgment, so that its application to a given individual or group is most unlikely. Moreover, the normative demand to judge leniently—assuming that it applies to ordinary interpersonal relations and is not confined to the judicial process³⁰—militates our recognition of the positive aspects of non-believers' lives and focusing upon them, as well as upon evaluating specific components charitably.

In effect, we are brought back, albeit in a different sense, to the mindset. We cannot give our ideological rivals that of which they are most desirous—the inherent equalization of religious and secular ethics, on the one hand, and, in the mode of *eilu v'eilu*, the recognition of Reform and Conservative Judaism as full-scale versions of Torah, on a par with traditional *mesorah*. Such legitimization would emasculate the epicenter of Orthodoxy. But there is no essential barrier to a fairer and more generous perception of the movements' respective leaderships and of their adherents. We can certainly affirm—I hope I can make the point without condescension—that merit can inhere in the virtue of “others”; that many of our Reform and Conservative brethren sincerely seek the Ribbono Shel Olam; and that their quest has worth.

The attitudinal element is significant in its own right; but it also bears upon the aspect of interaction, to which we now turn. In this connection, we might best dwell primarily upon three components. The first concerns the prospect of joint pursuit of common Jewish goals—social, political, and spiritual, with an eye to advancing a collective aim or ameliorating mutual pain rather than impinging upon each other. The second relates precisely to such impact, and it subdivides into two: supportive enhancement and adversarial antagonism, respectively. Within the contemporary context of our discourse, the first issue should presumably present no problem. It is warranted by both collective national responsibility and rudimentary sensibility, and it is supported by amply publicized precedent—the struggle over Soviet Jewry, marshalling support for the State of Israel, legislative contretemps over *shehittah*, and efforts on behalf of sensitizing *hesed shel emet* treatment of death and bereavement, to name just a few. Moreover, such cooperation bears the imprimatur of the Rav *z.t.l.*, who consistently advocated unified stands on matters of external import, *klapei huz*, wherein the full range of the religious spectrum participates, as an emissary to the non-Jewish world or to our indigenous community, in an attempt to push the common envelope, but not on internal matters, *klapei penim*, which, in light of crucial ideological differences, are not susceptible to agreed resolution or even compromise.³¹

Nevertheless, I am occasionally startled to discover that even palpably positive initiatives may be opposed if hatred—at times, vitriolic—rears its ugly head, and fear lest any credit whatsoever might redound to rival groups, overshadowing and possibly eviscerating basic human and Jewish instincts. I recall vividly a telephone conversation with a former *talmid* who was applying for a position of *rabbanut* in upstate New York. He was to be interviewed the next day and, in preparation, simulated anticipated questions and possible responses. He had been given to understand that the issue of intramural relations—to wit, how he would relate to other denominations—would probably rank high on the list, and he was calling me for advice on how to field it. Upon further inquiry, it turned out that the specific issue—which had apparently generated some debate in the *kehillah*—related to Yom

Hashoah and whether he would favor a joint or separate convocation. Shocked, I responded that, as far as I knew, the Nazis had not differentiated. Could we? In my stupefaction, I realized that we had an educational charge to fulfill.

The second area, in both of its aspects, admittedly requires greater caution, but here too we need to monitor—and on occasion modify—our stock responses. At issue is the advisability of extending assistance—manpower, material, moral, spiritual—to non-Orthodox movements, thus enhancing their stature and entrenching their position within the Jewish world, on the one hand, but also intensifying their commitment to *avodat Hashem*, on the other. The question is deceptively simple, but the answer quite complex. In our world, there are those who subscribe to the thesis that under no circumstances is it permissible or advisable to advance the cause of deviationists, and they have no compunction about striving to present what they see as a convincing and vociferous case for their position. For them, the answer to our question is as straightforward as the query. However, I find this view wholly untenable, on moral, national, and, quite frequently, *halakhic* grounds. As I have had occasion to stress in various contexts, non-Orthodox movements often provide a modicum of religious guidance, of access to Jewish knowledge and values, of spiritual direction and content. Moreover, they provide it for many beyond our own pale and reach. In such situations, the contribution to Jewish life is real and meaningful. Can anyone assert, as our critics claim we hold, that it makes no difference whether one is an atheist or a Reform Jew? Worse still, some insist upon ascribing to us a preference for the former.³² But can any responsible Orthodox Jew, genuinely and responsibly concerned about either national viability or spiritual vigor, confirm this charge? And, were he confronted with such a choice with respect to a son or a daughter, is it conceivable that he would opt for atheism? Admittedly, in certain contexts, when power and authority within the public arena are at stake, and when an Orthodox alternative is readily available, some benefit may redound to us by the weakening of competition. But that is precisely what complicates the answer to a simple question. Weighing the respective significance of various components of our personal spiritual regimen—and, beyond that, the possible con-

flict between the needs of some individuals against public priorities, is never easy—particularly, when דברים העומדים ברומו של עולם, “manners of the utmost significance,” are at stake. The religious interests of both *Reb Israel* and *klal Yisrael* challenge us to respond to their dual call upon us. Assuredly, however, there are many situations in which the cause of *yahadut*, and the attempt, both duty and desire, to hasten the advent of *היום ההוא*, “On that day,” militate assisting movements with which we have sharp disagreements. Myopia may only impede it.

The dilemma may be illustrated through a practice which has gained ground in segments of the modern Orthodox world in recent years, in both North America and England—and, perhaps for precisely that reason, has surfaced as a problem. I refer to the organized mutual learning of Jewish—and generally, traditional—texts and problems, within joint or denominational settings, at the same session, or as successive presentations within a series. The advantages are clear. Ordinarily, regardless of who is holding forth, most of the audience will gain Torah knowledge and spiritual insight. We can, likewise, anticipate a rise in solidarity and fraternity. Moreover, in many such communities, refusal to participate will often be ascribed to a blend of fear, fuelled by insecurity, and supercilious arrogance, rather than to pristine insularity; it will be interpreted as an expression of demonization rather than as an assertion of perceived radical incompatibility, and the overall impression will hardly score points for our image. Finally, abstention will leave the entire playing field at the disposal of the heterodox; so, what have we gained?³³

Two things. We have averted—or, at least, believe we have deferred—the hobgoblin of parity and have made it unequivocally clear that we regard ourselves as the only genuine alternative in town. Second, we have avoided the exposure of some of our constituency to winds of strange doctrine and to their evangelists.

These are no small pickings. But so may that be true of a possibly exorbitant price—and hence, the dilemma. In all likelihood, the most effective response should be differential. The attitudinal stance of the speakers, the prevailing ideological climate, the social venue, the degree of implicit parity, the texts to be discussed, the religious and intellectual maturity of the audience—all require careful consideration

in assessing the likely impact and the relevant risk-benefit ratio. And of course, we are confronted by the principled *halakhic* and *hashkafic* issue of how gains and losses are to be weighed with regard to the various alternatives. How do we measure qualitative versus quantitative factors? Who may be affected and to what extent? Above all, we must give thought to the menu of topics. Generally speaking, questions of science and religion, for instance, are preferable to debate over biblical criticism or psychoanalysis of the pillars of *messorah*. It is not my purpose here, however, to assign report cards, but rather to suggest that in certain areas the optimal approach is differential; hence it will probably require more thoughtful and sensitive attention than blanket stonewalling. The practice of *yakirei Yerushalayim*, who cautiously refused to sit, at a *bet din* or as dinner guests,³⁴ with unfamiliar faces, is far more difficult to emulate in our context than in theirs.

This course is commended—and to some extent mandated—from various perspectives, both collective and personal. As to the former, it is rooted in two major values. Sanctification of the public square is, first and foremost, an aspect of the *mitzvah* of *kiddush Hashem*, in the broader sense of *ונקדשתי בתוך בני ישראל*, “That I may be sanctified in the midst of the people of Israel,” as referring to suffusing our communal and national scene with a profound awareness of our sacral character.³⁵ In a parallel vein, it is also conceived as a duty deriving from the paradigm of Avraham Avinu, on the one hand, and from the *mitzvah* of *ahavat Hashem*, on the other:

ד“א ואהבת את ה' א-לקיך אהבהו על כל הבריות כאברהם אביך כענין שנאמר ואת הנפש אשר עשו בחרן והלא אם מתכנסים כל באי העולם לבראות יתש אחד ולהכניס בו נשמה אינן יכולים לבראותו ומה ת"ל אשר עשו בחרן אלא מלמד שהיה אברהם אבינו מגיירן ומכניסן תחת כנפי השכינה.

An alternate explanation: “And you shall love the Lord your God,” make him beloved to all His creations, like your patriarch Abraham, as the verse states, “And the persons they had made in Haran” (Gen. 12:5), yet even if all the men of the world would gather together, they could not create a single gnat and breathe a soul into it. Thus what does the verse teach

when it states, “That they made in Haran?” Rather, it teaches that our patriarch Abraham would convert them and bring them under the wings of the Divine Presence.³⁶

Straddling our dual duty, personal and collective, we are enjoined to be engaged by the quasi-legal and wholly ethical and religious concept of *arevut*. Multifaceted on theoretical grounds as in application, it bespeaks both liability for the sins of others and a corresponding charge to nurture their spiritual welfare. On the one hand, we are responsible for the religious well-being of both the community and its members *לזה לזה* וּכְשֶׁלּוֹ אִישׁ בְּאָחִיו אִישׁ בְּעוֹן אָחִיו מִלֵּמַד שְׂכָל יִשְׂרָאֵל עֵרְבִין זֶה לְזֶה “And they shall stumble one upon another,’ one because of the iniquity of the other, this teaches us that all of Israel are guarantors one for another”;³⁷ and on the other, we have not, *halakhically*, discharged our duty to perform a given *mitzvah* so long as we have not sought to enable the parallel performance of others—and this, both as a dimension of our normative commitment to that *mitzvah* and as an element in *gemilut hasadim* toward them.³⁸ If we are bound to return a lost object to its owner, is it conceivable that we remain wholly indifferent with respect to his spiritual welfare? *אבדת גופו מנין תלמוד לומר והשבתו לו* “From whence do we know [that one must save his neighbor from] the loss of himself? From the verse, ‘And you shall restore him to himself’”³⁹ – and, we might add, *על אחת כמה וכמה*, *a fortiori*.

This responsibility is, admittedly, perhaps palliated somewhat if the distressed individual has no interest in being succored.⁴⁰ As, on the Rambam’s view, one is exempt from *hashavat aveidah* if the owner of the lost object is apathetic, and even the cause for its loss, so presumably with respect to spiritual guidance. Even this situation, however, cannot be asserted with any degree of certitude, since it may be readily contended that the analogy does not hold water—and this for at least two possible distinctions. First, as regards property, the owner’s mastery of the object differs, from a religious perspective, from that over his spiritual self—or, for that matter, over his physical self.⁴¹ Second, as regards the rescuer’s responsibility vis-à-vis his endangered fellow, it is patently both broader in scope and, qualitatively, more intensive, in

relation to his self than to his belongings. Hence, whatever the attitude of the threatened other, we, for our part, are possibly not relieved of our own charge.

On some views, such relief might be justified by self-inflicted spiritual recalcitrance. Addressing himself, for instance, to the need to prevent consumption of proscribed foods by their thief, Rabban Shimon ben Gamliel declares, *הלעיטוהו לרשע וימות*, To wit, roughly: “Present it to the transgressor and let him bear the consequences.”⁴² However, this seemingly apathetic formulation aroused the amazement of a leading seventeenth-century *posek*, the author of *Havot Yair*,⁴³ and has subsequently undergone much qualification and modification, with some authorities rejecting it as a minority view. The fact that, in the whole of *shas*, it appears only in an isolated instance is noteworthy and apparently supports this conjecture. Be this as it may, our commitment to providing spiritual guidance and preventing wanton violation remains firm.

This position having been asserted, there remains another aspect of our relation to the non-Orthodox: a major quotient of principled opposition to the very quest for any measure of accommodation with deviationists—with respect to various specific areas, for some, and as the pervasive and defining characteristic of our overarching relationship with the heterodox, for others. In many respects—particularly as regards core questions of faith and belief, of normative lifestyle and the sources of authority, whether formal or consensual—this situation is inevitable. These are, after all, the gut issues which define us, respectively; and I am certainly by no means in favor of shedding or diluting our commitment or identity. Much of what divides us lies beyond negotiation, and, whether with regret or resolve, we need for the foreseeable future to acknowledge this fact. Negotiations regarding the prospects of the use of a revised *ketubah* or of joint recognition of an agreed upon *bet din* to be charged with authority over issues of marriage and divorce were initiated in good faith during the mid-1950s by the *halakhic* leadership of the R.C.A. and of the R.A. Nevertheless, despite the absence of acrimony, they produced nothing but the bitter-sweet fruit of missed opportunity. However, there exist matters of controversy of a more flexible nature, with respect to which both policy

and its implementation may be subject to meaningful latitude. With regard to these, a measure of description and analysis may be helpful in formulating our own inclinations and in clarifying them to others. I harbor no illusion that this will, in and of itself, effect reconciliation and usher in the millennium. But even if it only helps improve the current climate, paving the way for a better tomorrow, *dayyenu*.

The central issue confronting us—at once the most pragmatic and the most passionately experienced—concerns the exercise of power in the context of religious controversy. Typically, one side may envision itself as an angel guardian, protecting and advancing cherished values, while another sees itself, passionately, as the aggrieved victim of discrimination; and vice versa. And both may be right. In practice, many of these issues impinge most directly and most immediately upon individuals; but, as the roots are likely to be collective, I shall attempt to focus briefly upon these—to deal, that is, with aspects, explicit or implicit, of the theory and conduct of the historical *kehillah*, with the contemporary scene in Israel or in the Diaspora, and, *a fortiori*, with a possible future theocratic community.

As a point of departure, we need to note a fundamental distinction. Unquestionably, there are numerous avenues through which an ideological community can harness its control of elements of the power structure of its base in order to impose its will upon constituents, so as to safeguard the perceived collective character of that entity, in accordance with political or spiritual goals. It may impose direct monetary or physical sanctions, ranging from incarceration to execution. In the economic sphere, it can utilize direct subvention or tax incentives favoring adherents, to the detriment or neglect of dissidents. On the legal front it can limit access or recourse to the system and disbar some from participation in certain processes.

Such initiatives are, essentially, largely discriminatory in nature, and hence understandably objectionable to liberal sensibility. There is, however, no denying that, historically, many were adopted by, among others, our traditional community, and some (as, indeed, is the case with many modern and presumably democratic societies as well) are of the woof and warp of the *halakhic* corpus.

Generally confining, these sanctions are often grounded in exclusion—at times, perhaps even expulsion—from the *halakhic* community, through classification under the rubric of one of a complex of kindred categories, such as *mumar*, *rasha*, or אינו עושה מעשה עמך, “he who does not act as befits Your people”;⁴⁴ or, conversely, through the lack of the characteristics requisite for definition as רע, אה, or ברית. Generically, they entail prioritizing the sustenance or safeguarding the integrity of *bet Hashem*—in the broader or narrower sense of the concept—over the welfare and aspirations of the individual. In this respect, this mode is out of sync with much of the modern temper, which is wholly at peace with penalty administered by the state and its agencies in response to deviant conduct, but only where *lèse majesté* of flesh and blood is concerned, not with recalcitrant conscience-driven positions invoked against מלך מלכי המלכים⁴⁵.

It is not to my present purpose to rationalize this practice or to “justify the ways of God to man” within the context and against the background of modern democratic theory and practice. I dealt with some of the central issues in some early essays;⁴⁶ and, some strange attempts to cross-breed *yahadut* and postmodernism notwithstanding, find little cause for recasting or revising my basic formulations. My task here is rather to survey whether and to what extent the premises latent in what I have briefly outlined should dictate our response to the question to which I have been asked to address myself.

The relevance of the nature and scope of the imposed standards touches precisely upon the distinction I wish to stress. Some of the positions espoused by the Orthodox community and its leadership, which breed resentment⁴⁵ among its opponents, are not, strictly speaking “theirs,” at all. Rather, they constitute application of *halakhic* norms to concrete situations. Disqualification of *parshiyot* of *tefillin* written by a Reform *sofer* is, indeed, discriminatory. But the decision to enact it is no recent innovation of Hungarian rabbis—or of their current Israeli or American counterparts—desperately fending Neological encroachments. It is nothing more than the implementation of the Rambam’s dictum—based, in turn, upon Talmudic sources—that only כל שמוזהר על הקשירה ומאמין בה הוא שכותב “Only one who is commanded regarding the tying and believes in it may write,”⁴⁷ which leaves little, if

any, latitude for *poskim*, even should they prefer leniency. Likewise, determination of who is to be authorized to engage in *siddur kiddushin* or *gittin* must be made with an eye to the *gemara*'s admonition,

כל שאינו יודע בטיב גיטין וקידושין לא יהא לו עסק עמהם.

He who does not know the particulars of divorce and betrothal should have no business with them⁴⁸

which, as the example cited clearly indicates, sets a high standard of mastery:

א"ל רב יימר לרב אשי... אפילו לא שמיע ליה הא דרב הונא אמר שמואל?

Rav Yemar asked Rav Ashi... Even if he is ignorant of this ruling of Rav Huna in Samuel's name?

that is, must he know that we accept the view of Rabbi Yose, that *kiddushin* in which the declaration of "לי כדמ" is inferred contextually but not verbalized are valid?

א"ל אין הכי נמי

And the concluding response is—indeed, if he is ignorant of this, he cannot qualify.

Some have sought to qualify these limitations by invoking concepts which mitigate the responsibility of the disbarred, by invoking concepts which shift the blame to others. He or she may be categorized as the victim of his upbringing,⁴⁹ of his passions, which, it is contended, should be evaluated more liberally,⁵⁰ or as merely a party to a collective apostasy.⁵¹ However, these concepts, while possibly valid in themselves, and certainly are very much in line with much contemporary moral theory, are of little relevance for the issue under discussion. They can be significant with regard to the mitigation of personal fault but of no import when the issue is one of objective competence or commitment.⁵² Would we routinely entrust the construction or maintenance of a complex reactor to a well-intentioned but barely trained technician?

On the other hand, in certain situations our course of action may very well be determined by public policy factors or axiological considerations, when pure *halakhah* would admit some leeway. The optimal degree of centralization with respect to *kashrut* or *mikvaot* is not subject to categorical *halakhic* fiat; and *halakhah* as a whole clearly acknowledges the existence of *devar hareshut* and the legitimacy of including relatively extraneous elements, which nevertheless have spiritual consequences, in the process of decision. Moreover, we are not so ethereal as to reject wholly any truck with patently pragmatic or, if you will, political factors. In such cases, however, the subjective factor in the formulation or exposition of policy will be far more significant.

I presume it would be a bit naïve to expect that our non-Orthodox opponents will be wholly convinced or mollified by this distinction. Even should they appreciate it, some resentment over what they often perceive as marginalizing discrimination and unfair delegitimization—particularly, in the ranks of the Conservatives—would probably persist. Nevertheless, it is to be hoped that the rancor would be palliated and residual accusative temper ameliorated. While we would not anticipate unqualified acceptance of our own position, we could hope that other camps would at least understand us better, and consequently respect us more, if they regarded us as spiritually motivated rather than as power-hungry autocrats. The climate of discourse and the quality, both civil and religious, of discussion, purged of some acrimony, could then be improved significantly, as regards both *למען אחי ורעי* “For the sake of my brethren and kin” and *למען בית ה' א-לקינו* “for the sake of the house of the Lord our God,” in the broader senses of these terms.⁵³

Of no less importance is the value inherent in our own awareness of the distinction. Without necessarily conceding any of our positions in either category, recognition of difference could potentially issue in critically fairer assessment of how and why we structure the process of collective decision. In a climate which increasingly values transparency, we could better our standing in this respect, possibly both improving the quality of decision proper and attaining greater and more charitable appreciation of its nuances. It would also clarify somewhat when we could be conciliatory and when intransigent, altering, for instance,

our recourse to concern about the slippery slope—a concern which is unquestionably rooted in Hazal⁵⁴ but whose application in our modern context requires careful crafting.

I reiterate that, unquestionably, the issues which divide us from the non-Orthodox are substantive and substantial, and I harbor no illusion about easy or early resolution of our conflicts. Much of what is preached and professed by many beyond the pale of Orthodox belief as being gospel truth, ranging from claimed historical facticity to meta-historical vision, regarding the secular as well as the sacred, is regarded by *ma'aminim bnei ma'aminim* as nothing short of *kefirah*. Much of what is extracted from Scripture or ingested into it is shot through with *apikorsut*. Above all, the composite portrait of the Ribbono Shel Olam often presented, by critical scholarship, as the biblical and/or Jewish perception of deity is, for us, blasphemous *hiruf v'gidduf*. Of all this we are painfully aware; and of all this we are perforce on our guard. Nevertheless, I submit that if we are in earnest about our concern regarding אהי ורעי, my brethren and kin, and honest about the role of ירושלם הבנויה כעיר שחברה לה יחדו, “Jerusalem, built up, a city knit together” (Psalms 122:23), we should recognize the value of such resolution and strive, in the interest of both national and spiritual welfare, to internalize it as such. Wasn't the conjunction of these aspirations crucial to the climactic vision of Sinai? And was it not part of what Ruth, incisively imagined by Keats as sad-heartedly, “sick for home, / She stood in tears amid the alien corn,” at the Rubicon of personal destiny, intuited as essential to the molding and enhancement of permanent Jewish commitment?

Postscript

When this paper was initially presented to the Orthodox Forum last spring, it was subtitled: “An Overview Regarding Relationships with Non-Orthodox Jews.” Taken literally, this description augured, to say the least, a sweeping and indeed pretentious undertaking. It presumably was to include a historical survey and analysis of how relationships have in actual fact developed, without limitations grounded in geographic, historical, or cultural context. The historical playing

field was apparently to have been multiple sectors of religious existence, personal and collective; while covering the full range of Orthodox Jewry and its contrasting constituency, only negatively defined, of indiscriminate non-Orthodox Jews. Contemporaneously, the paper was, evidently, to study and describe the current sociological and ideological status of the respective groups, and, finally, to posit, prospectively, a recommended agenda and modality.

It was a tall order—excessively so; and I marvel and regret that I did not realize this fact fully at the time. In presenting this revised version now, more aptly and modestly subtitled, “Reflections Regarding Contemporary Relationships with Non-Orthodox Jews,” I have dealt with both the numerator and the denominator. That is, I have both increased the relevant material and reduced the menu to more modest proportions. In effectuating the latter, I relied somewhat upon this Forum’s mandate, whose introductory paragraph, geared to describing the aim of this Forum, spoke of coming to grips with “the question of how the Orthodox community addresses the Conservative and Reform communities to the additional question of how to address the growing secular Jewish community. This issue mirrors some of the aspects of the Israeli phenomenon and contains some uniquely American elements.” As any reader can judge, however, my presentation has fallen well short of realizing this more limited aim, even at the level of an overview, particularly as regards its scope. I have largely omitted treatment of secular Jewishness, in part because of lack of space and my personal limitations, and in part because while one can of course speak of secular Jewry and the spiritual orientation of nonobservant and non-believing Jews, secular Judaism, as such, is an oxymoron, as secular Anglicanism would be. This downsized essay is, then, centered upon the present scene, discussed against the background of past experience. It draws upon *halakhic* categories and their application, while yet clearly falling short of a full-blown Torah discourse, and it focuses upon a summary exposition of the direction I believe ought to be pursued, circumstances permitting. I have also, despite close to four decades of residence in *Erez Hakodesh*, paid relatively limited attention to the Israeli scene, which would require full treatment on its own.

I find this omission regrettable, but in closing I wish to assure the reader that the limitations were not the result of oversight. I simply feel that while much of my discussion is pertinent to the gamut of contexts billed in the introduction, much does not, since the differences between the respective confrontations are significant. One cannot equate a Reform movement, which explicitly rejects any formal fealty to *halakhah*, with the Conservative, which, despite recent highly deplorable shifts to the left, continues to nurture a self-image of *halakhic* commitment. Despite our profound difference from “believing Jews of other religious ideologies,” they obviously cannot rightly be denominated as secular. Likewise, the Israeli scene, particularly, as viewed from the vantage point of a *yeshivat hesder*, differs markedly from the Diaspora, the reality of common danger significantly heightening the sense of *brit goral*. When a *dati* and a *hiloni* have sat in a tank jointly, their common safety and respective futures often inextricably intertwined, the reality of their relation is perceived, intuitively and existentially, in light of their very special situation.

Hence, rather than lump disparate issues under a common umbrella, I have focused upon a narrower spectrum, and I leave it to the reader to invite comparison or stress dissonance. For the lacunae, I beg indulgence – ועוד חזון למועד.

NOTES

1. The editors would like to thank Rabbi Dov Karoll for providing translations of many of the primary texts in this chapter. (Northvale, N.J. 1992). ~~I should add, however, that irrespective of possible duplication in the choice of topic, the cast of contributors has changed markedly.~~
2. This chapter in German Jewish history has been widely studied and is the subject of a considerable literature. For our purposes, a recent book which combines detailed attention to this topic with analysis of its broader context—Adam S. Ferziger, *Exclusion and Hierarchy: Orthodoxy, Nonobservance, and the Emergence of Modern Jewish Identity* (Philadelphia, 2005)—is most helpful. One need not adopt the book’s theses—foremost among which is the assertion that in the modern era, the Orthodox community did not content itself with classifying outsiders but, in effect, built a new identity and molded fresh categories—in order to benefit from this study.
3. Coleridge rightly insisted upon radically differentiating faith from belief. Here I

- have largely ignored the distinction, however, since it is not very relevant to my topic.
4. Mendelssohn's position was in all likelihood oriented to his specific Jewish background and agenda. Beyond this, however, it probably reflects the pallid character of the Enlightenment. Recently, this position has been energetically pressed by Marc Shapiro, but it can hardly be defined as a variant of avowed Orthodoxy.
 5. See, e.g., Ramban and Rabbenu Bahyye, ad locum.
 6. See *Sanhedrin* 90a.
 7. See Alfred North Whitehead, *Religion in the Making* (New York, 1927), pp. 191-193.
 8. See *Sefer Hamitzvot, Assei*, 1-2; *Lo Ta'asseh*, 1; and MT, *Yesodei Hatorah*, 1:1-7. It is noteworthy that the Rambam evidently rejects agnosticism as well as atheism.
 9. *Mitzvot*, 1-2. The *Hinukh* diverges from the Rambam, however, with respect to some details of the content of belief. For instance, whereas the Rambam focused upon abstract metaphysical aspects of divine existence and providence, the *Hinukh* includes belief in concrete historical events:
 להאמין שיש לעולם א-לוה אחד ... וכי הוא הוציאנו מארץ מצרים ונתן לנו את התורה (מצוה כ"ה).
 To believe that the world has one God... and that He took us out of Egypt and gave us the Torah (*mitzvah* 25).
 10. השגות הרמב"ן על ספר המצות להרמב"ם, לא תעשה, ה'.
 11. *Perush Ha-Mishnayot*, Rav Kapah's edition, *Sanhedrin*, pp. 144-145.
 12. Probably the best-known is the critique of Rav Yosef Albo's *Sefer Ha-Ikkarim*, but he was certainly not alone.
 13. As to the substance of this *temimut*, *rishonim* disagreed. The Ramban, *Devarim*, 18:13, gave it a religious cast, inasmuch as we were commanded, in a sacrificial vein, to ignore knowledge, true though it might be, emanating from other entities, albeit recourse to that knowledge would enable us to avert prospective de-bacles. The Rambam, *Avodat Kokhavim*, 11:16, defined it in cognitive terms as a need to affirm and acknowledge that all forms of superstition and witchcraft are utter nonsense.
 14. *Berakhot* 10a. Strictly, and grammatically, speaking, the *pasuk* contains no deviation. The term *חַטָּאִים*, as punctuated with a *dagesh* in the *tet*, is the plural of the *nomen agentis* of *חָטָא*, "sinner," and not of *חַטָּא*, "sin." Nevertheless, as in many midrashic texts, even a minor irregularity suffices as the basis for homiletical comment.
 15. This course may very well be mandated by the normative thrust of *ahavat Israel*. Quite independently of that, however, its benefits—spiritual, ethical, and social—are self-evident, even from a universal perspective.
 16. *Avot*, 2:12. See Rambam, *Shemonah Perakim*, chs. 4-5, and MT, *De'ot* 3:3.
 17. See *Nefesh Hahaym*, III.
 18. For a recent example, see, *בינה ודעת*, הלכות מהללי שבת בזמננו (ירושלים). הרב מנחם אדלר, *בינה ודעת*, הלכות מהללי שבת בזמננו (ירושלים). Interestingly, while the volume is grounded upon rigorous premises and pervaded by them, the author—apparently recognizing that, in the modern con-

text, his conclusions and counsel are often untenable—frequently suggests consulting a *posek*, who could relate to the concrete situation as it arises and presumably could find grounds for leniency.

19. As an aside, it might be of interest to note, parenthetically, that, for the Rav, the recitation of *nishmat* was the climax of the *haggadah* during the *seder*; and, together with *יום הכיפורים סדר עבודת יום הכיפורים*, a highlight of his overall *avodat Hashem*.
20. In this connection, it might be noteworthy to cite a comment attributed to the late Lubavitcher Rebbe, that the problem with the Conservatives is not so much that they compromise, as that they regard it as a principle.
21. See *Guide*, 1:60ff.
22. Cf. C. S. Lewis, *Reflections on the Psalms* (London, 1958), ch. 3, “The Cursings.” While written from an explicitly Christian point of view—and hence not wholly palatable for a Jewish reader—the chapter contains some valuable insights.
23. *Kiddushin* 36a.
24. *Yoma* 57a.
25. *Berakhot* 7a.
26. *Sanhedrin* 111a. This conjectured exchange may also serve as an explanation for the repetition of the tetragrammaton after the pardon in *Ki Tissa* and its single mention in *Shlah*.
27. Mordecai, *Yoma*, 725.
28. See 17a-18a.
29. *Evel Rabbati* (= *Semahot*), 2:10. It is noteworthy that the “celebration” is confined to brethren and relatives, with parents evidently excluded. I presume that such a gesture is more than they could be asked to bear.
30. See Rashi, *Vayikra* 19:15, who cites from the Sifra two views regarding the identity of the referent in the *mitzvah* of *בצדק תשפט עמיתך*. As to the definition of *הפורש מדרכי ציבור*, Rashi, *Sanhedrin* 47a, *s.v. midarkei* (in an analogous connection, regarding the license for a *kohen* to defile himself in order to bury his father) explains, כגון מומר. The Rambam, however, defines him as one who, while not sinful, dissociates himself from *klal Yisrael*: “אף על פי שלא עבר,” “עבירות אלא נבדל מעדת ישראל ואינו עושה מצות בכללן ולא נכנס בצרתן in their travails” (תשובה ג:יא). The Rambam’s view was adopted, but also expanded, by the *mehaber*. See *Yoreh De’ah*, 344:8. See also *Rosh Hashanah* 17a, where Rashi states that the term encompasses a range of heretics.
31. Several years ago Michael Rosenak wrote of the Rav’s position in this connection and focused on this distinction. In doing so, he discussed a passage in *חמש דרשות* which sharpened the difference between the two realms, and, to some extent, denigrated the spiritual aspect of the non-Orthodox world. Rosenak saw this as the Rav’s fundamental attitude. At the time, I wrote him, objecting that the passage, enunciated in a highly partisan address at a Mizrahi convention, was grossly atypical, as anyone who knew and observed the Rav, including his direct rela-

tions with non-Orthodox circles, generally marked by dignity and respect, could readily attest; and that it was both inaccurate and unfair to relegate the work of a generation to the sidelines on the basis of a single brief passage. I also pointed out to him that he was basing his remarks upon a faulty English translation of a faulty Hebrew translation of the original Yiddish. Nevertheless, he held his ground. For the passage in question, see *The Rav Speaks* (a translation of *Hamesh Drashot*) (Toras Horav Foundation, 2002), pp. 43-47. It is true that the Rav was perturbed by what he rightly perceived as the tendentious and disingenuous substance of some *teshuvot* written by Conservative rabbis. I might add that I, myself, encountered something of this directly in working on a *responsum* intended to waive the ban on Gentile wine, which had been referred to the Rav—who then turned it over to me—by one of its Conservative opponents. But that is still a far cry from Rosenak's cavil.

32. See, e.g., Nathan Rotenstreich, "Secularism and Religion in Israel," *Judaism*, 15:3 (1966), 273-283; and my response, in "Religion and State: The Case for Interaction," *Judaism*, 15:4 (1966), 410-411.
33. Cf. *Iggerot Mosheh, Yoreh De'ah*, 1:139 and 2:106-107; and note the comment thereon in Marc B. Shapiro, *Saul Lieberman and the Orthodox* (Scranton, Pa., 2006), pp. 21-22, with regard to teaching in a Conservative *talmud Torah*. It should be noted, however, that Rav Mosheh's *heter* relates to the personal license of the teacher, whereas our discussion refers to the systemic public square.
34. See *Sanhedrin* 23a. One of the Gerer rabbei'im is reported to have commented—perhaps, half in jest—that they would sit with adversaries but insisted upon knowing who they were.
At some level, the issue arises with respect to the venue of publication as well, but, obviously, to a far lesser degree.
35. In a limited vein, the Rambam cites three distinct aspects of the *mitzvah*; see *Yesodei Hatorah* 5, *passim*. Above and beyond all three, however, is the overarching sense most consonant with פשוטו של מקרא, i.e., enhancing the sacral quality of His divine name(s). See Seforno, *Vayikra* 22:22.
36. *Sifre, Va'ethanan*, on *Devarim* 6:4. The portrait of Avraham as a great proselytizer is of course familiar from other *midrashim*; but the link with *ahavah* is telling.
37. *Shevuot* 39a.
38. See *Sotah* 37a and Rashi, *Rosh Hashanah* 29a, s.v. קמ"ל.
39. *Sanhedrin* 73a.
40. See *Baba Mezia* 31a; for the discussion concerning *avedah mida'at*. The Tur, *Hoshen Mishpat*, 260, assumes that in such a case ownership ceases as the object becomes *hefker*. However, the Rambam, *Gezeleh V'avedah* 12:11, holds that ownership remains intact, and only the *mitzvah* of returning the *avedah* is nullified.
41. The notion that a person is *not* master of his own being, while anathema to secular modernists, is of course a linchpin of classical religious thought. It served to negate a possible legal right to sell oneself, and, from Plato to Spenser, as a rationale (unlike Camus) for rejecting suicide.

42. *Baba Kamma* 69a. The final word in the original of this dictum is *veyamut*—literally, “and let him die.” However, as I presume that if the thief’s life were actually in danger, as he consumed his loot, one would certainly be duty-bound to save him, I have preferred to translate generically. The only “death” in question is that which is the just dessert of the sin.
43. See Resp. 142. For a recent survey of the formula and its qualifications, see R. J. David Bleich, “The Case of the Poisoned Sandwich,” *Tradition* (Fall 2008), 58–86.
44. These terms, each divisible into subcategories, all relate to non- or anti-*halakhic* content and are listed here in descending order of severity. The first denotes apostasy, the second entails violation of certain kinds of prohibition, and the third, failure to maintain a *halakhic* regimen, flexibly defined for various applications. The term אינו עושה מעשה עמך is more marginal than the others cited here. Moreover, its practical definition is relative to the area of its application. A single narrow aberrant violation does not, per se, place the deviant beyond the pale. See *Baba Mezia* 48b, Tosafot, s.v. *b’osseh*; and cf. *ibid.*, 62a.
45. It has been widely suggested that recourse to coercion is the litmus test serving as the Rubicon dividing the premodern *kehillah* from its successor; see, e.g., Ferziger, ch. 3. This assertion obviously invites a question as to whether this development entails an attitudinal shift or just the loss of requisite power.
46. See, particularly, “Religion and State: The Case for Interaction,” *Judaism*, 15:4 (Fall 1966), pp. 387–411; and *Judaism*, 16:2 (Summer 1967), pp. 226–227. Reprinted in *Leaves of Faith* (Jersey City, 2003, 211–232).
47. *Tefillin* 1:13.
48. *Kiddushin* 6a.
49. See *Shabbat* 68b and Rambam, *Mamrim* 3:1–2.
50. See *Sanhedrin* 26b, and Tosafot, s.v. *hehashud*.
51. See Ramban, *Bamidbar*, 15:22–30. I am inclined to think that a close reading of the Ramban’s text does not necessarily yield a radical distinction between collective and individual apostasy, with respect to their gravity and possible pardon. Even if one does read this into the Ramban, the scope of the distinction is, as I have noted, limited.
52. An analogy may be noted between this formulation and the question—debated by, *inter alia*, Kant vs. the Utilitarians—as to whether ethical and/or religious virtue is to be defined by subjective input and intent or by objective output and result. And indeed, some link exists, since, well before Kant, the matter had been treated in the world of *halakhah*, within which it figures prominently. Anecdotally, the following incident may be illustrative. At a meeting held some years ago between the staff of an Israeli yeshiva and a group of Conservative leaders, Dr. Schorsch cited the text of the *mishnah* in *Menahot* (110a), אחד המרבה ואחד אהד המרבה ואחד, הממעט ובלבד שיכוון ליבר לשמים “Whether one offers much or one offers little, as long as one directs his mind toward Heaven,” as a guideline for choice of a *posek*, on the basis of goodwill and intent, rather than upon the range of knowledge.

Whereupon an observer questioned whether he employed parallel criteria in selecting a doctor.

53. It should be stressed, however, that the history of dogmatic and doctrinal religious conflict is replete with illustrations of the thesis that tension—and, at time, persecution—is most intense when at issue are what to an outsider appear to be mere nuances, the very proximity sharpening the mutual threat.

דמינה מחריב בה דלא מינה לא מחריב בה (זבחים ג.).

Its own kind destroys it, while a different kind does not destroy it (*Zevahim* 3a).

54. Many Rabbinic ordinances, classified as *gezerot*, are rooted in the fear that neutral A may lead to undesirable B. However, Hazal established a general principle that גזירה לגזירה לא עבדינן; i.e., we don't proscribe neutral C out of concern that it will lead to neutral A, and thence to B. See *Bezah* 3a.

8

The Halakhic Status of the Secular Jew: A Question of Public, Not Personal, Halakhah

Yuval Cherlow

An eternal covenant has been established between *Am Yisrael* and the Almighty. The Torah repeatedly states that this covenant is a mutual commitment of two parties—we are to be the unique people of God, and we will accept him as our God. The first covenant was enacted with Abraham, and God combined the *brit* of circumcision with the eternal promise of a covenant with the Land of Israel and People of Israel. The final covenant is binding for all time. “I make this covenant, with its sanctions, not with you alone, but both with those who are

standing here with us this day before the Lord our God and with those who are not with us here this day.”¹

We are speaking here of an eternal mutual commitment as well as reward for those who keep the covenant and punishment for those who defy it. Nowhere does the Torah suggest in any way that it is possible to abrogate this commitment. True, toward the end of his life Joshua (24, 15) suggests that “if you are loath to serve God, choose which ones who are going to serve” but even this statement does not constitute a prophetic acceptance of the possibility of cutting the unique bond between God and *Am Yisrael*.

The Oral Torah expresses distinctly the *halakhic* implications of the covenant. The *halakhah* demands from each and every Jew to obey all of the Divine commandments. It does not recognize the right of a Jew to freely choose his/her faith and does not grant any legitimacy to breaking the covenant. There is no option to desist from keeping the *mitzvot*: *halakhah* does not recognize lifestyles that allow for the individual to choose for himself how to express his Jewishness; we find no *halakhic* possibility of cutting a Jew off from his God. In addition to the mandated commitment of the individual, the *halakhah* demands that the community enforce the observance of *mitzvot* by all Jews and offers a number of means to achieve this goal: it requires rebuking any Jew for transgressions and it forbids any Jew from “putting a stumbling block” before another by aiding transgression, even if the transgressor sees nothing wrong in his actions and has no intention of abiding by *halakhic* guidelines. *Halakhah* disqualifies a transgressor as a valid witness. It includes an entire system of sanctions to be applied to the transgressor.

In this way, the *halakhah* sees the Torah as that which constitutes the individual identity of the Jew and as the lynchpin of Jewish existence.

Halakhah distinguishes between identifying “who is a Jew” and establishing “what is a Jew.” The first question is answered using genealogical criteria—a Jew is one born to a Jewish mother—and adds to it the possibility of conversion. On the other hand, a normative Jew is one who fulfills the *regula* of the Torah. This observance is a necessary condition (even if perhaps not a sufficient one) to see one’s behavior as

appropriate as a Jew and as such to view the person as a proper member of the Jewish community.

According to Rambam, such membership is dependent not on behavior alone, but also on acceptance of philosophical principles. Maimonides formulates his reading of the Jewish precepts of faith, and at the end of his *Introduction to Chapter Helek*. He states that “anyone who denies any of those principles has left the community and denied the basis of Judaism and is to be called *min* and *apikoros* and it is obligatory to hate and destroy him.” Thus Rambam extends the sanctions imposed on deviant behavior to those who do not subscribe to the basic precepts of Jewish faith.²

From the end of the eighteenth century and throughout the nineteenth, the identification of the Jewish people with the Torah collapsed. Emancipation, secularization, national liberation, ideology, culture, internal dissention within observant Jewry in the wake of the controversy between Hassidim and Mitnagdim, remnants of the great disillusionment after the apostasy of Shabbtai Zevi, as well as other factors—all these brought many to lose their faith, and as a result to leave the way of the Torah. A literary expression of this reality is Shalom Aleichem’s *Tevye the Milkman*, which later became the basis for the Broadway play and Hollywood film *Fiddler on the Roof*. The different paths taken by Tevya’s daughters—one marrying a non-Jew, one emigrating to America, one off to Siberia—are both realistic and allegorical; they include a depiction of Russian Jewry at the close of the nineteenth century and an allegory of disintegration of the traditional Jewish world.

Torah Judaism has thus been confronted with one of the greatest challenges in the course of its history. The position that denies the legitimacy of any Jewish existence bereft of a commitment to Torah and *mitzvot*, for long upheld both by theory and in practice, has been confronted by a reality of a Jewish identity that has forsaken that very commitment. The *halakhic* approach found itself in a head-on collision with reality. Regarding those Jews who intermarried, assimilated, and denied their Jewishness there was no need for formulating a new *halakhic* stance. Many families sat *shiva* for such a child and cut off all familial or national connection with their offspring. Others, however,

retained their identity as Jews while rejecting the Torah of Israel. They expressed their Jewishness in different ways: through Yiddish language and culture, Jewish communal activity, or in the study of *Hochmat Yisrael* (academic study of Judaism). But these did not take place as part of the discourse of Torah within the Jewish people. In addition, toward the close of the nineteenth century the Zionist movement was established. This in effect was an alternative basis for Jewish identity, which offered the Jew a new focus of awareness and existence.

Paradoxically, this alternative saved the Jewish people, because it offered the possibility of being an integral part of the Jewish people without commitment to the God of Israel. The descriptions, prevalent in parts of the *haredi* world as if until the advent of Zionism all Jews were fully observant and Herzl is to blame for the phenomena of secularization and assimilation, are totally unfounded. Such claims deny the benefit that Zionism, with all its shortcomings, has brought to the Jewish people and which the Shoah has made even more evident. However, it cannot be denied that Zionism was a threat to the structure of Jewish identity based on Torah. The challenge was especially ominous because for the first time there was an alternative vision for the entire Jewish community and not just for individuals.

This new reality posed a difficult challenge to *halakhists*. It wouldn't be inaccurate to say that the initial response was one of confusion. There was a direct collision between declarations denying the possibility of secular Jewish existence and a reality which, ignoring those declarations, reflected a totally different basis for Jewish identity, both for the individual and for the Jewish people as a whole. Many Jews saw themselves as part of the Jewish collective, and even engaged in study of traditional Jewish texts, while totally rejecting *halakhic* norms. *Halakhists* had to confront this new reality as it related to personal behavior, as well to its impact on society, such as to the status of sanctions that in the past were applied to transgressors.

The classic strategy of the *halakhah* in dealing with new realities is application of pre-existing categories and structures. In general, the *halakhah* tends not to create new frameworks but rather prefers to examine reality from a familiar perspective. This is precisely what *halakhah* did when secularism became prevalent in the Jewish com-

munity toward the end of the eighteenth century. The first known responsum that deals with this new phenomenon was that of Rabbi Jacob Ettlinger (Germany, 1798-1871) in his book *Binyan Tzion ha-Hadashot*. Rabbi Ettlinger doesn't try to hide the perplexity in facing the new reality, and he shares his hesitation about the proper response:

... as to Jewish sinners of our time, I do not know how to consider them.... For because of the multitude of our sins the sore has spread greatly, to such an extent that for most of them the desecration of the Sabbath has become like a permissible act, unless we were to define them as "those who think that a certain transgression is permitted," which is considered close [but not exactly equivalent] to intentional transgressors. ... There are those among them who offer Sabbath prayers and recite the *Kiddush* and then violate the Sabbath in actions prohibited both by the Torah and by rabbinical decree, and while one who desecrates Shabbat is considered an apostate because denying the Shabbat is tantamount to denying the very act of Creation, this person affirms Creation by participating in the prayer and *Kiddush*.³

When dealing with the offspring of transgressors, he attempts to utilize yet another category:

Regarding their children who have never even heard of the laws of Shabbat, they are like the Saducees who are not considered apostates despite the fact that they desecrate Shabbat because they are only following the ways of their parents, and they are like infants who were held captive by idolators.

A careful reading will discern that Rabbi Ettlinger writes clearly that he doesn't definitively know how to digest this new phenomenon, unknown to *halakhic* decisors in previous generations. After presenting this doubt, in the short passage we quoted he tried to identify no less than four (!) possible categories that could be utilized: they may be *mezidim* (intentional transgressors), *omrim mutar* (those who incorrectly think that a certain forbidden action is permitted), *tinokot shen-ishbu* (captive infants), or *mumarim* (apostates). For the *posek*, these

are well-known *halakhic* categories, which had been used successfully to define phenomena in traditional Jewish society. Doing so required a not insignificant amount of *halakhic* juggling. For example, the “captive infant” is a category that originates in criminal law and lowers the level of culpability. Rabbi Ettlinger transforms it into a term that deals with normative communal behavior. This transformation is not totally original: it follows Rambam, who wrote of the children of Karaites as “captive infants.” (Mamrim 3, 3)

As I pointed out previously, this is the usual way for *halakhic* treatment of new conditions. Rav Ettlinger’s analysis was trail-blazing, and other *halakhic* categories subsequently have been proposed to define the status of the secular Jew, beyond the four that appear in the *responsum* quoted above. One example is to define secular Jews as a whole (in light of the Ramban on *Bamidbar* 15:22) as a community of inadvertent sinners. Recently Rabbi Yehuda Brandes proposed identifying the secular Jew with the classic *am-ha’aretz*. His claim is that the original meaning of the term refers not to the person’s intellectual achievement, but to the degree of *halakhic* commitment. The converse of the *am-ha’aretz* is not the *hacham*, but rather the *haver*, who is punctilious in his observance of *mitzvot*.

In analyzing the paths taken by the *halakhah* in recent generations we can discern four different methodologies:

1. An absolute denial of changes in reality, thus continuing to classify secular Jews as intentional sinners or even apostates. This is the approach of the Satmar Rebbe *zatzal* in his book *Va-Yoel Moshe* and of various contemporary *halakhic* decisions that forbid contact with secular Jews, and certainly deny recognizing them. I note that even Rabbi Ettlinger did not preclude the possibility of seeing them as intentional transgressors or apostates.
2. Awareness of secularization, but imposing a specific interpretation on the situation. For example, secular Jews are not culpable for their actions, because the reason for their being secular Jews is that they were “taken captive” since infancy. This definition comes close to defining secular Jews as people

- coerced into sin, since they had no way of determining what the right actions are and therefore have no legal responsibility.
3. Facing the reality of secularization but claiming that secular Jews are simply mistaken. This methodology allows different ways of defining them—whether as inadvertent sinners, as those who think that the prohibited action is in fact permitted, or as communal *shogeg*—and each possibility suggests a specific way of perceiving the secular world.
 4. A claim that *halakhah* itself recognizes different degrees of Judaism. This argument is the basis for the recent suggestion of Rabbi Brandes regarding *halakhic* recognition of the *am ha'aretz*. Another possibility, raised by Rabbi Dov Linzer (“The Discourse of Halakhic Inclusiveness” *Conversations*, Spring 2008/5768), is that in the modern era the notion of “one who says it is permitted” should not be seen a person who “should have known better” but regarded as one sincerely convinced that such actions are permitted and cannot be expected by us to believe otherwise. Consequently the *halakhah* can utilize the category of *omer mutar* to promote an inclusive attitude to non-observant Jews by the Jewish community.⁴

There is no need to explain the advantages of using ready-made *halakhic* categories. Defining new realities by using such categories continues time-honored *halakhic* process and allows wide acceptance of circumstances that were previously not recognized by *halakhah*. At the same time, we are all aware of the problems involved in *halakhic* decisions based solely on this type of deliberation.

The major impediment to this discourse is the obvious fact that the secular person is indeed a new reality. He is neither an infant nor a captive (this claim was already made by Rav Shlomo Zalman Auerbach *zatzal* in his book *Ma'adanei Shlomo*, pp. 27-29); he certainly has not adopted another religion; he is not simply someone who “thinks that that which is forbidden is in fact permitted,” since he (and many secular Jews) may have no intention at all of fulfilling the word of God; he is not an intentional transgressor, for he has no wish to rebel against the Almighty—he is simply a secular Jew.

We may prefer to continue and fool ourselves by insisting on defining him by using one of the traditional categories, thereby offending the secular Jew. These definitions are relevant to a Jewish society in which secularization is a marginal phenomenon but are impossible to sustain when most of society is secular and *shomrei mitzvot* are in the minority. Today's reality is even more complex, because most secular Jews retain some relationship to Judaism while entertaining a large variety of personal definitions of their Jewish identity.⁵

Beyond the conceptual problems regarding this method, there are additional difficulties in continuing the *halakhic* approach that identifies secularism with classical *halakhic* categories. For example, defining a secular Jew as a captive infant says little more than ruling that he should not be treated as a non-Jew because he is not culpable for his *halakhic* criminality. However, such a ruling does not offer guidelines to many day-to-day questions relating to interactions with a secular Jew. *Halakhically*, he is subject to all *halakhic* norms, including the prohibition "not to put a stumbling block" before him. In fact, sharing a society with secular Jews presents many practical questions. These have been pointed out in Rabbi Avraham Wasserman's recent book *L'reiacha Kamocha*, in which he states that identifying secular Jews as captive infants is far from a panacea for the crisis confronting our people and it does not exempt us from further analysis of the problem of secularization.

Furthermore, these definitions are incapable of honestly confronting issues regarding *halakhic* positions on issues of public policy in the State of Israel. The reality of Israel as a secular state raises questions relating not only to the status of the secular individual but to that of the secular public realm: legislation and courts, the commercial system and mutual cooperation, and the ability to maintain a society in which the majority does not accept *halakhic* norms and in effect forces the religious minority to compromise its religious life (examples would be the myriad problems of *tzniut* in the public domain, and prevalent transgression of the laws of *lashon hara* by the media).

Furthermore, these solutions include a modicum of self-deception. In a review of Rabbi Wasserman's book I pointed out that we allow ourselves easy solutions due to the fact that in our contemporary

reality there is a clear secular majority and we, as a minority, have to determine what our behavior should be.

This emphasizes the most complex questions. After all, the book deals with practical *halakhic* questions and proposes a possible way to navigate them, notwithstanding the difficulties I have mentioned. However, the most profound questions concern secularity itself. The reader of this comprehensive book will learn how to “manage” in a world with secular Jews, but will not know to what we aspire, and how we would want this world to look as long there are still those (ourselves included) who have not yet done full *teshuvah*. These are the questions which ultimately have to be asked regarding the individual and the community. Let us assume that there is a religious majority which would enable legislation of any behavioral norms we want—how then would we treat secularism? Would there be coercion to observe the *mitzvot* in both public and private sectors? Would there be legitimization for secular organizations? Given the gap in birth rates between the religious and secular communities, I’m not sure that these questions belong to the messianic future—we may be confronted with them sooner than we think. However, even if the practical application of these questions is distant, our answers—which touch the raw nerves of the attitude toward the “other” and the awareness of the autonomy of the individual in contrast with the obligation to serve God and keep his commandments—will guide our present conditions. Someone who learns Rabbi Wasserman’s book does not find out, at the end of the day, what we really think about secular Jews.

It seems, therefore, that we must introduce an additional *halakhic* method in order to deal with the question of the secular Jew. In order to do this, I wish to evoke a model which exists regarding the problem of mixed religious–secular couples, and to extend it to the public sphere.

One of the most complex and complicated questions regarding secularism and secularization is the *halakhic* attitude and ruling re-

garding a mixed couple in which one of the partners is not religious. This reality has become more and more common. This often happens when an unmarried woman decides to marry an unobservant man in order not to remain alone or as a result of lifestyle changes among couples in which one partner decides to become religious or conversely, no longer to be observant. This phenomenon is consistent with the attitude of tolerance, typical of our contemporary era.

As far as I know, there are no published *halakhic* decisions that confront this issue. There is “oral Torah,” which is disseminated in the name of various rabbis, but no clear and distinct *halakhic* response. We find no ruling requiring the observant partner to seek a divorce, and on the other hand, we don’t have decisions that honor the world of the secular partner and allow various *halakhic* leniencies in order to facilitate the life of such a couple.

To begin with, there is a basic question of policy: what is the correct attitude to these cases. Should our approach be grounded on the obligation for optimal *halakhic* compliance, and only if a marriage can allow such compliance shall we offer it legitimation? Conversely, we could have a different point of departure: the rabbi could see his bailiwick as the preservation of the existing family unit or of saving a woman from loneliness and distress and therefore could go the extra mile in order to find a *halakhic* way to assist such a union. Such a rabbi will support dissolution of the marriage only if its preservation is absolutely impossible.⁶

In the past, the answer to this question was simple: The Jew’s first and foremost obligation is the fulfillment of the commands of God. As such, the basic approach would question if this family could indeed observe the *mitzvot* in an optimal manner. If this is not to be, then the family has no *halakhic* right to exist.

Justifying the more lenient position (which is prevalent today) is more complex but is possible. It is grounded in awarding paramount importance to the sanctity of the Jewish family and based on the well-known Midrash: “The Torah says that in order to bring reconciliation between husband and wife, My holy name may be erased” (*Shabbat* 116a), which has many ramifications in rabbinic concern for the preservation of the family. This position is predicated on the view that the

covenant of marriage between the couple, which invokes He “who sanctifies his people Israel through *huppah* and *kiddushin*,” is profoundly significant and that this sanctity should serve as the basis for any *halakhic* deliberation. Consequently, many *dayanim* try to restore *shalom bayit* when confronted with a feuding couple; there are certain leniencies allowed in order to preserve marital life; and it is exceedingly rare for a *bet din* to use compulsion to effect a divorce in a case of transgressions *bein adam lamakom*.

I wish to emphasize that this is not a detached analysis of meta-*halakhah* or of a philosophical formulation of *halakhah*. I am using the very mode of discourse that should be utilized by a rabbi when determining the *halakhah*. The language that I refer to is the one of the *halakhic* tradition, which has its own type of argumentation and proof. However, it is undeniable that the choice of sources and the different weight given to different texts, all part of the traditional process of *psak*, derive both from a *halakhic* worldview and from an attitude which may be grounded in sources that are not only *halakhic*.

While, as I have noted, I am not aware of a systematic analysis of the question of the mixed couple, there are discussions of proximate questions, which can indicate possible approaches to these questions. One of them, common in the Diaspora, is the question of families created by marriage of a Jewish partner and a non-Jewish one. Regarding this question there is a broad range of views. Some rabbis refuse any contact with these families, demand that the Jewish community exclude them, and refuse to engage in conversion of the non-Jewish member, basing themselves on the *halakhah* that prohibits conversions for an ulterior motive.⁷ On the other hand, there are *poskim* who take a different position. Their attitude derives from the commitment to ensure that no Jew shall be married with a non-Jew and to try to “bring home” each member of the Jewish people. Therefore, within *halakhic* constraints everything possible must be done in order to prevent total estrangement from *Am Yisrael*. This question is on the agenda of Jewish communities all over the globe and unfortunately is also encountered in Israel today.⁸

Undeniably, these different *halakhic* positions result from profound spiritual disagreements regarding assumptions relating to the

preservation of Torah and not from formal disagreements about the interpretations of texts. Not surprisingly, the sources used by the discussants include those not to be found in usual *halakhic* discourse such as Midrash, description of traditions, and analysis of basic principles, alongside more conventional *halakhic* sources.

This essay does not focus on the question of conversion of those married to a Jew or of the status of Jewish couples in which one partner is *halakhically* observant and the other is not. I wish to treat the general question of the status of secular Jews, concentrating on the reality in Israel, but with ramifications for the Diaspora.

My lengthy introduction proposed that the question of secularism might require additional modes of *halakhic* methodology to the conventional one, and that this augmentation may enable resolution of many contemporary problems. I claim that in addition to the corpus of textual sources, the discourse must consider a broader *halakhic* view: not only on the individual, but also on the nation. This broader view would utilize the same approach that *poskim* adopt with the question of secularism within the family. Just as they supplement their *halakhic* considerations with concern for the preservation of the family, *halakhic* decisions regarding secularism must adopt a broader view of the question.

I will briefly note the essential assumptions that should inform *poskim* when dealing with secular Jews in the State of Israel.

1. Collective *pikuach nefesh*.⁹ The continued viability of the State of Israel is dependent on Jewish unity. This is an indisputable fact, obvious to anyone aware of Israeli reality and unrelated to any religious position. Our enemies know that if they succeed in creating dissent between the different parts of the Israeli population, they will destroy the major source of our strength. Indeed, they devote significant efforts to achieve that goal. Jewish history is full of cases in which internal conflicts brought about different types of *hurban*, among which we are most familiar with the strife at the end of the Second Temple period. Therefore, for purposes of national *pikuach nefesh*, *halakhic* decision-making must take questions of national unity into consideration. My position against refusal to obey orders

in the context of the uprooting of Gush Katif (as I presented in the 2006 Orthodox Forum) was derived to a great degree from this consideration, even granting the *halakhic* presumption that withdrawal from territory in *Eretz Yisrael* is categorically forbidden.

2. National unity: This is not just a condition for continued existence, but an inseparable part of the rabbinic ethos. This is akin to what we have noted in regard to the continued union of a couple when one has chosen to live a life of estrangement from Torah and *mitzvot*. Innumerable rabbinic statements deal with this issue. It is enough if we quote the Midrash: “Rabbi said: How great is peace, for even if Israel practice idolatry but manage to maintain peace among themselves, the Holy One, blessed be He, says, so to speak, ‘I have no dominion over them since peace is with them’” (*Bereishit Rabbah*, 38,6). It is impossible to maintain this solidarity when one side does not recognize the existence of the other, relates to him as an infant and as a captive, delegitimizes him for various purposes, and is unwilling to join common endeavors.¹⁰
3. The *halakhah* recognizes the concept of *derech eretz* and ascribes great importance to the way that communities choose to conduct themselves. We encounter this in all aspects of *halakhah*—such as in recognition of local commercial behavior, of communal legislation, and in the specific reference of the Torah, when dealing with the *mitzvah* of appointing a king and establishing a political regime, to “all of the nations surrounding me.” Not everything in the secular world is to be rejected only because it does not originate in Torah. This awareness can enable a broad footing for *piskei halakhah* regarding realms of activity created by the secular world which could be accepted by *halakhah* and allow cooperation with secular Jews.
4. One prevalent position in Orthodox education views the world as a struggle between the Children of Light and Children of Darkness. The Children of Light are Torah Jews, while the others are secular Jews.¹¹ This position is supported by a homiletical reading of *Bereishit* 20,11: “Surely there is no fear

of God in this place, and they will kill me because of my wife.” This verse would seem to support the assumption that ethical behavior is impossible in a place where there is no fear of God. However, this reading is not only textually incorrect (for indeed in the story Avraham is shown to be wrong, and God attests that Avimelech acted in good faith) but is also contradicted by reality. There are many things in the secular world whose introduction into the religious world (using requisite care in order to “convert” them) could enhance the world of Torah. In a previous article¹² I illustrated this claim by describing the contribution of secular Jews in crucial areas for us: the Zionist movement and the status of women based on equality. When the world of *halakhah* itself is aware of its own shortcomings, there is inevitably a different attitude toward secularism. For adopting such an attitude, Rav Kook *zatzal* suffered much contempt, but nonetheless it remains true. In the many governmental committees dealing with ethical questions in which I participate, I have met true *tzadikim*, who are devoted to transforming Israeli society to one of *tzdakah u'mishpat*.¹³

Halakhic decisions regarding secularism and the status of secular Jews must therefore take these three principles into account. The *posek* must assess if his *psak* endangers the existence of the Jewish people, must consider if it causes a perilous rift in the nation by jeopardizing the spiritual principle of unity, and must question if the renunciation of secularism or the disdain inherent in seeing all secularists as infants or as thoughtless sinners inhibits the possibility of the *halakhic* world itself to enrich itself by contact with elements in the secular world, elements that are vital for the *halakhic* world and for religious existence.

It is very important to emphasize that this position does not compromise the basic stance that negates secularism and does not deny the total commitment to covenant that I presented in the beginning.¹⁴ Unity and striving for unity do not mean uniformity and do not exclude profound disagreements and a constant attempt to bring the people of Israel closer to their Father in Heaven. The regard and acceptance of the secular “other” allow presenting him with a *halakhic*

alternative and with a deep Jewish identity. I fully believe that every Jew must be connected to his creator, from scrupulous observance of *halakhah* to deep inner relationship to the *ribono shel olam*.

My major assertion is that the attempt to define secularism by applying nothing but existing *halakhic* categories is insufficient. It is incorrect because it contradicts Torah and reality, and it shows lack of integrity because modern secularism is different from that defined in the classical sources. It is incorrect because it does not solve our contemporary problems. It is incorrect because it does not truly allow us to create a national entity and because it precludes true dialogue. On the other hand, a deeper understanding of the centrality of *ahdut Yisrael*, and a common understanding and the appreciation of the contribution of the secular world to the Torah, could allow a more worthy confrontation with the challenges before us.

NOTES

1. *Devarim* 29, 13.
2. Rambam notes additional ramifications of denial of the principles of faith in his *Laws of Repentance* (3:6). In his definition of those who do not merit a place in the World to Come he includes, among others “*minim, apikorsim*, those who deny [the divine origin] of the Torah, and those who deny the resurrection of the dead and the coming of the redeemer.”
3. Rabbi Jacob Ettlinger, *Binyan Zion ha-Hadashot*, no. 23.
4. A different attempt to define the status of the secular Jew is connected to social status. The Rambam states that “he who abandons the ways of the community, even if he did not violate the law, but separates himself from the community of Israel, does not perform *mitzvot* as part of the community, does not share in their afflictions, and does not participate in communal fasts, but rather follows his own way like a member of other nations, as though he was not part of Israel—has no place in the World to Come. He who, like king Yehoyachin, commits sins defiantly, whether he performed major infractions or minor ones, has no place in the World to Come” (*Teshuva* 3:11 and see *Aveilut* 1:10). Consequently, some authorities suggested that in addition to considerations of heretical ideas or of behavior not in accordance with *halakhah*, secular Jews should be excluded from the Jewish people because of their secession from the community. Interestingly, even Rav Kook agonized over this question and expressed the dilemma in his essay “On Those Slain in the Heights” (included in *Ma’amarei Hara’ayah* ed. Aviner and Landau, pp. 89-93). This question is especially intriguing in light of the consideration that when secular Jews become a majority, it is not clear if indeed they can be seen as “abandoning the community.” See below.

5. Another aspect of the painful fact that most Jews are not observant of the *mitzvot* is the entangled issue of conversion. The demand to accept “the yoke of *mitzvot*” as part of the conversion process requires more from the convert than is common among secular “traditional” Jews. We justify this requisite by saying that the requirements to join the “exclusive club” of the Jewish people are greater than those that will prevent us from excluding someone who already has joined the club. However, this argument is incomprehensible for many who cannot understand why norms accepted by the majority of the community do not suffice for the convert.
6. In the first paragraphs of *Shulchan Aruch, Even Ha-Ezer* 155 there is a list of violations of *halakhah* on the part of the woman which are grounds for divorce. However, it is not clear if the transgressions require divorce when the husband wishes to continue cohabitation. R. Ovadia Yosef (*Yabia Omer* 3, *Even Ha-Ezer* 23) discusses this problem, and after great hesitance and with immense *halakhic* sensitivity he concludes that it is possible to maintain the marriage, both because this is not a situation where the woman is to be suspected of adultery and because of the great value of *shalom bayit*.
7. See *Ahiezer* 3:26, which is based on a *responsa* of Maimonides 332. See also *Tzitz Eliezer*, who also followed Rambam. R. Ovadiah Yosef (*Torah Shebe'al Peh* 13, p.24) offers a lenient ruling, since a conversion for ulterior motives is, after the fact, valid and if that is the case, in the case of doubt it is permitted *l'chatchila*.
8. Many of the rulings of the special courts for conversion deal with these issues.
9. Many *halakhic* deliberations suggest that in dealing with questions of *Klal Yisrael* the perspective of the community should be taken into account. The article of Professor Rakover (“*Klal Yisrael*—Philosophy and Law” *Techumin* 16: 211-234) includes the basic sources for a discussion of this issue. An example of the implications of the existence of the State of Israel regards the question of ransoming captives, as in the painful case of Gilad Shalit. Many authorities have suggested that the *halakhic* considerations in the case of Jews who live among Gentiles are different from those that apply to an independent and sovereign state.
10. This factor was raised during the debate on Orthodox succession from Jewish communities in Europe, to which the *Netziv* in his writings expressed strong opposition, in disagreement with R. S. R. Hirsch.
11. This is reflected in the *halakhic* deliberations regarding testimony of secular Jews. Those who accept such testimony note the fact that the person is not presumed to lie or to engage in wanton sexual behavior, and therefore the testimony may be permitted *b'diavad*. See *Seridei Esh* (3,19). In a more general sense see the words of Rabbi Herzog (*A Constitution for Israel* 3, pp. 231 ff.), who speaks of natural morality, quoting R. Yonatan Eybeschuetz (*Urim V'Tumim* 28,3).
12. “*L'Chatchila*,” *Tzohar* vol. 5, 137-162.
13. R. Yehuda Halevi in *Kuzari* wrote far-reaching things regarding the classification of the commandments. He claims that the central message of the prophets is that anyone who is deficient regarding *derech eretz* should not climb to greater

heights, even regarding commandments such as Shabbat and circumcision. “For the Torah will not be complete without the fulfillment of the social and rational law, and in this law are included acts of justice and of thanksgiving for the divine good. If someone is lacking these, why should he bring sacrifices or observe the commandments of Shabbat or circumcision which are not mandated rationally, even if they are not rejected by reason (2,48).

See also my essay “Bat Mitzvah : Three Levels,” *Bat Mitzvah* (2002) pp. 128-138.

14. Regarding the position of Rav Kook I have written in an essay in Amnon Bazak (ed.) *Al Derech ha'avot: Jubilee Book for the Herzog College*, Alon Shvut 5761.

9

Halakhic Views Toward Different Jews

Yona Reiss

ויחן שם ישראל נגד ההר – כאיש אחד בלב אחד

“And the children of Israel encamped opposite the mountain [of Sinai]”—“they were as one individual (*ke'ish echad*) with one heart (*be'lev echad*).”¹

The Torah was given to one people. At the seminal moment of revelation on the mountain of Sinai, all Jews united in shared faith and acceptance of the yoke of Torah. One of the core components of our initial nationhood was this sense of shared destiny.

The paradigm of “*ke'ish echad be'lev echad*” certainly remains an ideal, but we as a people have wrestled continuously with the question of how to define our shared community and how to identify and relate to those who have strayed from its core mission and values.

Part I

The starting point of the discussion is necessarily the notion that “[*yisroel*] *af al pi she’chata yisroel hu*” (a Jew who has sinned is still a Jew).² Although there are scholarly critiques regarding the appropriate application of this principle, with some commentaries noting that the specific context in which it was coined (regarding *Akhan* taking from the spoils of *Yericho*) does not necessarily lend itself to sweeping generalization,³ we generally accept that a Jew cannot through behavior or belief be shorn of his birthright.⁴ Thus even a Jew who converts to another religion remains Jewish in the technical sense.

The implications of this principle are twofold. First, any transgressor remains obligated to observe *mitzvot* and remains subject to punishment for all transgressions. Second, the Jewish community views such an individual as Jewish, so that if the individual contracts a marriage with another Jew, a *get* (Jewish divorce) is required. If a Jewish woman converted to Christianity and bore a child, the child would be considered Jewish and could marry within the faith without requiring a conversion.⁵

On the other hand, there are also limitations imposed upon the inclusion of sinners in the community of Israel. Simply put, *mumar dino ke’akum* (an apostate/renegade has the law of a gentile).⁶ At least with respect to certain laws, one who has cast off the yoke of Jewish faith is treated as a non-member of the faith. This treatment has implications with respect to a wide range of practices, such as whether the individual may: (1) serve as a valid witness; (2) count toward a *minyan*; (3) be subject to the rights and responsibilities of laws relating to interactions with fellow Jews (*arvut*);⁷ or (4) be able to handle wine without rendering it prohibited wine (*stam yeynam*).

Who is defined as *mumar dino ke’akum*? First, the label applies to those who are actual apostates to another religion. Included as well are those who renounce belief in the fundamental tenets of Judaism, who knowingly violate all (or most) of the Torah even if only out of temptation (“*mumar l’khol haTorah kulah*”), who knowingly violate any precept of the Torah (at least according to some authorities) in hostile provocation (“*mumar l’hakhis*”), or who violate the *Shabbat* in

a flagrant, public fashion (“*mehalel Shabbat be’farhesia*”).⁸ However, there are mitigating considerations as well, including the limited level of exposure and knowledge that a Jew has concerning his or her obligations⁹ (“*tinok she’nishbah*”—literally, a Jew taken hostage as a child), which some authorities consider as a potential vindicating factor even concerning lack of faith,¹⁰ the mistaken notion of many Jews that their impermissible behavior is really permissible¹¹ (“*omer mutar*”) and our general lack of expertise in terms of knowing how to rebuke sinners¹² (“*ein anu beki’in betokhacha*”) in order to restore them to the proper path.

Much of the literature regarding appropriate levels of tolerance and inclusion with respect to non-observant Jews consists of a balancing act between how expansively to define *mumar dino ke’akum* and how much to weigh mitigating considerations. Upon a review of the rabbinic literature, three distinct approaches emerge among *halakhic* authorities:

The first approach is one of near-absolute tolerance (not of the sins, but of the sinners¹³). Advocates of this approach generally rely upon a combination of the Rambam’s description of descendants of the Karaites as *tinok she’nishbah*,¹⁴ the Ramban’s observation that there is greater room to label sinners as “inadvertent” if an entire community erroneously concludes that it is acceptable to forsake the Torah,¹⁵ Rabbi Yaakov Ettlinger’s argument that even a *mehalel Shabbat be’farhesia* could be classified as a *tinok she’nishbah* in the modern age so that his touching of wine would not render it prohibited,¹⁶ R. Dovid Tzvi Hoffman’s reliance upon that argument to allow *Shabbat* violators to count toward a *minyán*,¹⁷ and the Chazon Ish’s famous words about how people are to be held less culpable by the community for their sins in the modern age of hidden revelation.¹⁸ Adherents to this approach argue in favor of retaining an expansive definition of Jewish community which would accord virtually all sinners the full benefits of privilege and recognition in the traditional Jewish community.¹⁹

The second approach is one of “strict judgment” or “trepidation.” This approach relies upon a more limited reading of the Rambam (based on an apparently more accurate text in the *Mishneh Torah* concluding with the less embracing phrase of “*lo yemaher l’horgan*”—

“do not hurry to execute them”),²⁰ a more balanced reading of the Chazon Ish (noting that the Chazon Ish, taken on the whole, seems to support a more case-by-case analysis),²¹ a rejection of Rabbi Ettlinger’s thesis (based on a combination of the view of the Radvaz, who argued that Jews who are familiar with the existence of observant Judaism and observant Jewish practices could hardly be classified as *tinok she’nishbah*,²² and the observation that most people do not fall within Rabbi Ettlinger’s description of those who demonstrate their faith in God by “making *Kiddush* before violating *Shabbat*”), an endorsement of Rabbi Elchanan Wasserman’s²³ thesis, in the name of Rabbi Chaim Soloveitchik,²⁴ that all those who do not have faith in God are by definition willful sinners²⁵ (with an additional understanding, based on the Rambam, that one must believe in all thirteen fundamental principles of faith to be a member of the community of Israel)²⁶ and an acceptance of the general philosophy of the *Minchat Elazar* that there is a special requirement “*le’rahek ha’rehokim*” (i.e., to keep a distance from those who are distant) in order to protect the traditionally observant community from the insidious influences of the general culture.²⁷ Adherents to this approach espouse limited interaction with the non-observant, insulated communal institutions among the Orthodox, and heightened suspicion toward innovations in traditional *halakhic* practice.²⁸

The third approach embraces the rabbinic dictum of “*tehei smol doheh v’yamin mekarevet*” (literally, “the left hand shall push away while the right hand draws near”).²⁹ Proponents of this approach emphasize the common bonds that unite all Jews while also disqualifying sinners from certain Jewish law functions. The philosophical paradigm for this approach ranges from Rabbi Joseph B. Soloveitchik’s³⁰ distinction between a “covenant of fate”—shared by all Jews, and a “covenant of destiny”—manifested by entering into the Torah covenant of Sinai,³¹ to Rabbi Ahron Soloveichik’s pragmatic distinction between “friendship”—to be displayed to all Jews, and “fellowship”—reserved for those who keep the faith.³² The *halakhic* formulation of this approach is found in the *responsa* of Rabbi Moshe Feinstein (1895–1986, New York), who while viewing contemporary sinners as *tinok she’nishbah*, nonetheless maintained that as a technical matter they

remain disqualified from serving as valid witnesses,³³ and incapable of rendering a *minyán* “*tefilah b’tzibur*” (a communal prayer according to *halakhah*) through their participation,³⁴ because of the objective reality of their non-observance.

My sense is that the instinctive Jewish spirit weighs heavily in favor of tolerance and inclusion. Nonetheless, we engage in a balancing act of all three approaches, as we try to love all Jews regardless of creed or deed,³⁵ create insular communities to protect ourselves from the forces of assimilation, and, in accordance with Rabbi Feinstein, disqualify non-observant Jews as marriage witnesses and therefore save numerous members of their communities from *mamzerut* (illegitimacy).³⁶

How we navigate and negotiate the competing approaches defines our response to a variety of issues, both those that we have inherited from previous generations and those that epitomize the changes in contemporary Jewish life. In this sense, the topic of this article, although familiar, is nonetheless deserving of reassessment, since many current issues are implicated.

Part II

The remainder of this paper will use the three approaches outlined above as a springboard to focus upon three specific issues pertinent to our discussion: (1) the relevance of a person’s denominational affiliation; (2) attitudes toward other denominations and their clergy; and (3) defining and evaluating Orthodox Judaism today.

The first issue is whether it makes sense to assess relationships between Jews on the basis of denominational affiliations. How much does affiliation matter?

On the one hand, affiliation is an indication of a person’s presumed beliefs and aspirations. For example, the tolerant approach of Rabbi Yaakov Ettlinger was based on the argument that *Shabbat* desecrators worship at the same synagogues and live within the same community as their more observant co-religionists. In an early article in *Tradition* arguing in favor of inclusiveness of the non-observant Orthodox, Howard Levine posited that such Jews deserve “true Orthodox fellowship” by virtue of their seeking the truth of Torah and

keeping open “the channel of communication to the higher ideals of Torah.”³⁷ If non-Orthodox movements do not represent such channels of communication, then affiliation might indeed matter.

On the other hand, a person’s non-Orthodox affiliation was more of a statement at the time of the creation of separate denominations within Judaism than it is today. Those affirmatively breaking away from Orthodox Judaism may have been making a statement regarding their desire to break away from traditional *halakhic* practice or philosophical belief. Such consternation was certainly expressed in reaction to the formation of the Reform movement by rabbinic leaders such as Rabbi Samson Raphael Hirsch (1808-1888) and Rabbi Moses Sofer (1762-1839). However, today, when most Jews affiliated with these movements are in the category of “*ohazim be’darkhei avoteihem*” (following in the paths of their parents), as the Rambam writes with respect to the children of Karaites,³⁸ there is less of a basis to judge a person’s convictions based on denominational affiliation.

The second issue is how to relate to other movements as a whole, or to the clergy of the other denominations. While *poskim* might be comfortable viewing individual members as independent of denominational branding, the same does not ring true with respect to non-Orthodox clergy. For example, Rabbi Moshe Feinstein wrote in a number of places that any rabbi—even if personally observant—is disqualified from serving as a valid witness or *dayan* simply by dint of his willingness to affiliate with the ideology of the Conservative movement.³⁹ Second, *halakhic* authorities are more likely to reject the legitimacy of non-Orthodox movements as a general matter, as was most controversially demonstrated in the widely publicized (and criticized) declaration by a group of rabbis from Agudath Harabonim in 1997 that “Reform and Conservative are not Judaism at all. Their adherents are Jews, according to the Jewish Law, but their religion is not Judaism.”⁴⁰

The stronger reservation concerning association with non-Orthodox clergy and movements manifested itself in the ban issued by eleven *Roshei Yeshiva* in 1956 prohibiting Orthodox rabbis from participating in the Synagogue Council of America because it included clergy members from all denominations of Judaism. Among the signers

of the ban were such Torah luminaries as Rabbi Moshe Feinstein, Rabbi Aharon Kotler, Rabbi Yaakov Yitzchok Ruderman, and Rabbi Yitzchok Hutner.

Conspicuously missing from the manifesto was the Rav, Rabbi Joseph B. Soloveitchik. Correspondence of the Rabbinical Council of America indicates that the Rav was uncomfortable with any kind of public statement on both political and policy grounds. In various articles and letters, the Rav formulated a more nuanced balance between engaging non-Orthodox clergy with respect to social and political matters of importance to the broader Jewish community (*klapei hutz*) and refraining from dialogue or cooperation with respect to theological matters (*klapei penim*).⁴¹

Is the time now ripe for reconsideration of these boundaries? Sometimes areas of social concern cannot be addressed independent of the framework of *halakhah*. For example, with respect to *agunah* issues, I have found that there is an inestimable value in obtaining the cooperation of clergy across denominational lines to ensure that women receive *gittin* (Jewish bills of divorce) in accordance with *halakhic* requirements. Similarly, the collective Jewish community benefited from cooperation among all the denominations in submitting *agunah* cases from the World Trade Center tragedy to the Beth Din of America for resolution. The fact that Reform and Conservative clergy felt comfortable referring congregants to the Beth Din of America was attributable in part to our participation in a joint meeting of Jewish communal leaders in which we discussed the processes that we had put into place to help undertake these difficult cases.

Also, in an age in which Orthodoxy and its institutions have grown considerably stronger, there is arguably less of a danger of Orthodoxy being diluted through discussions with leaders from other denominations. Rather, there may be more of an opportunity to heighten observance levels, both on a communal level as well as on a personal level, with respect to individuals raised in communities outside of Orthodoxy who are truly seeking religious meaning and guidance from their Orthodox counterparts.

Indeed, we may be at a time when the threats coming from other denominations are not as relevant. Conservative Judaism, while

more traditional in nature than Reform Judaism, was viewed as more dangerous by Rabbi Joseph B. Soloveitchik because it purported to be *halakhic* while endorsing practices such as driving in a car on *Shabbat* to synagogue, which from an Orthodox perspective would constitute *mehalel Shabbat be'farhesia*. The danger from the Reform movement was less in the direction of distorting *halakhah*, but more based on the concern that it would draw Jews away from observance altogether. However, at this point in history, the Conservative movement is declining in membership and the Reform movement has become more embracing of tradition. Might this not be a golden opportunity to bring all Jews back into the fold of traditional Judaism through earnest discussion, expressions of unity, and “cords of love”?

Naturally, this thought process requires care and caution. However, my own observation is that there is more of a thirst for the erudition, authenticity, and institutional success embodied by Orthodox Judaism. In this environment, any overtures by other denominations to work together with Orthodox institutions should be viewed more positively and less skeptically. The main caveat, and concomitant test of sincerity for the non-Orthodox, would be the requirement that Orthodox institutions maintain *halakhic* autonomy and authority with respect to any such venture. Any diminution in this capacity would inevitably trigger all of the hazards anticipated by the *Minchat Elazar*, in insisting on complete repudiation, as well as by Rabbi Joseph B. Soloveitchik, in restricting areas of association.

The third issue is whether we are doing a good enough job of self-definition and self-evaluation.

What is “Orthodox Judaism” anyway? Rabbi Samson Raphael Hirsch, in his essay, “Religion Allied with Progress,” complained that the term “Orthodox Judaism” was created by the Reform movement, and that the term had the unfortunate effect of legitimatizing alternative denominations and practices within Judaism.⁴² One solution, which appears to have been adopted by Rabbi Mordechai Gifter,⁴³ was to marginalize the use of the term “Orthodox,” which does not appear on its face to lay claim to more authenticity than other denominational terms, and to use instead the term “Torah Judaism.” However, any

modifier to the term “Judaism” implies that we are committed to a culture of fragmentation and disunity.

Rabbi Abraham Isaac Kook (1865-1935, Israel), in a letter penned in 1932,⁴⁴ identified a separate pitfall with the identification of a particular group of Jews as the *Charedim* or “Torah Jews.” Bemoaning the bifurcation of Jews in the Holy Land into “*Charedim*” and “*Chilonim*” (secular Jews), Rav Kook argued that the age-old classification of Jews into the categories of *Tzadikim* (righteous), *Beinonim* (intermediate), and *Reshaim* (wicked) created more inclusiveness and potential for *teshuvah* (repentance) among all Jews. Otherwise, those who view themselves as *Charedim* or “Orthodox” or even *frum* (which is essentially the “*frum*” way of saying “Orthodox”) may see no need to examine their own shortcomings and do *teshuvah*, and those who are described as the “*Chilonim*” may view themselves as “*acher*,” beyond the pale of potential return.

Also, the fact that “Orthodox Judaism” has created a certain type of sociological community of observant Jews creates the potential danger for a “defining down” of prerequisites in observance.⁴⁵ In the context of conversion, Rabbi Chaim Ozer Grodzinsky (1863-1940, Vilna) articulated the standard indicia of observance (or *frumkeit*) as *Shabbat* observance, *kashrut*, and observance of laws of family purity.⁴⁶ However, while these are symbols of the most public and visible indications of observance, assuredly the requirements of *kabbalat ol mitzvot* (acceptance of the yoke of commandments) extend to all 613 commandments. Approximately a year ago, I attended a meeting of local Orthodox rabbis regarding conversion issues. At one point in the meeting, a respected rabbi in attendance blurted out in an agitated tone, “What about business ethics? How can we define people as observant if they live their lives in violation of basic Jewish principles of business ethics?!”⁴⁷

This issue, in turn, returns us to Rabbi Kook’s trenchant observation. In obsessing over the appropriate relationship between the Orthodox community, or “our” community, and Jews of other denominations and other observance levels, we run the risk of failing adequately to examine our own observance level. How should others

relate to us if we are guilty of *lashon hara* (derogatory speech), of business ethics violations, or of breaches in the obligation to love one's fellow Jew? We would be wise to consider the dictum of the *gemara* in *Bava Metzia*, "*keshot atzmekha ve'ahar kakh k'shot aherim*" (adorn yourself first before adorning others).⁴⁸ The best type of influence is through positive modeling of behavior, both on an individual and on a communal level.

At the same time, self-evaluation may be an easier exercise than self-definition. Even as we express renewed hope and optimism with respect to our ability to relate to Jews outside of Orthodox Judaism, the question of how we relate to each other within the Orthodox camp has become more vexing.

Significantly, there is no longer a single *posek* or group of *poskim* who are universally recognized by all segments of the community. Not every issue is decided on the basis of widespread consensus. There is much more "individualized" *psak* of different groups within the community, sometimes regarding the innovation of practices that strike many in the Orthodox camp as unconventional and uncomfortable, such as in the realm of women's participation in Jewish ritual. In a number of cases, Orthodox communities have witnessed the formation of new "*minyanim*" which sometimes seem to operate furtively and mysteriously, in accordance with less conventional rules and practices.

The individualization of ritual practice is consistent with a comment that I recently heard from a colleague that we are now living in a "post-denominational" age, a term that I later discovered had been catapulted into popular usage following a 2005 *Jerusalem Post* article by Uriel Heilman entitled "Beyond Dogma," which championed the "religious energy of post-denominationalism."

There is both a utopian opportunity latent in post-denominationalism as well as a serious danger. The opportunity is of reuniting all of the Jewish people under one banner. The danger is that this movement also has the potential to result in deeper fragmentation, as it paves the way for more individualistic definition of Jewish practice in confrontation with Torah tradition and threatens to obliterate notions of community. This is why tolerance in our tradition is always

tempered with trepidation. The resolution often lies in our ability, like Rabbi Feinstein's approach toward non-observant Jews, to craft an approach of pragmatic legalism based on age-old *halakhic* principles.

In this sense, we should not be so quick to cast aside the convenience of maintaining a defined community of "Orthodox Judaism." At least Orthodox Judaism has come to represent a certain preservation of tradition and acceptance of the authority of the leaders of the respected *yeshivot* and established rabbinic institutions that have effectively been defining our community for the last number of centuries. While no formal alliance was created, it was understood that certain institutions, such as Agudath Israel, the Orthodox Union, the Rabbinical Council of America, the National Council of Young Israel, Mizrahi, and a wide range of *yeshivot* encompassing both the likes of Lakewood and Yeshiva University, belonged in that camp, and that certain practices, such as the insistence on having a *mechitza* in synagogue, were requirements for Orthodoxy.⁴⁹ I think that there was also an unofficial acknowledgment of the legitimacy of the major *poskim* who rendered decisions for those in the "Orthodox" camp, even as there may have occasionally been rifts between different Orthodox communities regarding positions taken on individual issues (such as secular education and religious Zionism).

Elimination of any labels could thus have the adverse effect of blurring the accepted standards for the *poskim*, protocols, and institutions involved in the *halakhic* decision-making process. Thus, as I previously indicated, even as we seek to break down barriers, there is a value in paying heed to the sources of trepidation together with the sources of tolerance.⁵⁰ The ideal of *ke'ish echad be'lev echad* is ultimately predicated upon *kabbalat HaTorah* (acceptance of the Torah).

In conclusion, it appears that we are living both in an age of messianic potential for the future of Jewish unity but also in a time of serious peril. The challenge is in our ability to confront the balancing act with precise judgment and positive thinking. While a siege mentality might help preserve the existing infrastructure of Orthodoxy, it may also alienate those who are searching for a post-denominational age of both heightened individualism and at the same time greater Jewish unity. Opportunities will present themselves for dialogue with both clergy and laypersons of other denominational backgrounds, and there

are occasions when attitudes of tolerance can lead to *kiruv rehokim* (successful outreach) and a strengthening of the observant Jewish community. As long as our *sine qua non* remains absolute adherence to Torah tenets and a retention of *halakhic* autonomy at all times, we should be prepared, albeit gingerly, to undertake the challenge.

The Talmud in *Shabbat* 55a records a period (described in *Yechezkel*, chapter 9) in which the absolutely righteous people of the generation, who kept the entire Torah from “*alef*” to “*taf*,” were punished together with the sinners of the generation. Despite the fact that the reproach of the righteous would have gone unheeded, the Talmud explains that they were punished because they should have at least made the effort to engage in outreach with the non-observant members of the generation. Commentators discuss why the righteous people were held accountable, in light of the reality that their efforts would not have borne fruit.⁵¹ I would suggest that the message of this passage is that they were punished because of their provincialism—their attitude that the other Jews who were not observant were not even within the realm of their universe. May we be successful at elevating ourselves and our attitude toward all our brethren and thus merit returning to the pristine state that existed at the time of the Torah covenant at Sinai.⁵²

NOTES

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1. *Shmot* 19:2, and Rashi (Rabbi Shlomo ben Isaac, 1040-1105, France) *ad loc.*
2. *Sanhedrin* 44a
3. See *Maharshdam* (Rabbi Shmuel de Medina, 1506-1580, Salonica), *Even Haezer* 10.
4. See *Shulhan Arukh*, *Even Haezer* 44:9 (Rabbi Joseph Caro, 1488-1575).
5. Although this is the normative rule, there are gray issues on the margins. Thus the *Gemara Yevamot* 17a with respect to the ten tribes provides a basis for the possibility that an entire community could lose its status as Jews through assimilation, or that an apostate's descendants could similarly lose claim to their Jewishness following the passage of several generations (see, however, *Tzitz Eliezer*

- 13:93, Rabbi Eliezer Judah Waldenberg, 1917-2007, Israel). See also the *Tur* (Rabbi Jacob ben Asher, 1269-1343) to *Even Haezer* 44, quoting earlier opinions that held that even a first-generation apostate is fundamentally viewed as non-Jewish for purposes of contracting marriage. In the classic case of a child of a Jewish woman and a non-Jewish man, where the normative Jewish law is that the child is Jewish (see *Pithei Teshuvah*, *Even Haezer* 4:1), there are opinions that the child requires conversion if not brought up Jewish (*Maharit Algazi*, *Bekhorot*, 8th chapter), or that the child requires conversion if the mother had completely apostasized to another religion (*Igrot Moshe E”H* 1:8; this does not, however, appear to be a mainstream opinion). See generally R. Gedalia Felder (d.1992, Toronto), *Nachlat Tzvi*, Vol. 2, pp. 224-227, 229-230, and R. Aharon Lichtenstein, “Brother Daniel and the Jewish Fraternity,” in *Leaves of Faith*, Vol. 2 (New Jersey, 2004). Additionally, in the case of a Jew who has practiced another religion, the *Rema* (Rabbi Moses Isserles, 1525-1572, Poland) cites the practice that such an individual who returns to his Jewish faith, while still Jewish, needs to immerse in front of a *Beth Din* in order to accept *divrei chaverut* (*Yoreh De’ah* 268:12). As to whether a child of an apostate who was simply following the “customs of his forefathers” in practicing a different faith would need to undergo such an immersion, see R. Yitzchak Yaakov Weiss (1902-1989, Hungary and Israel), *Minchat Yitzchak* 4:100.
6. See *Shulchan Arukh*, *Yoreh De’ah* 2:5.
 7. Areas of application include lending to such Jews *b’ribbit* (with interest), or the ability to do *bittul reshut* (nullification of property interests) for an *eruv*, whether it is permissible to hate such people, whether the principle of *yotza motzi* (exempting others in the repeat performance of a *mitzvah*) would be applicable to them, and whether they are included in the commandment of *tokhacha* (rebuke). The application of certain laws may depend upon whether the term *achva* (brotherhood) is employed by the Torah (indicating a requirement of *ahikha be’mitzvo*— being kinsmen with respect to *mitzvah* adherence). See *Tzitz Eliezer* 8:18. See also D. Ariav, *L’reakha Kamokha* (Jerusalem, 5762), vol. 2, pp. 285-295, in which he discusses distinctions among different classifications of *mumrim* for purposes of many of these laws.
 8. See *Shulkhan Arukh*, supra n. 6, and *Sifte’i Da’at* (*Pri Megadim*) *ad lo.c.*, 2:17 (R. Joseph ben Meir Teomim, 1727-1793, Poland).
 9. See *Shabbat* 67b.
 10. See, e.g., R. Joseph Grunblatt, “Confronting Disbelievers,” in *Tradition* 23:1 (1987); *Rashash* (Rabbi Shmuel Shtrashan, 1819-1885, Vilna) *Shabbat* 31a, s.v., “*Geireh*.”
 11. See *Makkot* 7b, 9a. The degree to which the rationale of *omer mutar* can be utilized as mitigating culpability is dubious. The Rambam indicates in *Hilkhot Rozeach* (5:4) that an *omer mutar* is *karov l’meizid* (i.e., almost on par with the culpability level of a deliberate transgressor). See the discussion in R. Avraham Wasserman, *Re’akha Kamokha*, pp. 31-39 (5768).
 12. See *Erchin* 16b: אמר ר’ טרפון תמה אני אם יש בדור הזה שמקבל תוכחה . . . אמר ר’ אלעזר בן

- עזריה תמידני אם יש בדור הזה שיודע להוכיח ("R. Tarfon said: I wonder if there is anyone in this generation who can accept rebuke. . . . R. Elazar ben Azaria said, I wonder if there is anyone in this generation who knows how to rebuke"). See also R. Yonatan Voliner, *Marganita Tava*, para. 17, appended by R. Yisroel Meir Kagan (the *Chofetz Chaim*, 1838-1933) at the end of his book *Ahavat Chesed*.
13. See *Brachos* 10a.
 14. *Hilkhot Mamrim* 3:3; the basis of the exemption of a *tinok she'nishbah* from the punishment of *moridin* according to the Rambam is that he is viewed as *anus* (under duress).
 15. Ramban's Commentary to the Torah, *Bemidbar* 15:22.
 16. *Binyan Tzion* 2:23 (1798-1871, Germany). It was noted in an article in *Jewish Tradition and the Non-Traditional Jew* (p. 73) that Rabbi Ettlinger appended a notation that this responsum "was only theoretical in nature and not intended as a normative ruling." My own reading, based on his son's introduction to the volume, is that this notation was not made by Rabbi Ettlinger himself but by his son when his son compiled the second volume of Rabbi Ettlinger's *responsa*, which was published posthumously. The notation, which reads "*pesakim she'lo l'halacha le'maaseh*" (i.e., rulings that are theoretical in nature) actually introduces the entire set of *responsa* beginning with *responsum* 23 and continuing throughout the rest of the volume. From a close reading of the chronology of the *responsa*, it appears that his son may have published as *halachah le'maaseh* (i.e., normative rulings) those *responsa* that were authored after the publication of the first volume of *Binyan Tzion*, and as *pesakim she'lo l'halachah le'maaseh* those *responsa* (including 2:23) that were authored prior to the publication of the first volume but not chosen by his father for publication.
 17. *Melamed L'Hoel, Orach Chaim* 29 (1843-1921, Berlin).
 18. *Yoreh De'ah* 2:16; 2:28 (1878-1957, Israel).
 19. Rabbi Wasserman's book, *supra* n. 11, is generally reflective of this approach. See also R. Naftali Tzvi Yehuda Berlin (the Netziv, 1817-1893, Volozhin), *Meishiv Davar* 1:44, in which the Netziv stresses his concern that especially in the present era, when we exist in the world of exile, we should make a special effort to draw closer, rather than to characterize each other as heretics. See also his explanation in his introduction to *Sefer Bereishit* in *He'emek Davar* as to why *Sefer Bereishit* is called "*Sefer HaYashar*."
 20. See Menachem Adler, *Bina V'Daat*, p. 25, n. 67 (Jerusalem, 5768).
 21. See *Binah V'Daat, supra* n. 20 at 30-31, and n. 83, based on *Chazon Ish, Yoreh De'ah* 1:6.
 22. *Radvaz* (1479-1573, Safed), *Mamrim* 3:3. Interestingly, Rabbi Yehuda Herzl Henkin, in his book *Understanding Tzniut* (2008), levels a similar criticism with respect to what he rues as an over-reliance upon the concept of *Tinok Shenishbah* to justify tolerance for sexual relationships that are contrary to *halakhah*. See also R. Yerachmiel Fried, *Ma'adanei Shlomo, Moadim*, 26-29 (Jerusalem, 5762), who presents a similar view in the name of R. Shlomo Zalman Auerbach (1910-

- 1995, Israel) with respect to non-observant Israelis, but still maintains that such individuals should be treated as in the category of *shogeg*.
23. 1874-1941 (Lithuania).
 24. 1853-1918 (Brisk).
 25. *Kovetz Ma'amarim*, p. 19.
 26. *Bina V'Daat*, *supra* n. 20, at p. 8, n. 2; see *Rambam, Peirush Hamishnayot, Sanhedrin*, Chapter 10, s.v. "HaYesod HaYud Gimel."
 27. *Minchat Elazar* 1:74 (Rabbi Chaim Elazar Spira, 1871-1937, Munkatch).
 28. Rabbi Adler's book, *supra* n. 20, is generally reflective of this approach.
 29. See *Sanhedrin* 107b.
 30. Rabbi Soloveitchik (the "Rav") lived from 1903 to 1993.
 31. See Rabbi Joseph B. Soloveitchik, "The Voice of My Beloved Knocketh (*Kol Dodi Dofek*)," pp. 80-89 (reprinted by Student Organization of Yeshiva with permission of the RCA, 5768). In this essay, the Rav utilized this distinction to champion religious Zionism, which represented both the covenant of fate and the covenant of destiny, as opposed to secular Zionism, which represented only the covenant of fate. This distinction between the different covenants which bind all Jews socially and religiously is understood by many as thematically consistent with Rabbi Soloveitchik's earlier distinction (from a 1954 letter in the *Tog Morgen Journal*) between interacting with non-Orthodox movements with respect to matters "klapei hutz" such as political and social issues, and avoiding interaction with respect to theological issues. See Walter Wurzbarger, "Rabbi Joseph B. Soloveitchik as *Posek* of Post-Modern Orthodoxy" in *Exploring the Thought of Rabbi Joseph B. Soloveitchik* (R. Marc Angel, ed.; Ktav, 1997), and R. Seth Farber, "Reproach, Recognition and Respect: Rabbi Joseph B. Soloveitchik and Orthodoxy's Mid-Century Attitude Toward Non-Orthodox Denominations," in *American Jewish History* (June 2001).
 32. See Rabbi Ahron Soloveichik (1917-2001), "Jew and Jew, Jew and Non-Jew," in *Logic of the Heart, Logic of the Mind*, pp. 69-92 (Brooklyn, 1991).
 33. *Igrot Moshe, Even Haezer* 1:82 (section 11, s.v. "V'amina"), *Even Haezer* 4:32(7).
 34. *Igrot Moshe, Orach Chaim* 1:23.
 35. See, e.g., Rabbi Yisroel Meir Kagan, *Kol Kitvei Chafetz Chaim Hashalem*, 3:65.
 36. See, e.g., *Igrot Moshe, Even Haezer* 1:76,77.
 37. Howard Levine, "The Non-Observant Orthodox," in *Tradition*, Vol. 2, No. 1, pp.1-19 (1958).
 38. *Mishneh Torah, Laws of Mamrim*, 3:3.
 39. See, e.g., *Igrot Moshe, Even Haezer* 2:17; 4:13(3); 4:78; *Yoreh De'ah* 1:160, 4:58. In an earlier *responsum* (*Even Haezer* 1:135), Rabbi Feinstein appeared to be more ambivalent regarding the validity of a Conservative rabbi serving as a witness, speculating that perhaps he did not believe in the movement's dogma but accepted the post only for financial reasons. Rabbi Feinstein was more categorically dismissive of conversions performed by Reform rabbis (see *Even Haezer* 3:3). It should be noted that R. Ahron Soloveichik ruled that a conversion

- performed for an individual who previously underwent a conversion under Conservative auspices—where the rabbis officiated in Conservative synagogues and belonged to the Conservative movement—required a new blessing even if the rabbis were personally observant and the convert fully accepted the yoke of commandments. See *Techumin* 20:310; cf. Wurzbarger, *supra*, at 14.
40. A full text of the declaration can be found at http://truejews.org/Igud_Historic_Declaration.htm. The *New York Times* reported on the declaration prior to its issuance in an article entitled “Rabbi Group Is Preparing to Denounce Non-Orthodox,” by Gustav Niebuhr, March 24, 1997.
 41. See R. Nathaniel Helfgot, *Community, Covenant and Commitment*, pp. 143-157, and *supra* n. 31.
 42. See R. Samson Raphael Hirsch, “Religion Allied with Progress” in *The Collected Writings of Rabbi Samson Raphael Hirsch*, vol. 4 at 111.
 43. Rabbi Mordechai Gifter lived from 1915 to 2001 and served as a member of the Moetzet Gedolei HaTorah of Agudath Israel of America.
 44. Printed in *Ma’amarei Re’iya*, pp. 76-77.
 45. See also *The American Hebrew*, Vol. LXIII- No. 6 (June 10, 1898) p. 172, detailing the proceedings of the Convention of Orthodox Congregations, in which the chair, Mr. Lewis Dembitz, objected to the use of the word Orthodoxy on the grounds that the term was more indicative of belief than practice, and expressed a preference for the title *Shomre Hadath* (observers of the law). I am grateful to Rabbi Jacob J. Schacter for providing this reference.
 46. See *Achiezer*, 3:26 and 3:28.
 47. See also Howard Levine, *supra* n. 27 at 13-14, who makes a similar observation as a favorable consideration regarding non-observant Orthodox Jews who are at least scrupulous in their ethical behavior toward each other.
 48. *Bava Metzia* 107b.
 49. See also *The American Hebrew*, *supra* n. 45, quoting Dr. B. Drachman as favoring the term Orthodox because it is “identified in the popular mind with strict observance of the law, and we should cling to it.”
 50. My views on this subject have been shaped in part during my involvement in the Jewish communal world over the last decade. For an earlier piece written during my student days, see J. Reiss, “Who Is a Jew? The Rhetoric of Religion,” *Hamevaser* (May 1988).
 51. See, e.g., comments of Rabbi Elazar Moshe Halevi Horowitz *ad loc*. See also the comments by R. Nachum L. Rabinovich in *Jewish Tradition and the Non-traditional Jew*, pp. 202-203, with respect to this passage.
 52. I also direct the reader to a beautiful paragraph in the *Pardes Yosef* by Yosef Patzonovsky (circa 1875-1942, Poland), *Parshat Beshalach*, s.v. “*Umikan*,” in which he exhorts his readers to embrace all Jews, no matter how far they may have strayed, with the pithy phrase “*tov le’hahayot me’likvor*” (it is better to restore a person to life than to bury him).

10

What a Difference Place Makes: Reflections on Religious-Secular Divides in Israel and in America

Jeffrey Saks

From [both] the midst of a heritage which is compulsive and fateful and a terrible aloneness which are the source of the unity of the nation, issues forth the attribute of loving-kindness, which summons and drives the fateful collective to imbue their unity with positive content... The obligation of love for another person emanates from the self-awareness of the people of fate, which is alone and perplexed by its uniqueness.

— Rabbi Joseph B. Soloveitchik¹

*Do I contradict myself?
 Very well then I contradict myself,
 (I am large, I contain multitudes.)*

— Walt Whitman, *Song of Myself* (51)

In the 1980s Professor E. D. Hirsch's *Cultural Literacy* argued that the excesses of educational reforms instituted throughout the twentieth century by the progressive movement, and its emphasis on process over content, had robbed Americans of a "vocabulary of national discourse." In his book, Hirsch proposes that all Americans learn common points of reference to facilitate the equitable exchange of ideas.²

In Israel today, we are often told, the notion that citizens on either side of the religious divide might exchange ideas equitably seems to be an increasingly difficult proposition. The religious-secular divide—which, some polls tell us, depending on what else is happening in the news on any given day, is perceived as the greater threat to the future of the State—reflects the breakdown of a common cultural language.³

When I moved into a Jerusalem apartment, after my wedding a number of years ago, there were two other families who had been living there since 1948. Both families had come from the concentration camps, one via detention in Cyprus, to the Holy Land, fought in her wars, struggled and scrimped, raised families, and grew old. Despite the fact that one household was quite secular, and the other would have been considered ultra-Orthodox, the couples shared a bond of friendship and respect, forged from a half-century of remarkable common experiences. It is also true that the two gentlemen would discuss *Parashat HaShavua* while sitting together in the garden. There was enough of a common cultural vocabulary to sustain communication.

The current state of things, reflected in the Guttman Report and other surveys, points to an ongoing deterioration of conviviality among Israeli Jews. Perhaps paradoxically however, the Guttman Report also pointed out that, contrary to conventional wisdom, on the religious scale there is much more of a diverse continuum than a great divide: "The rhetoric of secular and religious polarization generally used to characterize Israeli society is highly misleading."⁴ This is true despite the fact that religious observance among contemporary Israeli youth

is not that much different from that of their parents. In other words, the perennial decline in observance we have seen from generation to generation seems to have bottomed out—perhaps because it has hit statistical rock bottom and has nowhere else to drop.⁵

Be that as it may, questions of *dati-hiloni* (religious-secular) relations and interactions in Israeli society are to a very large degree *sui generis*. That is, as I will attempt to show, we would be limited in our ability to extrapolate the sources of division in Israel (to whatever degree it does exist) in any meaningful way in order to understand the state of things in North America, or elsewhere in the Diaspora, and vice versa. Similarly, we would find ourselves limited in our ability to learn cross-cultural lessons across the ocean, regardless of which shore we stand on. In 1990, at an early meeting of this Forum on “Israel as a Religious Reality,” Prof. Eliezer Don-Yehiya (examining only one side of this equation) asked the question: “Does place make a difference?”⁶ I would agree with his conclusion: Yes, it does!

That caveat being stated, I believe that examining the state of things both in Israel and in North America would lead to deeper understandings, point the way toward new conceptions of the possible, and draw attention to noteworthy initiatives currently underway.

On the long lists of “*lehavdils*” that have to be made when one compares religious-secular interaction in Israel versus that in North America, the first and most prominent is surely that in the Jewish State we cannot separate the discussion from the political sphere, a situation that is entirely absent in America because of the division of Church and State. The ongoing project of constructing a Jewish society, especially given Orthodox hegemony over significant spheres of civil life, and the role and authority of rabbinic courts, presents unique challenges to *dati-hiloni* relations. Interestingly, polls show that many people don’t want to end the religion and state mix, per se, just to end Orthodox predominance. Such people speak of a desire to see Israel as “Jewish and democratic”—the positioning of Orthodoxy as *anti*-democratic should be clear.⁷

It is precisely this intersection of religion, power, and public policy in Israel that is unique in the Jewish world, and so fraught with tension. The so-called “status quo” outlining the role which religion ought

to take in the public square has its origins in a 1947 letter sent by David Ben-Gurion, Rabbi Y.L. Fishman (Maimon), and Yitzchak Gruenbaum on behalf of the Jewish Agency Executive to the leadership of Agudat Yisrael in Jerusalem, hoping to persuade them to support the partition plan for Palestine. The letter, born out of accommodation, outlined policy guidelines in the areas of *Shabbat* and *kashrut*, personal status, and an autonomous religious education system.⁸ Don-Yehiya points out that the status quo is more dynamic than its static name implies, and that its meaning has changed throughout different periods in Israeli political and social history. Yet throughout the sixty-plus years of statehood, the tensions have manifested themselves in the following three spheres.⁹

First, tensions become manifest as religious society attempts to enact and enforce religious laws, as mandated by *halakhah*, upon the larger society. This includes the areas of marriage, divorce, conversion, and personal status; forbidding the sale of *hametz* during Passover or the raising of pigs; closing of public transportation on *Shabbat*; etc. The “Who is a Jew?” debate is a classical example of this question.

Second, the attempt by religious society to protect its own institutions and interests, especially regarding allocation of public funding for education, but also including army service for yeshiva students (whether full exemption in the *haredi* world, and to a lesser degree the “*hesder*” arrangement for the Zionist *yeshivot*, as well as the issue of army service for women).

Finally, the tensions play themselves out within the realm of defining a Jewish national identity, often manifesting itself around public events or in the area of the ceremonial and symbolic (such as the program for *Yom HaAtzmaut* celebrations or which movies get shown on El Al flights).

These three categories of tension—religious society on the offense, on the defense, and in the public square—emanate from Israel’s unique religion-state nexus and have no parallel in American Jewish life.

Yet there is another element which makes comparison difficult. Is the analogy *dati:hiloni* (religious:secular) either accurate or useful in organizing our thinking? Consider a Modern or slightly right-of-center Orthodox C.P.A. who works in a large Manhattan firm—an

amalgam of some people I know. On *Shabbat* he wears a black suit and a hat, but he might actually go without a *kippah* at the office. His identity is complex. His social interactions are limited almost entirely to Jews just like himself. His professional life is spent almost entirely with people he considers to a very great degree to be “other”—and this despite the fact that many of them are Jewish (albeit non-Orthodox). He doesn’t differentiate in any meaningful way between his non-Jewish colleague and his assimilated Jewish co-worker. Both of them occupy a space which is almost wholly foreign to our friend’s sense of his authentic self—this despite the fact that he acknowledges that the non-affiliated Jew is a *Ben-Brit Goral*, with whom he shares a historic connection. Yet, in reality, our accountant tallies all of his figures in the *Brit Ye’ud* column; in what way does *Brit Goral* factor into the equation? His interactions with Jews qua Jews who don’t fit squarely within his camp are reduced to mere theoretical affirmations to what become abstract values: *kol Yisrael areivem zeh la-zeh*, Jewish unity, etc. I am not here speaking of commitment to principles, but to the default reality around which he organizes his life and identity.

I am obviously portraying a stereotype, to which we could marshal many exceptions. However, I believe it to be an accurate typology of how American Orthodox relate to those around them (with the possible exceptions of times of local or global anti-Semitism, or in certain cases of support for Israel in times of peril, which produce a certain level of *Brit Goral* solidarity). I specifically chose the workplace as my example, bearing in mind the purported remark of Isaiah Berlin that “everything is relative, except for when it comes to relatives!” Most of us have been at a wedding or family *simcha*, attended by the *haredi* cousin alongside the intermarried cousin, and everyone in-between.

In Israel, we speak of the categories of *dati’im* and *hilonim*; in America the Orthodox Jew sees himself set apart from the general culture in toto, which subsumes a large number of elements, including non-Orthodox Jews.¹⁰ As is known, how we define the “other” often says more about how we define ourselves.

In the words of Charles Liebman, “compartmentalization is especially appropriate to the conditions of the Diaspora, in which the model of the dominant culture encourages the distinction between the

religious identity of the individual and the attitude toward economic and political matters, including many social and cultural aspects of life.”¹¹ On the other hand, Chaim Waxman has noted that the “integral” or “expansionist” models of Israeli Orthodoxy are simply untenable in the Diaspora, for they are predicated on a majority Jewish (albeit secular) society on which the religious minority seeks to impact on all avenues of civil life.¹²

In America, one’s Jewish identity is voluntary; in Israel one’s Jewish identity is compulsory, be you secular-left or strictly Orthodox. As the great Israeli novelist A. B. Yehoshua—a hero of the Israeli left—recently put it, upon stirring a good deal of controversy among American Jews of various stripes:

We in Israel live in a binding and inescapable relationship with one another, just as all members of a sovereign nation live together, for better or worse, in a binding relationship. We are governed by Jews. We pay taxes to Jews, are judged in Jewish courts, are called up to serve in the Jewish army and compelled by Jews to defend settlements we didn’t want [sic] or, alternatively, are forcibly expelled from settlements by Jews. Our economy is determined by Jews. Our social conditions are determined by Jews. And all the political, economic, cultural and social decisions craft and shape our identity, which although it contains some primary elements, is always in a dynamic process of changes and corrections. While this entails pain and frustration, there is also the pleasure of the freedom of being in your own home.¹³

I am not sufficiently jaded to be uninspired by this formulation, yet I recognize that it is precisely this forced interaction which is the source of a great deal of our tension on this side of the ocean.

Moreover, it is not merely the slippery definition of what “secular” means that makes comparison difficult. It turns out that “religious” or “*dati*” is not necessarily easier to identify. (To be clear, I am speaking sociologically, not according to conformity with the *Shulhan Arukh*.) Among the accomplishments of the *Mizrahi* and later the *Mafdal*, the National Religious Party, as a religious-political movement during

the first sixty years of the State, was the establishment of “big tent” Orthodoxy.¹⁴ Partially as an attempt to keep the non-Orthodox denominations out of the picture, the religious establishment created institutions, or adopted existing framework— most significantly the *Mamlakhti-Dati* school system—which would reach out to and service a disproportionately broad segment of society. Regardless of your commitment to *shmirat ha-mitzvot*, you were counted on the *Mafdal’s* books as “one of us” because Religious Zionist institutions were educating you or your children. Combine this situation with the massive influx of *Edot HaMizrah* or Sephardic Jews starting in the 1950s, and Israel suddenly had the so-called *masorti*, or traditional, middle. This muddies the sociological waters. Which side of the purported divide do these Jews stand on? Religious or secular?¹⁵ This goes beyond the old sense that, for a certain segment of Israeli non-Orthodox, “the shul I don’t *daven* in is an Orthodox one.” These are complex questions, because identity construction is complex. Whitman tells us that people contain contradictions, as well as multitudes.¹⁶

In the United States “big tent” Orthodoxy, to whatever degree it existed there, is getting smaller all the time. When I think of the Orthodox synagogue that I grew up in (and started observing *Shabbat* in), with its almost exclusively non-Orthodox population, I know that I am considering a dying breed.

Finally, in the United States there is a long tradition of civil culture and discourse. In Israel, disagreements about things as mundane as a parking spot rapidly turn into World War III, and this situation fosters a complicated dynamic when discussing rifts in the social fabric that are as sensitive as matters of Jewish identity politics (the exception to this, of course, being times of national crisis, when unity and brotherhood prevail, in a way that both inspires as well as highlights the small-mindedness of some of the daily disputes the rest of the time).

This last feature, one foreign to the American experience, is a consequence of the ideas I have outlined above: a palpable sense that in Israel we are all in the same boat, and a small boat at that. In the process of wrestling for the rudder we collectively rock the boat, and sometimes lose our way at sea. The kinds of policies, programs, and initiatives that factions in Israel develop to address these features of

our societal fabric are by force colored by the interplay of politics and religion. That interplay also frames the hurdles that have to be surmounted by way of implementing solutions.

In Israel, Orthodox organizations concerned with this reality can be divided into groups that operate either out of a sense of collective crisis of national identity, or those that must choose a narrower conception of their mandate. Representatives of the former group imagine that the liberal left sit in the coffee houses of Tel Aviv, read *Ha'aretz*, and support the *hitnatkut* (the 2005 disengagement from Gaza), as a result of their disengagement from Judaism itself. Since members of this group, loosely identified with the right-wing of Religious Zionism, sense that they do not have the political power to address this issue through the system itself, they must circumvent the bureaucracy and have begun efforts to directly rectify the facts on the ground (as I will outline). As for the latter group, those who are forced into a narrower mandate and are loosely identified with the religious left, they get caught in the language of dialogue and conflict mediation—a type of “you are you, and I am I” with a commitment to finding some way to co-exist. Either way, solutions to particular problems in Israel emanate from this background.¹⁷

For these reasons, and others, we are limited in our ability to compare the experiences of Israeli *dati-hiloni* relations with American secular-religious interaction.

Nevertheless, there are a number of notable phenomena happening within the *Dati Leumi* community and impacting on how we relate to larger Israeli society, which should be noteworthy for America Jewry. Recognizing that, as Rabbi Aharon Lichtenstein has pointed out, “a *rabbanut* [Israeli Chief Rabbinate] with a leaner self-image and less grandiloquent tone would also be healthier”¹⁸—and a good deal more effective—and hopeless that reform will come from within, a number of organizations, most notably Tzohar, have been founded to essentially do an end-run around the rabbinic establishment.¹⁹ The success of such organizations, and to varying degrees their counterparts established from outside the Orthodox community, such as the emergence of *batei midrash* for the secular, by the secular, underscores the point that there is a great mass of Israeli Jews “in the middle”—neither Or-

thodox nor by any means hostile to religion. We must add to this mix the over one million Russian *olim* who arrived starting in 1989. Even accounting for the estimated 25 percent who are not *halakhically* Jewish, this was still a huge population influx which greatly added to the number of “Jews in the middle” – neither observant nor antagonist to religion.²⁰ I do not deny that there is a very vocal, organized secular “lobby” in the political as well as in the cultural sense. But we do a disservice to the “silent majority” of the Israeli middle to assume that all non-Orthodox are represented by figures like the late journalist and politician Tommy Lapid—an elitist, secular minority, albeit one with great influence.

Additionally, all of the work that has been done over the years toward “dialogue” between the two sides of the purported divide may have been founded on these mistaken ways of conceiving the framework. If these attempts have merely brought together representatives of either edge of what is a continuum, not a chasm, speaking over the heads of the masses in between, it should not be surprising that these attempts have reached and impacted on so small a segment of the population.

As was noted above, in the last ten to fifteen years we have seen an awakening within the *Dati Leumi* community, which, despite its desire for “big tent” Orthodoxy, had been historically averse to attempts to reach out to the unaffiliated middle. This awaking has manifested itself in the establishing of programs and organizations to do just that. Clearly, the 1995 Rabin assassination—perpetrated at the hands of one who, on paper at least, should have been a poster child for the Religious Zionist community and its institutions—was a stark wake-up call. It was as if a mirror was held up to the face of the Religious Zionist community in Israel; we saw ourselves as others see us for the first time, and it wasn’t a pretty sight. The community that imagined itself as a bridge within Israeli society had to rethink the manner in which it communicates with those around it.

To be clear, the awakening of the religious community as a force within larger Israeli society dates to the period following the Six Day War with the beginnings of the Gush Emunim movement, and later following the realigning 1977 elections.²¹ It was within this milieu that

internal criticism of the Religious Zionist establishment began to be heard, pointing to the *Mafdal* as a type of “Court Jew” or lap-dog, with calls from figures such as Rabbi Zvi Tau that we ought to be leaders, not servants (“*manhigim ve-lo avadim*”), pursuing our own social, educational, and religious agenda. In the ten years between the Rabin assassination and the disengagement from Gaza, the Religious Zionist community began to take tentative steps away from an isolationist mindset and began to look outward. (It remains to be seen in what way the disengagement has led to a reactionary wave of isolationism, although ongoing discussion of the degree to which the Religious Zionist community should support the State and her institutions indicates that the road toward integrationism is not a one-way street.²²)

Before I mention some specific examples, it is important to note an additional factor which may have brought about this Religious Zionist openness and attempt to impact in a more activist way on secular society. For almost a century the Religious Zionist camp operated under a notion that there was a hidden religious element to secular Zionists, which was embedded in their ideology and bore fruit in their pioneering activities. Most significantly, there was a core belief that ultimately this true essence would break forth and the *hilonim* would cast off secularism in favor of a return to religion.

This theological and messianic conception of secular society received its foundational treatment in Rabbi Abraham Isaac Kook’s 1906 essay “*HaDor*.”²³ Rav Kook argued that secular Zionists hadn’t abandon Torah out of rebellion, but out of their search for ideology (which they found in Jewish secular nationalism), seeing Torah as merely a list of abstruse rules and dry rituals. Rav Kook’s theology of secularism stated that the *hilonim*, if only we religious Jews might communicate the ideals of Torah, would quickly tear down the *mehitzah* they had erected between *halakhah* and nationalism. At the same time, he felt, the religious community would be transformed as the Torah itself shed its “*galuti*” mantle of narrowness and particularism.²⁴ While there has been some debate whether this essay was aimed only at Rav Kook’s own generation or is relevant for subsequent generations, some question its applicability to the contemporary scene, in which ideology has lost much of its cache, and secularists aren’t animated by worldviews.

After all, twenty-first century secularism is not the atheism, or even the deism of old, but a sort of modern vacuousness, in which we are not competing in a marketplace of ideas, but in a bazaar of consumerism and often crass or vapid low pop-culture.²⁵

In all cases, the mass national *teshuvah* movement predicted by Rav Kook hadn't taken place when the events in the decade from 1995 to 2005 pushed some in the *Dati Leumi* camp to take responsibility for helping actively bring it about.²⁶

What is notable about the organizations I will mention is that they all work outside of the national religious establishment, being independent of the school systems and the Chief Rabbinate. In fact, in the entire top-down curriculum for the *Mamlakhti-Dati* school system there is nary a mention of secular Jews in the context of how religious Jews can, should, and ought to live and interact with the non-Orthodox, and how such interaction plays itself out in the larger society. These topics, when addressed at all, are outsourced to organizations like Geshet or Yesodot.

Among the phenomena that we have begun to see in the last ten or fifteen years are the following:

A grassroots movement of idealistic, young couples have undertaken to transform communities by forming *Garinim Torani'im* ("Torah delegations") to move into a wide range of communities, in roughly fifty locations from posh Herzliya and North Tel Aviv to development towns such as Lod and Yerucham, as a form of domestic *shlichut*. While the earliest proto-*garinim* date back to the late 1960s, the movement has flourished only since the 1990s. While obviously similar in some ways to the Diaspora's Torah MiTzion Kollel movement, in almost every case the members of these *garinim* work in whatever profession they might have, and rent their own apartments with only a little bit of subsidy from one of the umbrella organizations that have been formed around these initiatives. The group of young couples in each locale embed themselves in the life of the larger community, organizing youth activities, after-school programs, *hesed* and social welfare projects, outreach, *havrutot* and classes, etc.—either independently or in conjunction with an existing but embattled and often previously ineffectual local synagogue. In many cases, the *garin* members are not

professional educators or rabbis (although a significant number are), but rather young couples who want to change the face of Israeli society by bringing Torah to locations from which it has been absent, strengthening what is seen as the spiritual vacuum of Israeli secular society. The slogan that best seems to capture the spirit of the movement is the attempt to “settle in people’s hearts (*le-hitnahel be-levavot*) as well as the land.”²⁷

Organizations such as MiBereishit may be well-known within the Modern Orthodox community for advancing parent-child Torah study (*avot u-banim*) in synagogues throughout Israel and the Diaspora, but their more significant activity may be providing quality curricular materials and study sheets to secular kindergartens and elementary schools—direct marketing of Jewish heritage to the “silent majority” in the middle (and their schools and teachers) who simply, and tragically, have never been exposed to it. ITIM, the Jewish-Life Information Center, founded by American Rabbi Seth Farber, similarly interfaces directly with the *hiloni* population attempting to make life cycle events such as weddings, *brit milah*, mourning, etc., opportunities for positive Jewish intervention. They also take an active role lobbying on behalf of prospective converts, or Russian *olim* who become entangled in the rabbinate red tape.²⁸ Organizations such as Maayanei Yeshua and Rosh Yehudi, with their information booths in bus stops and train stations throughout the country, take a page straight from the Chabad playbook, laying *tefillin* and distributing *Shabbat* candles and information sheets, attempting to be *Dati Leumi* alternatives. Again, these are not only attempts to circumvent the perceived ineffectualness of the bureaucracies and organs of established State religion (such as the *Minhal Hinukh ha-Dati*—bureau of religious education in the Ministry of Education—or the Chief Rabbinate), but also the aforementioned vocal, secular lobby.²⁹

Having enumerated a number of these *lehavdils* between the scene in Israel and that in North America, we turn our attention to the question of what, nevertheless, might each side emulate or learn from the other.

A visiting first-time tourist recently commented to me that he was surprised that in the Jewish State he couldn’t find a good deli sandwich

on rye! I responded that this is less remarkable than the fact that in the entire Jewish State one can't find a single full-time shul rabbi. As a by-product of the mentality that the state-run religious bureaucracy provides for all needs—from schools, to *kashrut*, to *mikvaot*, to *eruvim*, to *hevra kadisha*, and on and on—local synagogues have not bought in (*tarti mashma*) to the idea that hiring a rabbi is a worthwhile investment because they operate under the illusion that all necessary religious services are provided top-down. It's part of what we pay taxes for. This is related to the phenomenon of viewing synagogues as merely a place to *daven* or perhaps catch the *daf yomi shiur*. Although obviously *also* those things, Israel never adopted the notion of the synagogue as a center of Jewish life, an obvious side-effect of the otherwise positive fact of living in a whole society which is inherently Jewish and non-compartmentalized. In the Diaspora, the shul often becomes a "Jewish Center," a one-stop shop for all Jewish needs, and the rabbi's role is so conceived to play into his potential to act as a positive force within this larger agenda, including serving as an articulate spokesman for Orthodoxy to other denominations and the larger, unaffiliated Jewish community, to say nothing of a more activist orientation as an agent for Jewish outreach.³⁰

Although some of these rabbinic roles are filled, to varying degrees, by the municipally appointed *Rabbanei Ir* (chief rabbis of the cities), the impersonal nature of those positions generally neutralizes any potential to make an impact on individuals and families, the specific arena in which the American rabbinate has had its most significant impact. Furthermore, and without meaning to malign any specific figures, we must remember that rabbinic appointments at this level are made through political connections, not necessarily due to talent; are effectively tenured positions from which appointees cannot be removed; and have created a situation in which the rabbis have no constituency to whom they are genuinely accountable.

While it is too early to judge, there are signs of hope that this situation is beginning to change.³¹ More and more shuls in Israel are hiring part-time rabbis, and a number of organizations, such as Shaalei Torah and Eretz Hemdah, are attempting to provide training for community clergy. These idealistic, young rabbis attempt to hold a portfolio of

jobs that would more properly be served by a full-time professional, which include being available for *psak halakhah* or counseling, teaching and speaking, and, often most crucially, working with adolescents, whose *Dati-Leumi* parents fear are always at risk of going “off the *derekh*.” These rabbis do this for about a one-third addition to their other salary (usually as a teacher), and of course function without the team of professionals (executive director, secretary, youth director, etc.) on which their American counterparts can usually rely.

One noteworthy example of this change is Rabbi Binyamin Lau’s Ramban Synagogue in Jerusalem. Partially because of his own personal dynamism and constellation of talents, he has turned his part-time pulpit into an American-style “Jewish Center,” not just a place for *tefillah* and teaching, but a platform for social action in the larger Jerusalem community. The synagogue is located on the seam between Jerusalem’s wealthiest Anglo-Saxon neighborhoods of Baka and the German Colony, on one side, and the financially depressed and often dilapidated Katamonim and Gonen on the other. The Jerusalem Municipality sought out Lau’s partnership, and he is now the principle distributor on their behalf of charity and social welfare support for the southern district of the city. This “faith-based initiative” is testament to the power and potential of synagogue rabbis to reach across ideological lines, act as a source of good, and, in the most basic sense, be a force for *kiddush shem shamayim*.

In the other direction, we can look to the work of Israeli organizations such as BeMaaglei Tzedek, established in 2004 by a group of young activists to promote a grassroots agenda of social action and *tikkun olam*, especially as it relates to some of the shocking norms of Israeli life, including promoting disabled access in restaurants and public places, fair treatment to employees, including foreign workers, and generally tackling social inequality across society through educational programming.³² The activists were almost exclusively from within the Religious Zionist camp and articulated that their agenda was a reflection of “Jewish values,” yet they do not present themselves as an Orthodox organization per se. It seems to me that this approach enables them to have a broader impact without getting pigeon-holed into the identity politics of religion and state. In America, for a slew of reasons

including the relationship between an organization's mandate and its funding sources, one senses that Orthodox institutions are more explicitly particularistic, and denominationally focused and identified, potentially limiting their ability to have broad impact across Jewish or American society.³³ In Israel, however, this is one way religious organizations have succeeded in communicating and impacting across the divide. (This difference is borne out in a comparison between BeMaa-gelei Tzedek and its American counterpart Uri L'Tzedek—which promotes itself in the far more particularistic language of Orthodoxy.)³⁴

In place of a summary, I would like to end with a remark on a separate, yet related topic. Whether or not the Guttman Report is correct, that it's a continuum, not a divide, that separates religious and non-religious in Israel, there clearly does exist a chasm within our own religious society, and a painful one at that. If the borders of Orthodox religious identity in America are more porous, allowing for shades of gray within a spectrum ranging from liberal Orthodox to right-wing *yeshivish* (we might perhaps exclude Hassidic American society), in Israel we are compelled by the line of demarcation between those who serve in the army and those that don't—and the ideological positions from which that decision emanates—to live in a far more bifurcated world. We each tend to occupy our own little box, making occasional visits to the boxes immediately to the right or to the left. If I have no meaningful interaction with *haredi* Jews and society, with those I accept as partners in *goral* as well as *ye'ud*, regardless of what they may think of me, then my religious life is less rich, and so is theirs, whether they accept this proposition or not.

The old, pithy complaint of certain religious intellectuals that “the people we talk to we can't *daven* with, and those we *daven* with we can't talk to” no longer applies—neither in Israel nor abroad. We have come into our own as a religious, social, and intellectual community. Even if I wouldn't choose to be stranded on a desert island with any random member of my shul, I can easily select more than a *minyan* of folk with whom I would feel spiritual communion, and still draw intellectual succor, and simply enjoy conversing with, and still be able to say *kaddish de-rabbanan* upon conclusion! This self-sufficiency, however, should not delude us into thinking that we do indeed live on a desert

island, nor should it distract us from our community's responsibility to seek a bridge to those around us—both on the left and on the right.³⁵

NOTES

1. Rabbi Joseph B. Soloveitchik, *Kol Dodi Dofek: Listen—My Beloved Knocks*, trans. D. Gordon (New York: Yeshiva University, 2006), pp. 62-63.
2. E. D. Hirsch, Jr., *Cultural Literacy: What Every American Needs to Know* (Boston: Houghton Mifflin, 1987). For a good critique of the progressive movement's impact on twentieth-century American public education, see: Diane Ravitch, *Left Back: A Century of Failed School Reform* (New York: Simon & Schuster, 2000).
3. For one description of the current state of Jewish cultural literacy in Israel, see *Am ve-Olam: Tarbut Yehudit Ba-Olam Mishtaneh (Recommendations of the Committee on Jewish Studies in Public Education)*, Prof. Aliza Shinhar, Chairperson (Jerusalem: Ministry of Education, August 1994). The so-called "Shinhar Report," and the library of articles and books in its wake, paints a bleak picture indeed. I addressed these topics in my review of Adam Baruch's *Seder Yom: Hayye Yom-Yom be-Rei haHalakhah*, which appeared in *Modern Judaism* 21:3 (October 2001), pp. 283-287.
4. Commissioned by the Avi Chai Foundation, the findings of the Guttman Israel Institute of Applied Social Research were published in English as: Levy, Levensohn, and Katz, *Beliefs, Observances and Social Interaction Among Israeli Jews* (Jerusalem: Avi Chai, 1993). See also Leibman and Katz, eds., *The Jewishness of Israelis: Responses to the Guttman Report* (Albany: SUNY Press, 1997). A follow-up study was made public as *A Portrait of Israeli Jews: Beliefs, Observances and Values among Israeli Jews 2000* (Jerusalem: Avi Chai and the Israel Democracy Institute, 2003). Both studies are available online from: www.avichai.org.il.
5. Shlomit Levy and Hagit Hacoheh Wolf, "Jewish Identity of the Israeli Young Generation," in *Tomorrow: Background Policy Documents*, ed. R. Tal and B. Geltman (Jerusalem: The Jewish People Policy Planning Institute, 2008), p. 185 (available at: www.jpppi.org.il).
6. Eliezer Don-Yehiya, "Does Place Make a Difference?: Jewish Orthodoxy in Israel and the Diaspora," *Israel as a Religious Reality*, ed. C. Waxman (Northvale, N.J.: Jason Aronson, 1994), pp. 43-74.
7. See Charles S. Liebman and Eliezer Don-Yehiya, *Religion and Politics in Israel* (Bloomington: Indiana University Press, 1984), esp. the historic survey on pp. 57-78.
8. For the background of the status quo agreement, see Menachem Friedman, "VeEleh Toldot ha-Status Quo: Dat u-Medinah be-Yisrael" in *HaMa'avar me-Yishuv la-Medinah 1947-1949: Retzifut u-Temurot*, ed. V. Pilovsky (Haifa: Haifa University Press, 1988), pp. 47-79; and Eliezar Don-Yehiya, *Religion and Political Accommodation in Israel* (Jerusalem: Floersheimer Institute, 1999), esp. chapter

3. For the secular critique on the status quo, see Shulamit Aloni, *HaHesder: Mi-Medinat Hok la-Medinat Halakhah* (Tel Aviv: Otpaz, 1970), as well as her other screeds and rantings throughout the years.
9. Eliezar Don-Yihey, *Religion and Political Accommodation in Israel*, p. 48.
 10. American initiatives such as Aish HaTorah's "Project Inspire" (see www.kiruv.org) are noteworthy in this regard precisely because they attempt to encourage our accountant to "do *kiruv*" or outreach to his assimilated Jewish colleague. Some might see an evangelical impulse—pardon the expression—in such an effort to train "*baalebatim*" for grassroots *kiruv* work, but its existence highlights the fact that this simply does not take place on its own.
 11. Charles S. Leibman, "Religion and the Chaos of Modernity," in *Take Judaism for Example*, ed. J. Neusner (Chicago: University of Chicago Press, 1983), p. 157.
 12. Chaim I. Waxman, *American Aliya: Portrait of an Innovative Migration Movement* (Detroit: Wayne State University Press, 1989), p. 133. See also his "Jewish Identity and Identification of America's Young Jews," in *Tomorrow: Background Policy Documents*, ed. R. Tal and B. Geltman (Jerusalem: The Jewish People Policy Planning Institute, 2008), pp. 173-178 (available at: www.jpppi.org.il). Compare this, however, to the evangelical movement in America, whose attempt to imprint its values on the majority political, civic, and popular culture is well documented in: Daniel Radosh, *Rapture Ready: Adventures in the Parallel Universe of Christian Pop Culture* (New York: Scribner, 2008), and the 2006 documentary film *Jesus Camp* (see www.jesuscampthemovie.com).
 13. A. B. Yehoshua, "The Meaning of Homeland" in *The A.B. Yehoshua Controversy: An Israeli-Diaspora Dialogue on Jewishness, Israeliness, and Identity* (New York: American Jewish Committee, 2006), p. 9 (available at www.ajc.org). See also his recent collection of essays, where the Hebrew original of this selection appears, *Ahizat Moledet* (Bnei Brak: HaKibbutz HaMeuhad, 2008).
 14. Disbanded in November 2008, the *Mafdal* had drifted from its historic role as a pragmatic, social issues party and perennial coalition partner regardless of whom the governing majority was to a right-wing party focused on sectarian issues regarding the settlements. Much of the void left by the rightward shift, and subsequent demise, of the *Mafdal* has been filled by *Shas*, with their program of social welfare and education. Rabbi Binyamin Lau wryly commented to me that at the end, the *Mafdal* "was speaking the language of *klal Yisrael* but acting sectorially. *Shas* has done the exact opposite."
 15. For a description of how this played itself out in the educational arena, see Matityahu Dagan, *HaHinukh ha-Tzioni ha-Dati ba-Mivhan ha-Zman ve-haTekufah: Hamishim Shnot ha-Hinukh ha-Dati ba-Yisrael* (Jerusalem: Misrad HaBitahon - Mikhlelet Lifshitz, 2006). It is worthwhile noting that the occasional polls which show us that a certain percentage of graduates of the religious school system don't observe *Shabbat*, e.g., highlight the complications brought about by the picture I've painted: the question is how many of them came from homes that kept *Shabbat* in the first place?

16. Some even question the use of secular-religious dichotomies as useful tools. Dr. Zehavit Gross of Bar Ilan University is conducting interesting research on alternate models of understanding identity construction among secular Israeli youth, and we look forward to the publication of her data. I learned of her work at her presentation, "Multiple Religious and Secular Definitions Among Secular Adolescents in Israel," at the Fifth International Conference of the Israel Association for Research in Jewish Education (Jerusalem, January 8, 2009).
17. Aside from this one section, I acknowledge that in this paper I have not adopted Yoel Finkelman's distinction between "Religious Zionist Right" vs. "Religious Zionist Left," which would be informative were it not for space limitations. See his "On the Irrelevance of Religious-Zionism," *Tradition* 39:1 (Spring 2005), pp. 21-44. While hopeful for the impact the efforts I outline here might make in the future, Finkelman's pessimistic analysis of the degree of past impact should be borne in mind.
18. Aharon Lichtenstein, "The Israeli Chief Rabbinate: A Current Halakhic Perspective," in *Israel as a Religious Reality*, ed. C. Waxman (Northvale, N.J.: Jason Aronson, 1994), p. 135.
19. See Adam Ferziger, "Religion for the Secular: The New Israeli Rabbinate," *Journal of Modern Jewish Studies* 7:1 (March 2008), pp. 67-90. Those interested in Rabbi Soloveitchik's critique of the Chief Rabbinate, and of religion-state interface in Israel, should see my "Rabbi Joseph B. Soloveitchik and the Israeli Chief Rabbinate: Biographical Notes (1959-60)," *B.D.D. Journal of Torah and Scholarship* 17 (2006), pp. 45-67.
20. I admit that for a large segment of the Russian *olim*, while there might not be antagonism toward religion, there might very well be indifference. Unlike the Sephardic *masorti'im*, those who emerged from behind the Iron Curtain have no well of nostalgia on which to draw.
21. Dr. Ruth Calderon, head of the secular Alma College in Tel Aviv, recently commented to me that the transformative nature of the 1967 Six Day War, which lead Religious Zionists to believe they were witnessing the incipient stages of the messianic era, has its mirror parallel for the *hiloni* community in the 1973 Yom Kippur War. The near calamitous result of the Yom Kippur War led the secularists to question their own belief in the ethos of the Sabra society, allowing for an openness to Jewish, not merely Israeli, culture, albeit a Jewish culture constructed and interpreted in a secular vein. On the societal impact of the Yom Kippur War see Tirza Hechter, "Historical Traumas, Ideological Conflicts, and the Process of Mythologizing," *International Journal of Middle East Studies* 35:3 (2003), pp. 439-460.
22. See Dr. Yoel Finkelman's contribution to this Forum for a discussion of this issue.
23. Printed in *Eder HaYakar ve-Ikvei HaTzon* (Jerusalem: Mossad HaRav Kook, 1967), pp. 107-116. Surprisingly, this important essay has yet to be translated into English.

24. R. Yoel Bin-Nun's recently completed doctoral dissertation is of interest in this regard. "The Dual Source of Human Inspiration and Authority in the Philosophy of Rav Kook" (Hebrew), Ph.D. diss., Hebrew University (November 2008).
25. The philosopher Charles Taylor's recent *A Secular Age* (Cambridge, Mass.: Harvard University Press, 2007), makes an 874-page argument against my thesis here, suggesting that God is not dead, but removed to arenas such as moral inquiry and aesthetic sensibilities. If modern man would only look there, suggests Taylor, he would discover pathways to religion. Be that as it may, I suggest that *hoi polloi* are not opening those windows to a modern theology but are all too often mired elsewhere.
26. See Asher Cohen, *HaTalit ve-haDegel: HaTzionut ha-Datit ve-Hazon Medinat ha-Torah be-Reishit ha-Medinah* (Jerusalem: Yed Ben-Tzvi, 1998); and Dov Schwartz, *Etgar u-Mashber be-Hug ha-Rav Kook* (Tel Aviv: Am Oved, 2001), esp. chapter 2, as well as his other books in that series all dealing with the origins, ideology, and crises of Israeli Religious Zionism.
27. There is no research on the *garinim* yet available, but a doctoral dissertation is being completed by Mati Dombrowsky at Bar Ilan University. A website at www.garinim.org.il purports to be an informal portal for the various *garinim*.
28. On ITIM see www.itim.org.il, as well as Ferziger, "Religion for the Secular," *op. cit.*
29. I make no claims as to the long-range impact of these organizations. It's too early to tell, and no statistics or research are yet available. However, their existence signals a positive new orientation with much potential.
30. I can only attest to the catalytic impact that my own synagogue rabbi and his family played in my life as a young teenager. I am speaking of Rabbi Steven M. Dworken z"l, of Cong. Anshe Chesed in Linden, N.J. For an array of some of the roles that an industrious synagogue rabbi can play in America—and which are often absent in Israeli communities—see *The Rabbinate as Calling and Vocation: Models of Rabbinic Leadership*, ed. B. Herring (Northvale, N.J.: Jason Aronson, 1991), but for our discussion, especially the essays by Rabbis Ephraim Buchwald, Joel Tessler, Haskel Lookstein, William Cohen, Saul Berman, and Shubert Spero.
31. See Adam Ferziger, "Asseh Lekha Kahal: Temurot Makbilot be-Rabbanut ha-Ortodoksit be-Yisrael uve-Tzfon Amerika" forthcoming in: *HaRav*, ed. Y. Stern and S. Friedman (Jerusalem: Israel Democracy Institute).
32. BeMaaglei Tzedek's flagship initiative is their "*Tav Hevrati*," a sort of social justice *teudat hekhsher*, displayed alongside the certificate attesting to the *kashrut* of the food ingredients, this "social seal" testifies that the restaurant agrees to treat its employees fairly, provide a safe work environment, pay minimum wage, as well as enable fair access to the disabled. The certificate explicitly states that it does not certify the *kashrut* (in the conventional sense) of the food being served. When BeMaaglei Tzedek started this project, I admit that I thought it was a nice idea but unlikely to have much impact. In the intervening few years I have noticed that many people, of varying ideological and religious stripes, with whom I set appointments to meet over coffee ask that we only go to a café that has the *Tav Hevrati*. See www.mtzedek.org.il for more information.

33. An exception to this might be Chabad's work combating substance abuse. But of course, Chabad is an exception to so many rules.
34. Uri L'Tzedek was founded in 2007 in New York, calling itself "an *Orthodox* social justice organization guided by Torah values and dedicated to combating suffering and oppression" (see www.uriltzedek.webnode.com). See the interesting, and rather heated discussion on the role and need for this type of social activism in the North American Jewish educational scene which took place on the Lookjed email list in March-April 2009 (archived at: www.tinyurl.com/uriltzedek). In that forum some of the rhetorical attack on Uri L'Tzedek was waged because the organization frames itself specifically as a criticism of contemporary Orthodox education.
35. Throughout this paper I have consciously not addressed the so called *Hardal*, or *Haredi Leumi*, phenomenon. A careful analysis of this community is required, and no doubt the manner in which they relate with other ideological and social groups in Israel would be of interest to the present study.

11

Relationships Between Religiously Observant and Other Troops in the IDF: Vision Versus Reality

Stuart A. Cohen

From a sociological perspective, undoubtedly the most significant characteristic of the IDF is its structure as an overwhelmingly conscript army. Salaried professionals in the Israeli military are vastly outnumbered by men and women drafted for two to three years of service at age 18, who are also liable for mandatory terms of annual reserve duty until middle age. Manpower requirements undoubtedly provided the principal impetus behind Israel's original decision to institute conscription.¹ From the first, however, societal desiderata also loomed large. David Ben-Gurion, the man who did more than

any other to create the IDF and determine its structure, was acutely conscious of the role that the military could play as a national “melting pot” and was determined to see it do so. As he informed a group of newly commissioned officers in 1949:

While the first mission of the IDF...is the security of the State, that is not its only task. The Army must also serve as a pioneering educational force for Israeli youth, both native born and immigrants. The IDF must educate a pioneering generation, healthy in body and spirit, brave and faithful, which will heal tribal and Diaspora divisions and implement the historic missions of the State of Israel through a process of self-fulfillment.²

In large part, Ben-Gurion’s vision of a homogenized Israeli society focused on the need to bridge the gaps between native *sabras*, who were predominantly *ashkenazim*, and the large numbers of immigrants who began arriving in 1948, most of whom were *mizrachiyim*. But he also hoped that interpersonal relations between religiously observant and non-observant troops might be improved by the experience of common military service. Hence, he categorically dismissed all suggestions that the IDF follow the segregationist precedent set by the *Haganah* high command, which in the years prior to statehood had allowed the organization’s *dati* combatants to serve in their own homogeneous fighting formations. A delegation comprised of the political leadership of the national-religious political party (*Mizrachi*), who came to see Ben-Gurion in 1949 in order to advocate the establishment of specifically “religious units” in the IDF too, soon found itself shown the door. Determined to preserve the integrative ethos implicit in universal conscription, Ben-Gurion brought the discussion to a swift and abrupt halt with the dire prediction that the creation of “religious units” would merely “result in the creation of anti-religious units.” His parting shot was as emphatic as it was terse: “Our army will be a united army, without ‘trends.’”³

For many years, assessments of Ben-Gurion’s attempts to employ military service as a tool of social engineering tended to be extremely favorable. This is true as much with respect to relations between religious and non-religious Jewish communities in Israel as with

regard to divisions related to differences of class, ethnic and national affiliations, and gender. In all cases, it was widely believed, the IDF functioned as a “nation binder.” Moreover, thanks to the institution of compulsory reserve duty, which ensures that personal interaction among troops is regularly refreshed, military service was thought to create a national climate of mutual understanding that spilled over into the civilian sphere too. With specific reference to relations between religious and non-religious segments of society, this case was most explicitly argued by Samuel Rolbant, an American military sociologist. Writing in the late 1960s, a time when virtually everything the IDF touched seemed to turn into gold, Rolbant reported that conscription’s principal achievement has been not that it has enabled the devout recruits to observe the requirements of the Torah, but that it has helped to break all barriers between men who lived their lives in vastly different cultural milieus. Boys from religious families could mix freely with antireligious boys from secularist left-wing kibbutzim, learning to give and take, to disagree while respecting the other’s right to his own view, to refrain from excesses of behavior and find a deeper unity of purpose.⁴

That assessment was probably over-enthusiastic even when first written. Viewed from the distance of almost four decades, it certainly needs to be revised. After all, since 1967, relationships in Israeli society at large between Jews who are not religiously observant and those who are (to one degree or another) have become far tenser than either Ben-Gurion or Rolbant could possibly have envisaged. Most obviously is that so at the extremities of the spectrum, represented by the ultra-Orthodox communities (*haredim*), on the one hand, and by dyed-in-the-wool secularists on the other. Although observers identify attempts by many *haredim* to integrate into certain areas of national life,⁵ by and large it remains true to say that their lifestyles remain entirely their own. Recent decades, moreover, have witnessed clashes between *haredim* and secularists over a wide spectrum of issues that both sides consider to be vital cultural markers: the flow of traffic

through *haredi* localities on the Sabbath; the conduct of post-mortems; the location of archeological digs; parades by gays in Jerusalem; and, especially the application of rabbinic family law.

Most contentious of all, however, has been the massive extent to which *haredi* males of military-service age now exploit the permission legally granted to them to “defer” their conscription on the grounds that “the [study of the] *torah* is their profession.” Whereas just a few hundred were originally granted this privilege in 1948, the numbers have since grown exponentially: to 8,257 in 1977, to 16,000 in 1985, and to some 45,000 in 2008 (a figure equivalent to over 10 percent of the total available pool of potential IDF recruits).⁶ True, “draft dodging” of one sort or another is alleged to be rampant among some sectors of secular, bourgeois Israeli society too. Nevertheless, even in those circles, conscription still retains much of its symbolic value as the ultimate *rite de passage* to full citizenship. In the vast majority of *haredi* communities, by contrast, non-service in the IDF is an accepted societal norm. So much is this so that the families of those young *haredi* men who do enlist, for example, in the *Nachal Haredi* battalion, are frequently branded as in some way responsible for the deviant behavior of their relative, and hence are ostracized.⁷

Whereas *haredim* are generally noticeable by their absence from the ranks of IDF military personnel, national-religious troops have become much more visible. Once rare, the sight of a *kippah serugah*—the most obtrusive sign of male national-religious affiliation—on the head of an Israeli soldier on front-line active duty has in recent years become commonplace. This is particularly so in those units, combat as well as non-combat, to which enlistment is elective and selection especially rigorous. Graduates of the national religious school system are now over-represented—in many cases by a ratio of 3:1—in the ranks of infantry companies and their junior and middle-rank officers, a prominence more bleakly confirmed by their similarly disproportionate share of IDF battlefield casualties.⁸ They are also to be found in unprecedented numbers in several other areas of the military organization: the fighter pilots’ course (some 10 percent of whose graduates now wear *kippah serugah*); the Navy (which in 2008 for the first time adapted the kitchens in some of its combat vessels

to accommodate the *kashrut* requirements of its religious personnel); and the IDF's elite support units, a varied category that includes the computer branch (whose current CO, Lt.-General Ami Shafran himself wears a *kippah serugah*), the Intelligence Branch, and *Galei Tzahal*, the IDF radio station. Furthermore, where the men have led, women seem to be quick to follow. In the past, almost all female graduates of the national-religious school system followed mainstream rabbinic instruction and elected to perform a year or two of civic service rather than of military duty. Of late, however, trends have shown signs of fundamental change. In 2007, fully a third of female graduates of national-religious high schools elected to serve in the IDF, in one capacity or another.

This article does not seek to analyze the possible reasons for such phenomena, a subject that left-wing politicians and sociologists have debated at some length in recent years, in some case rather venomously so.⁹ Instead, its purpose is to explore some of their possible implications. Specifically, it aims to examine the extent to which the substantial increase in the proportion of "national religious" soldiers serving in the IDF, together with the increasing fragmentation of Israel's society and culture at large, has impacted upon the ability of the military framework to continue to perform a bridging function between those troops who do observe an Orthodox lifestyle and those who do not. Overall, we shall suggest, the record is mixed. In some areas, certainly, conscription has helped to moderate interpersonal tension between religious and secular troops. More commonly, however, the draft has merely transferred to a military setting the sort of demarcations that set apart religious from non-religious Jews in other walks of Israeli life. Worse still, in extreme circumstances conscription might have exerted a negative impact; rather than dissipating differences, it could have exacerbated them.

It is important to point out that the wide diversity of outcomes thus produced by conscription is by no means unique to the specific instance of relations between religious and non-religious Jews in Israel. Research has uncovered similarly multiple reactions to the draft in several other instances of communal schism, both in Israel

and elsewhere. Broadly speaking, three principal models can be teased out of the literature. The sections that follow will, first, summarize the main arguments of each model; thereafter, we shall examine the extent to which each helps to explain realities in the particular case of relations between religious and non-religious Jews in the IDF.

Model 1: The Armed Forces as a “Nation-Binder”

Ben-Gurion’s vision of military service as a cauldron of new Israeli nationality was certainly not original. Ever since the mid-nineteenth century, at the latest, politicians in various parts of the world had shared a view that service in the armed forces, and especially conscript service, offered a means of building cohesive national communities out of their country’s jumble of loyalties and affiliations. First articulated in France and Germany,¹⁰ the idea of a link between soldiering and citizenship soon spread to Japan, Czarist Russia, Brazil, and, during World War I, to the United States. By the time World War II was over, the belief that military service might promote national integration was virtually universal, becoming especially popular in the post-colonial states that mushroomed in Asia and Africa during the 1950s and 1960s.

By then, confidence in the ability of the armed forces to serve as “nation-binders” had been further buttressed by the scientific support accorded to what became known as the “contact hypothesis”: the argument that interpersonal prejudice stems from ignorance and will be eliminated once individuals from different backgrounds interact on a regular basis. This notion was given particular prominence in the mid-twentieth century by the American psychologist Gordon Allport, who argued that what mattered was not just the quantity of contact that existed between different groups (his own principal interest lay in race relations in the United States) but the type of contact and the social conditions under which it occurs. In the course of time, Allport and his disciples established four sets of conditions required for interactions to promote harmony. Of these, only one concerned the frequency, duration, and closeness of contact, all of which promoted “acquaintance potential.” In addition, the “contact hypothesis” required that the groups involved enjoy equal status, at least within the context of the interaction; that the relevant authorities who have responsibility

for the endeavor in which the groups are involved support intergroup cooperation; and that the endeavor itself confronts them with a set of shared goals.¹¹

From the first, North American devotees of the "contact hypothesis" (in particular) argued that military service, especially in wartime, fulfills each of these conditions.¹² It exposes men—until recently, little attention was paid to women soldiers—to a much greater range of individuals and groups than most have ever known; it requires them to perform common tasks in a highly structured environment that enforced their cooperation; and it places them in situations of extreme vulnerability where their very survival depends on their trusting one another. Under those circumstances, prejudice and discrimination are certain to wither away.

Model II: Military Service as a "Mirror" of the Nation

Although the contact hypothesis retains much of its hold over the popular imagination, with time it has been subjected to various degrees of modification. Numerous case studies show that, even when most successful, contact remains overwhelmingly "contextual." At best, soldiers will suspend their regional, class, gendered, religious, or ethnic prejudices only while in uniform. As soon as they leave base, they tend to revert to their former prejudices.¹³

One explanation for that phenomenon is that the "contact" process is invariably far too paternalistic and patronizing to be reciprocal. As was famously observed by Cynthia Enloe, an American sociologist who specializes in gender and ethnic relations in the military, the notion that armed forces might eradicate societal differences simply by putting conscripts into the same uniform itself rests on a fundamentally discriminatory outlook.¹⁴ Minorities, she shows, are never fully integrated into the military and are never given an equal opportunity to influence its culture. Rather, once enlisted into an armed force, they are expected to conform to norms that the majority has laid down as appropriate for the nation's soldiers. Since this situation runs counter to Allport's condition of "equal status," it implies that neither in the short nor the long term can military service perform a binding function. Rather, because the structure of military values and

the patterns of military behavior reflect those of the prevailing civilian hierarchy, enlistment merely transfers divides and differentials from the civilian to the military setting, thereby in fact reinforcing them.¹⁵

Model III: Military Service as a “Nation Divider”

A far more radical critique of the notion that military service might fulfill the expectations harbored by the contact hypothesis argues that the hypothesis itself is deeply flawed. This is so because in the military, as elsewhere, familiarity has a tendency to breed contempt. That being the case, enlistment rarely performs any positive societal function whatsoever. Even under the best of circumstances, the experience of common service is likely to exacerbate pre-existing societal discrepancies—for instance, by restricting officer training to groups who in civilian life, too, feel superior to those over whom the military now entitles them to exercise command. In more extreme cases, military service is likely to create societal schisms even where none previously existed.

Application

To different degrees, relationships between religiously observant and other troops in the IDF reflect all three of the models outlined above.

A: Nation-Binder

Any attempt to audit the extent to which the IDF has fulfilled a bonding function between observant and non-observant troops must necessarily commence by noting the contribution made to that goal by Rav Shlomo Goren (1917-1994), the first *rav tzeva'i rashi* and undoubtedly the most influential incumbent of the post thus far. From the start, R. Goren was determined to ensure that religiously observant troops could both serve as equals in the IDF and, moreover, do so without fear that while serving they might compromise their Orthodoxy. To that end, he embarked with energy—and with a degree of self-confidence that at times assumed almost messianic proportions—on two pioneering enterprises. One was essentially intellectual: the formulation and promulgation of *halakhic* solutions to the multitude

of ritual problems that religiously observant soldiers confront on a regular basis during the course of their military service (especially with regard to *shemirat shabbat*, *kashrut*, and *zemani tefillah*). The other was administrative: ensuring not only that religiously observant soldiers had access to ritual needs (such as a *sefer torah* on each base, wine for *kiddush* and *havdalah*, *matzot* for *Pesach*), but that the IDF as a whole would accommodate their requirements by committing itself to the observance of *shabbat* and *kashrut*.

By any standards, both efforts were remarkably successful. Virtually single-handedly, R. Goren laid the groundwork for the formulation of an authoritative corpus of *dinei tzavah u-milkhamah*, an area of *halakhah* hardly touched by traditional rabbinic enquiry for almost two millennia.¹⁶ With similar gusto, he transformed the *rabbanut tzeva'it* from the tame and skeleton body originally envisioned by Ben-Gurion into a full-blown military formation whose mandate extends far beyond the fulfillment of the largely decorative ceremonial tasks carried out by chaplaincies in most modern armed forces.¹⁷ It was largely on R. Goren's insistence that the *rabbanut tzeva'it* was empowered with the authority to ensure that the entire IDF framework comport itself in ways that do not alienate religiously observant troops or require them to contravene the dictates of Orthodox *halakhah*.

In retrospect, both of these initiatives deserve to be considered the *sine qua non* for the integration of religiously observant soldiers into the IDF. Indeed, absent either a corpus of *dinei tzavah* or the presence of a fully functioning *rabbanut tzeva'it*, the incorporation of religiously observant troops into IDF service would have been extremely difficult, if not altogether impossible. The fact that, as was noted above, *kippot serugot* can now be seen in every branch of service, and at every level, must therefore be in large part attributed to the fact that several of R. Goren's initiatives have been successfully followed. Despite having lost much of the luster that it enjoyed under his command, the *rabbanut tzeva'it* continues to make contributions toward improving the welfare of Orthodox troops that are sometimes substantial, especially in some of the newer areas of their integration into IDF service.

Three recent examples clearly indicate the extent to which that is so. In 2007, the *rabbanut tzeva'it* facilitated the construction of a

mikveh at the Ovdah Air Force base, for the use of the spouses of the growing number of religious personnel stationed there, who would otherwise need to make the long journey to Eilat. The following year the chaplain of the Navy Training School, R. Yosef Schwartz, responded to the unprecedented rise in Orthodox personnel in that branch of service by publishing the first ever compilation of marine military *halakhot*. Most symbolically of all, in 2008 the *rabbanut tzeva'it* also bowed to grassroots pressure and granted a woman officer authority to deal with the religious needs of the IDF's growing complement of female Orthodox personnel.

For all their significance, however, none of these measures could of themselves go more than halfway toward performing the nation-binding function that Ben Gurion originally intended military service to perform. Their intention, and net effect, has been to make it possible for religiously observant troops to become full members of the IDF—a necessary first step toward establishing relationships with non-observant troops, to be sure, but not one that could be considered sufficient to produce religious-secular amity. In order for the “contact hypothesis” to be sustained, there has always been a need for a complementary framework, which more directly addressed mutual interaction and understanding between the two communal segments of the complement once they were in the same uniform.

R. Goren was certainly aware of this need. Hence, at an early stage of his tenure as *rav tzeva'i rashi* he ordered his staff to prepare some tentative educational “kits” in Jewish customs and rituals, which he sought to integrate into the various grades of officer instruction. He also initiated “the awakening program” (*masa hitorerut*), a series of lectures on orthodox Jewish beliefs and practices given to all ranks every year during the month of Elul, which became a regular fixture on the military calendar in 1959 (previously it had been left to the discretion of individual commanders). At moments of high national drama R. Goren unabashedly assumed the mantle of the *mashuakh milkhamah*. Most famously, on the outbreak of the Six Days' War in June 1967, he broadcast a message of spiritual encouragement to the entire complement of IDF soldiers, and indeed to the nation at large.¹⁸

These, however, were exceptions. For the most part, R. Goren invested his efforts far less on what today might be termed “outreach” to non-religious troops than on “fortifying” those who were already religiously committed. Dr. Aaron Kampinsky’s recent study of the history and development of the *rabbanut tzeva’it* shows that during R. Goren’s term of office the overall contribution made by the unit under his command to the religious education of the non-Orthodox majority among the IDF’s complement was limited. Quite apart from being sporadic and understaffed (as was even the case with the “Awakening Campaign”), efforts in that direction enjoyed nothing like the investment in both material and intellectual resources that were lavished on, for instance, two other ventures initiated by R. Goren, both of which targeted a specifically Orthodox audience: the IDF Rabbinate’s journal *Machanayim* (which appeared weekly for much of the 1950s and 1960s, when it was billed as “A synagogue journal for the soldier” and in which R. Goren published several of his early *piskei halakhah* on military matters) and the *Midrashah Toranit* (which he founded in 1965 in order to further study of *dinei tzavah u-milkhamah*).¹⁹

The two most recent of Rav Goren’s successors, R. Yisrael Weiss (*Rav Tzeva’i Rashi* 2003-2006) and R. Avi Rontzki (appointed in 2007) frequently declared their intention of steering the *Rabbanut Tzeva’it* in a different direction. To that end, both sought ways of utilizing the resources at their disposal as a means of introducing the broad majority of IDF personnel to Judaism’s basic teachings and observances, and thereby sensitizing the armed forces as a whole to the uniqueness of the cultural heritage of the nation that they are sworn to defend. For the most part, the measures taken in order to attain that aim have been rather conventional: the preparation of state-of-the-art “kits” of materials for use in courses on Jewish themes and the organization of a variety of frontal lectures by invited speakers (many of them charismatic rabbis who have themselves performed extensive military service, often at fairly senior rank) to a large range of units. Other initiatives, however, have been far more innovative. An outstanding example is the *Anaf Erkhei Torat Ha-Lekhimah* (“Combat Values Branch”) that R. Weiss established in 2004. Initially commanded

by R. Tzadok Ben-Artzi, a former Israel Air Force navigator who had participated in the Entebbe operation and thereafter became a *chozer bitshuvah*, this unit marked a significant conceptual departure. Predicated on the belief that morale and cohesion constitute the keys to combat success, it signaled the *rabbanut tzeva'it's* readiness to play a crucial role in welding the IDF into a unified whole, held together by a commitment to uniquely Jewish ideals and norms.

Thus far, however, the results of such new bursts of activity have been meager. Partly, this is so because of the weaknesses inherent in any program that attempts to provide young soldiers with instruction by means of frontal lectures.²⁰ But institutional rivalries also bear considerable responsibility. No sooner was Ben-Artzi's *Anaf* founded than its entire *raison d'être* was called into question. Didn't the IDF already have a "Code of Ethics" (originally formulated under the aegis of Professor Asa Kasher of Tel Aviv University in the early 1990s)? Didn't the new body threaten to encroach on turf that rightly belonged to the IDF's Education Corps? Wasn't it in any case tainted by the whiff of missionary zeal that characterized Ben-Artzi's discourse?²¹ Criticism reached a new pitch early in 2009, in the aftermath of the IDF operation in Gaza ("Cast Lead"), when Rabbi Rontzki and his staff were accused of having incited Israeli troops to unwarranted violence by injecting an unprecedented degree of religious militancy into their statements and the written materials that they had distributed during the campaign.²²

Clearly unwilling to become embroiled in the ensuing outcry, Lieutenant-General Gabi Ashkenazi, the Chief of Staff, decided to defuse the situation, principally by laying down clear spheres of bureaucratic influence. While the *rabbanut tzeva'it* remains responsible for the "spiritual" welfare of the troops, it is the Education Corps that bears sole responsibility for their indoctrination into the IDF's values. With respect to the provision of specifically Jewish education for non-observant personnel, the IDF "profile" has become still lower. As from the late 1990s, the IDF has increasingly "out-sourced" that activity, which is now entrusted to such entirely civilian bodies as *Beit Morashah* and the Hartman Institute, both located in Jerusalem.²³ Beneficial though the programs conducted by those bodies might be,

their contribution to fostering reciprocal contacts between Orthodox and non-Orthodox troops is necessarily limited.

In sum, then, in only a very limited sense can the state of relationships between Orthodox and non-Orthodox troops in the IDF be said to substantiate the “contact hypothesis.” Religiously observant troops can—and do—serve as equals in every branch of service. But there is no evidence that, of itself, that circumstance contributes to mutual understanding between them and their non-observant brothers and sisters in arms. If anything, experience in the IDF indicates the need for a set of complementary bridging mechanisms.

B: Mirror

It is generally recognized that, altogether, the “mirror” model presents a more accurate depiction of the interplay between conscription and Israeli society than is suggested by the “nation binder” paradigm. Far from moderating—let alone eradicating—societal differentials, military service has by and large (obviously, exceptions abound) tended to replicate and hence reinforce them. Druze soldiers, it has been found, do not become any less aware of their ethnic and social marginality by virtue of serving in the IDF; if anything, quite the opposite is the case.²⁴ Likewise, the conscription of women has done very little to improve gender equality in Israel at large. On the contrary, according to one school of thought, the way in which the IDF, perhaps unavoidably, maintains a gender hierarchy has itself become a justification for the preservation of chauvinistic stereotypes in civilian life too.²⁵ Finally, it has been noted that to a large degree soldiers from different class backgrounds, which themselves often parallel ethnic distinctions between *ashkenazim* and *mizrachiyim*, end up following different service patterns.²⁶ And even when administrative measures are taken to ensure that such is not the case, research indicates that many individuals (notably, immigrants from the Former Soviet Union, who now amount to some 12 percent of each annual conscript cohort) continue to view the military as an arena for the retention of their cultural identity and the preservation of its peculiarity.²⁷

Such distinctions are especially pronounced with respect to Israel’s religiously observant and “secular” communities, relations between

which have become increasingly estranged with the passage of time. Over and above the demise in the general spirit of “consociationalism” that was once considered characteristic of intergroup relations in Israel,²⁸ responsibility for the change lies principally with the growing gulf in their educational backgrounds. The cultural divides originally carved out by the existence of three distinct state Jewish school systems (one “national” [i.e. secular]; a second “national religious”; and the third “independent” [i.e., *haredi*]) have in recent years become yet wider. Well-meaning individuals and groups frequently bemoan the resultant schisms, which they attempt to bridge by various “dialogue” programs and other mechanisms, of which perhaps the most sustained was the religious-secular “covenant” formulated in 2003 by R. Ya’akov Meidan and Professor Ruth Gavison.²⁹ Inexorably, however, the gulf has grown more pronounced—not just between the *haredi* and determinedly secular worlds, but between the generally less antagonistic non-Orthodox and national-religious communities too.

This situation has produced two principal results of relevance to relations between observant and non-observant troops in uniform.

First, it has meant that the large number of young men and women who are in Israeli terms *masortim* (“traditionalists”)³⁰ have virtually been airbrushed out of the IDF’s official consciousness. Military classification, following the norms of the civilian bureaucracy, recognizes only the dichotomous division between personnel who are “religious” (*datiyim*) and “secular” (*hiloniyim*). This situation immediately disadvantages persons who consider themselves to be neither entirely one nor the other, compelling them to make a choice. In most cases, the results are pre-ordained. Soldiers who make no effort pray in a *minyan* three times a day, or who smoke on *shabbat*, for instance, cannot claim to be *datiyim* in the accepted sense. Hence, even when they do observe some religious practices (most commonly, putting on *teffilin* every morning or fasting on *Tishah Be’Av*), their officers will not grant them any of the concessions to which *datiyim* are entitled (in the above two examples: extra time before morning parade and relief from physically stressful exercise for the duration of the fast). Observation indicates that, human nature being what it is,

the young men concerned take the line of least resistance and resort to an altogether non-observant lifestyle.

Yet more evident, and no less divisive, is the influence that military service exerts on the behavior of servicemen affiliated with the “national-religious” (*dati-le’umi*) segment of the Israeli public. Altogether, members of this community have in recent years increasingly come to live bifurcate lives. At one level, they play an increasingly integrated role in Israeli society, especially in the professions and the worlds of business, technology, communications, and cultural activities (other than sport). At the same time, however, they have become withdrawn and introspective, tending to inhabit their own neighborhoods and settlements, to pursue their own forms of leisure activities and, most relevant for present purposes, to send their children to segregated educational establishments that have a character all their own.³¹ Thus, whereas in the non-religious community the mixed-gender day school still predominates, the national-religious world has witnessed the proliferation of single-sex schools, many of the most highly regarded of which (*yeshivot tichoniyot* and *ulpanot*) are also residential.

Thanks to this multi-layered system of exclusively Orthodox educational institutions, all of which are buttressed by a thriving network of similarly segregated youth movements (*B’nei Akivah*, *Ezra*, Religious Scouts), by the time most national religious recruits are summoned to service in the IDF they have developed noticeably robust ties of association and a remarkably clear awareness of their collective identity. Precisely for that reason, however, as prospective conscripts they constitute a group apart, products of an environment about which their non-religious counterparts know very little. Moreover, they have grown accustomed to patterns of behavior (gender relationships, language, dress, and entertainment) with which most non-Orthodox draftees do not empathize. True, a large minority of graduates of national-religious schools look forward to enlistment precisely because it promises to place them in an environment in which they might abandon an Orthodox lifestyle. Indeed, almost a third of each annual male national-religious cohort is estimated to take the symbolic step of removing their *kippah* during their military service.

But that is not an option available to the majority, who still retain varying degrees of attachment to Orthodoxy. Their challenge is to find a means of accommodating themselves to their new circumstance without compromising the beliefs and norms that they have been educated to observe.

Over the years, the national-religious community has developed several mechanisms that are designed to help high-school students to prepare themselves to meet that challenge. Especially prominent, in this respect, are the various “fortification” programs, whose aim is to acclimatize prospective national-religious conscript to the culture shock that he or she will inevitably experience once placed in uniform. Such programs come in two forms. One consists of relatively short seminars offered to students in national-religious high schools, such as the six-week course entitled *Efshar La’asot Zot* (“It Can Be Done”), conducted annually by the Yaakov Herzog Center at Kibbutz Ein Tzurim.³² More pronounced are the efforts made in this direction by institutions generically known as *mekhinot ha-kedam tzeva’iyot ha-toraniyot* (“Pre-Military Torah Colleges”), whose students receive permission from the IDF to delay their enlistment for a year during which they attend courses in both Jewish thought and physical fitness conducted in the *mekhinah* of their choice.

In many respects, the *mekhinah* program deserves to be deemed remarkably successful. For one thing, the framework has grown by leaps and bounds. *Bnei David*, the first *mekhinah toranit* to receive IDF recognition, opened its doors in the West Bank settlement of Eli in 1988 with a class of just twenty male pupils, but within two decades, the framework had expanded to incorporate sixteen similar institutions, with a combined annual enrolment of over 1,000 young men, that is, almost a quarter of the total of male graduates of the national-religious high school system. (After considerable debate, “*Tzahali*,” a *mekhinah* for religious women who planned to enlist in the IDF, was established at Kibbutz Masu’ot Yitzchak in 2006). Moreover, although some *mekhinah* graduates do undoubtedly remove their *kippot* once they enter service, many more continue to conform to Orthodox standards of religious behavior. Indeed, on completion of their statutory three

years of conscript duty, a large number voluntarily return to their *mekhinot* for further periods of study.

While the record of the *mekhinot* thus certainly bears witness to their contribution to sustaining the Orthodox Jewish identity of a large proportion of national-religious troops, it nevertheless hardly supports the “contact” hypothesis. If anything, quite the contrary is the case. By definition, the *mekhinot ha-kedam tzevaiyot ha-toraniyot* cater exclusively to a constituency already committed to Orthodox Jewish observance. Non-Orthodox high school graduates who are interested in a similar program of pre-military “fortification” (intellectual and spiritual as well as physical) must therefore go elsewhere. That explains the foundation, over the past decade, of ten avowedly “secular” *mekhinot*, most of whose pupils are female, and another seven institutions of the same name that proclaim themselves to be “mixed” in terms of religious affiliation but that in practice are overwhelmingly attended by non-Orthodox young people. In other words, instead of generating the establishment of an overarching framework that might institutionalize Orthodox-secular “contact,” the *mekhinot* in fact deepen existing differences. A review of the prospecti issued by the *mekhinot* confirms that finding. Whereas four of those institutions that are “mixed,” and one that is “secular,” proclaim “bridging the secular-religious divide” to be their principal educational aim, that goal is not mentioned at all in any of the mission statements published by the *mekhinot toraniyot*, who instead emphasize the need to “fortify” the faith of prospective national-religious recruits.³³

The tendency toward continued segregation thus evident in the pre-conscription life stories of prospective recruits from the religious community (and that reach something of an apogee among students at *mekhinot*) remain pronounced once they are drafted. Notwithstanding the pressures to conformity that are integral to the military regime, during the course of their service many graduates of the national-religious high-school system imitate—some consciously, others not—the bifurcate behavioral patterns that, as was noted above, are frequently adopted by their parents in civilian life. Specifically, while playing an increasingly prominent role in every type of IDF

activity, they at the same time display a proclivity to do so in a way that is segregated and hence substantially limits the extent of their contact with non-religious troops. What makes this phenomenon especially pronounced is that it takes place with the sanction of the IDF establishment, and occasionally with its encouragement. Indeed, in this case, as in other instances of differentials in Israeli society, the IDF seems increasingly to itself depart from the guidelines laid down by Ben-Gurion's "nation-binding" vision. As one study has shown, in a large variety of situations, instead of working toward the eradication of the diversities to be found in civilian society, Israel's military has resorted to a policy of merely "managing" them, principally by allowing segregated forms of service.³⁴

As far as religious troops are concerned, the phenomenon of segregation during military service finds expression in several forms.

Undoubtedly the most pronounced is the infantry formation that the IDF lists as Battalion 97—*Netzach Yehudah* and that is popularly known as the *Nachal Charedi*. Originally established in 1999 with the purpose of encouraging young men from the ultra-Orthodox *haredi* community to perform military service, *Netzach Yehudah* from the start furnished its personnel with unique conditions: *kashrut* on their base was to conform to the most stringent standards; they were to be granted unusually lengthy intermissions in training for daily prayers and study spells; and—the proviso on which *haredi* promoters of the unit were most insistent—the soldiers (all male) were to be strictly quarantined from any contact with female staff. But the results produced by this arrangement largely belie the expectations of its architects.³⁵ Despite all the fuss, *Netzach Yehudah* makes very little impression on the *haredi* community, which, as was noted above, overwhelmingly defers performing military service in any shape or form. By contrast, the segregated nature of the battalion's structure has proved increasingly attractive to male adolescents from the more conservative wing of national-religious Israeli society (known as *hardelim=charedim datiyim le'umiyim*). By 2004, *hardeli* recruits already comprised over half of the unit's complement and, despite subsequent IDF efforts to place a cap on their proportions, continued thereafter to be principally

responsible for the fact that the unit's annual intake of new draftees more than tripled in the decade 1999–2008, from 31 to 115.

A far more widespread articulation of the preference for segregated military service among national-religious high school graduates is provided by the network of *yeshivot hesder*. Personnel drafted under this arrangement, quite apart from being permitted an active conscript term that is considerably shorter than the norm (some 18 months instead of 36), also serve in a social milieu that is often largely their own. Unlike troops in the *Netzach Yehudah* battalion, *hesder* recruits are no longer deployed in homogenous companies. But many do undertake basic training (at least) in formations in which they constitute a sizable proportion. Moreover, because of the peculiarities of the *hesder* timetable (which ensures that bouts of military service are interspersed with periods of study in the *yeshivot*), the individual recruit is assured that, even when he is alone, his isolation from his fellow-students is much shorter than would have otherwise been the case.

Within both Israeli society at large and the IDF hierarchy, attitudes toward this system of service vary. Whereas in 1991 the *hesder* system was awarded the Israel Prize for its contribution to society, the Ben Bassat Commission, established by the Israeli government in 2006 with a mandate to study reforms in IDF service systems, advocated its disbandment. Likewise, whereas IDF senior staff were once almost uniformly supportive of *hesder*, one recent CO of the Human Resources Branch (Major General Elazar Stern) publicly branded it as contradictory to the ethos of the IDF as a unified “people’s army.” Hence, on several occasions he advocated reducing the number of *hesder* personnel and took measures to ensure that those who did register for the program would be more widely dispersed among other IDF conscripts than had previously been the case. Nevertheless, overall registration for the system shows no signs of slacking.³⁶ A form of service that the Ministry of Defense in 1964 sanctioned as an experiment, to be carried out by just one institution, *Yeshivat Kerem Be-Yavneh*, has mushroomed into a framework that now encompasses some 40 *yeshivot*, located across the length and breadth of the land.³⁷

True, this expansion comes at a price. Since the total pool of potential recruits to the *hesder* system is necessarily limited, the greater the number of *yeshivot*, the fewer students each individual institution will be able to attract. Competition for students is therefore stiff, with the result that several of the newer institutions, especially, go out of their way to develop decidedly non-traditional programs of Torah study. (For instance, once of the newest *yeshivot hesder*, located at Eshtamoah in the southern Hebron region, advertises a program that combines talmudic study with agricultural labor). But the differences thus generated among *hesder* conscripts are, in the last analysis, overshadowed by the commitment that they all share to the maintenance of a system of service that seeks as far as possible to replicate the insulated nature of their pre-conscription environments.³⁸ As Dr. Elisheva Stollman-Rossman argues, much the same is true of the three *hesder*-type institutions, termed *midrashot*, that have in recent years been established for groups (*garinim*) of women.³⁹

For all their growing popularity, both *Netzach Yehudah* and the *hesder* frameworks still cater to less than half of all national-religious conscripts. Most graduates of national religious high schools, male as well as female, enlist in the IDF individually and are assigned to units on the basis of a formula that takes account both their own preferences and their psychometric scores. What is interesting, nevertheless, is that they too evince behavioral characteristics that are recognizably segregationist, often deliberately so. In many instances the phenomenon finds expression in a tendency to gravitate toward specific units, such as the Education Corps (in the case of women), and the various *sayarot* (elite companies) of the infantry brigades, in the case of men—especially those who graduate from *mekhinot*. This tendency is easily understood. After all, even youngsters educated toward full integration into the IDF (which is the message of all the “fortification” programs referred to above and one that is most emphatically articulated by the *mekhinot*) find it easier to maintain their religious observances in the company of persons of their own sort.

But even when “bunching” of that nature is not so pronounced, national-religious and secular troops will frequently find themselves proclaiming their differences. Thus at their induction, they will

respond in different ways to the IDF's oath of allegiance to the IDF (whereas the standard response is "*ani nishba*," religious troops declaim "*ani matzhir*"); they will find themselves attending different classes in the IDF's Sunday morning cultural programs; thanks to the introduction in 2007 of General Staff regulations that grant religiously observant troops the right to demand participation in single-sex training exercises (termed, not altogether euphemistically, *ha-shiluv ha-ra'ui* [lit. "appropriate integration"]), they could find themselves undergoing courses of instruction that are parallel to, but separate from, those conducted in mixed-gender settings;⁴⁰ and even when that is not the case, they will almost certainly celebrate graduation from the program at different places of entertainment.

Observation suggests that the schismatic impact thus generated is only marginally mitigated by the steps taken to ensure that, at other points on the military life cycle, even the most non-observant of the IDF's troops are exposed to Orthodox Jewish rituals and practices. Certainly, the examples are plentiful. By long-standing tradition, for instance, every Chief of Staff attends each Passover a *seder* for troops, where he is made to promise all sorts of benefits in return for the *afkomen*. Likewise, on most bases *kiddush* is recited (often by a non-religious CO) before the Friday night meal; a representative of the *rabbanut tzeva'it* is invited to address the troops on ceremonial occasions, such as induction ceremonies, when each Jewish recruit also receives a copy of the *tanakh*; and all Jewish military burials are conducted in accordance with Orthodox rites.

The obvious purpose of such practices is to use religious rituals and associations as social coagulants. They are designed to infuse the IDF's complement with a sense of shared identity and traditions, and thus to foster the feelings of affinity and reciprocity that since time immemorial have been recognized as essential criteria for military cohesion and, by extension, for battlefield effectiveness. But even if they do attain that end, the integrative impact seems to be transient and limited almost entirely to the time spent in uniform. Once religious and non-religious personnel leave the military framework, they revert to their separate lifestyles. Hence, very few of even the national-religious troops committed to the ethos of "integration" in uniform will, once

off their base, maintain much social contact with their non-religious buddies. As one such soldier remarked in conversation: “The fact that I serve in a tank driven by a *hiloni* doesn’t mean that I have to go with him to a disco in downtown Tel Aviv when we are given leave, still less that I need to invite him to my home so that he can meet my sister.”

C. Nation-Divider?

Writing at the beginning of the current millennium, the American political scientist Robert Putnam noted the difference between what he termed “bridging” and “bonding” types of social capital.⁴¹ “Bridging,” he claimed, is created by networks that are outward looking and encompass people across diverse social cleavages. (His own examples were the civil rights movement, youth service groups, and ecumenical religious organizations.) “Bonding” social capital, by contrast, is the product of inward looking frameworks that tend to reinforce exclusive identities and homogeneous groups (Putnam cited ethnic fraternal organizations, church-based women’s reading groups, and fashionable country clubs). These distinctions are not necessarily comprehensive. After all, and as Putnam was himself quick to point out, many groups—indeed, perhaps most of those that aspire to be national in scope—can simultaneously bond along some social dimensions while at the same time bridge across others. (Thus, the Knights of Columbus was created to bridge cleavages among different ethnic communities while bonding along religious and gender lines.) The value of Putnam’s taxonomy, therefore, lies not in its potential for “either-or” classifications, but in its provision of a yardstick in accordance with whose terms we might audit organizations on a “more or less” measure.

Measured by that gauge, the IDF must be judged far more of a “bonding” institution than a “bridge.” In practice, Israel’s military service patterns do not simply reflect existing differences between various segments of the country’s population; in extreme cases, they can be said to exacerbate those divides, principally by making them even more prominent than might otherwise have been the case. Hence, even when both secular and religiously observant young people are drafted together, the contact established between the two groups hardly produces the “bridging” results in which supporters of continued

conscription place so many hopes. Far from sensitizing them to those features of Israeli identity which they share, common military service can make them even more aware than might otherwise have been the case of the extent to which they are different.

Two examples illustrate the extent of this process of exacerbation. The first concerns national-religious troops who come into daily contact with non-religious service personnel, sometimes in extremely cramped physical conditions; the second affects those members of the IDF who are recent arrivals from the Former Soviet Union [FSU].

Exacerbation related to close contact between observant and non-observant troops

Even the most comprehensive of contemporary rabbinic compendia that discuss relations between observant and non-observant Jews in Israel make relatively few references to the *halakhic* difficulties experienced by religiously observant soldiers who serve together with non-observant troops.⁴² By contrast, that subject figures prominently in the modern *she'elot u-teshuvot* devoted to military life in Israel. Although I have been unable to find direct references to this topic in Rav Goren's *Meishiv Milkhamah*,⁴³ it recurs with noticeable regularity in other collections of *shutim* that are now available in various printed and electronic formats. This growing corpus of evidence indicates that for many years now religiously observant soldiers have been asking whether *halakhah* permits them to share food parcels with soldiers who they know will not recite a *brakhah* on the products; can they lend their transistor radios to comrades who declare their intention of listening to the broadcast of a football match on *Shabbat*? Can they partake of a Friday night festive meal prepared by troops who do not observe *Shabbat*, and make *kiddush* over wine that they have poured into cups? And—most frequently of all—may they include non-observant soldiers in a *minyan*?⁴⁴ Religiously observant officers have confronted a special set of difficulties: Can they grant leave to a secular soldier late on Friday afternoon, knowing that his only means of leaving the base is to drive his car? Can they permit their soldiers to accept hospitality of a nearby kibbutz whose kitchen does not observe *kashrut*? Can they order their soldiers to turn out on parade clean-

shaven, when they know that most will use a razor blade in order to comply?⁴⁵

It must be pointed out that, overwhelmingly, the answers given to such inquiries have deliberately leaned to the side of what to a layman appears to be *halakhic* leniency. Almost without exception, they cite the principal of *mipnei darkei shalom* as a justification for exploring and exploiting every possibility of co-operation with non-observant soldiers.⁴⁶ Even more pronouncedly, they are permeated with warnings against alienating non-observant brothers-in-arms, whose military service in itself warrants recognition as a *mitzvah* of supreme importance and whom their observant comrades are consequently duty bound to do everything possible to familiarize with traditional Jewish norms.⁴⁷ Nevertheless, the very fact that such questions still crop up with regularity bears testament to the concern that they continue to cause. Common service, is the implication—precisely because it does bring observant and non-observant Jews so closely together—does not launder out the feelings of difference that both groups experience toward each other. As far as the Orthodox segment is concerned, quite the opposite may be the case.

Ironically, the increasing range of military occupations now manned by personnel from a national-religious background (women as well as men) is likely to aggravate that situation. Particularly is this so in the case of personnel posted to “rear jobs,” such as military intelligence and the IDF radio station (*galei tzahal*)—areas in which the presence of national-religious troops was at one time so rare as to be statistically insignificant. In the present context, the importance of that development lies in the conditions of service that those postings entail, of which by far the most salient, as far as national-religious troops are concerned, is that they place men and women in close proximity for long hours (often at night) in small and cramped rooms.

Once again, *shutim* and other rabbinic writings attest to the efforts that are being made to cope with the various *halakhic* and spiritual problems thus created.⁴⁸ Not even the most optimistic of those texts, however, can invalidate the impression that service in “the rear” has added yet another dimension to the divide that distinguishes the lifestyles of religious soldiers from those of their non-observant colleagues.

New immigrants from the FSU

The inability of the IDF to function as Israel's "melting pot" as far as relations between observant Jews and other citizens are concerned has become even more pronounced with respect to the larger number of former Soviet citizens (over one million, equivalent to almost a fifth of the entire Jewish population) who have arrived in Israel since the early 1990s. In their case, conscription seems to have failed to exert the sort of integrative impact that was evident with respect to earlier waves of new immigrants, especially during the 1950s.⁴⁹ Partly, this is so because recent arrivals from the FSU, unlike their predecessors, themselves tend to resist the "melting pot" thesis. Quite apart from actively preserving their cultural individuality (e.g., by sponsoring Russian-language newspapers and theaters), they also evince relatively little enthusiasm for army service.⁵⁰

But even more salient a cause for the draft's failure to serve as an integrative agency relates to characteristics that are peculiar to a substantial proportion of this segment. On their arrival, most FSU immigrants were granted Israeli citizenship on the basis of their fulfillment of the criteria of being Jews as defined in the Law of Return ("one who was born to a Jewish mother or converted, and who does not subscribe to another religion"). But as many as a third gained entry by virtue of subsequent clauses in the Law that recognize the claims to Israeli citizenship of spouses of Jews, children of Jews and their spouses, and grandchildren of Jews and their spouses. According to Israel's Central Bureau of Statistics, just over 310,000 immigrants who are not *halakhically* Jewish and are not registered as Jews by Israel's Ministry of the Interior are currently resident in Israel.⁵¹ Thanks to conscription, these figures have had a noticeable impact on the sociological composition of the IDF. Ever since the late 1990s, FSU immigrants and their offspring have comprised at least 10 percent of every annual cohort of new recruits, and sometimes more. Because roughly one third of this number were born to gentile mothers, the result has been that at any one time over the past decade or so the IDF has contained some 5,000 to 6,000 "non-Jewish" FSU immigrants.

Some of the soldiers in that category accept their classification with pride. Indeed, every year about 200 new inductees declare themselves to be adherents of the Russian Orthodox Church and hence insist on swearing the Oath of Allegiance to the IDF on the New Testament (copies of which it is the duty of the Military Rabbinate to supply). Others seek to alter their status and take advantage of the special program for conversion to Judaism, named *Nativ*, which the IDF inaugurated in 2001 and which in many respects is specifically tailored to the cultural background of FSU immigrants. But, for all the credit and praise deservedly heaped upon *Nativ* by diverse segments of the Israeli public, in starkly numerical terms its impact has been limited. Although initial registration for the courses offered is high, commitment seems quickly to wear off, resulting in a high drop-out rate.⁵² As late as the autumn of 2008, and notwithstanding almost a decade of generously funded activity, the sum total of conversions to Judaism resulting from the *Nativ* program had barely scaled the 3,000 mark, which is only a fraction of the potential during that period. In other words, at the completion of their compulsory service the vast majority of non-Jewish FSU immigrant soldiers in the IDF find themselves in precisely the same anomalous situation as they were when they first donned uniform some two to three years earlier. By virtue of their performance of military duty, they can claim to have undertaken what they and many members of the general Israeli public regard as the most significant rite of passage to identification with the Jewish state and all it represents in terms of Jewish identity and survival. Yet, according to *halakhah* they are still non-Jewish and hence not considered by Orthodox Jews to be fully integrated members of the majoritarian Jewish-Israeli collectivity.

As far as I have been able to ascertain, the unique characteristics of this particular category of “non-Jews” in Israeli military service has not required religiously observant soldiers to treat them as anything other than *nochrin*. A search through the current *shutim* available both in printed and electronic forms is in this respect instructive. The materials certainly contain a number of inquiries that evince some concern with the ways in which religiously observant soldiers are (and are not) to relate to gentile comrades-in-arms.⁵³ But more often than not, the

specified subjects of inquiry are the Druze and Bedouin troops in IDF service.⁵⁴ I have found very few direct references to the problematics of (for instance) eating food cooked entirely by an FSU non-Jewish immigrant cook. If anything, reading between the lines of the random texts, it is possible to discern (albeit *sotto voce*) a suggestion that the maintenance of as rigid a distinction as possible between soldiers who are *halakhically* Jewish and those who are not is by far the most prudent course of action. Any attempt to fudge those differences, according to the argument, even in the name of soldierly comradeship, can lead to any number of complications.

Valid though that contention might be, the abrasive results to which it can lead have occasionally intruded on the public discourse with stark brutality. This phenomenon did not await the most recent wave of FSU immigration. Rather, it first became apparent as early as January 1970, when Chanan Frank, a Russian *refusenick*, wrote an open letter to the then Prime Minister of Israel, Golda Meir, in which he protested vehemently against the government's intention to amend the Law of Return in order to circumvent the Supreme Court's decision to register the children of Major Benyamin Shalit as Jews despite the fact that their mother was not Jewish. In response, Frank informed the Prime Minister—and the entire nation—of his autobiography. Like Shalit's children, he too was born of a Jewish father and non-Jewish mother and hence would be defined as a non-Jew under the revised terms of the Law. But, he asked, hadn't he struggled against the Soviet authorities as a Jew? More pertinent still, hadn't it been as a Jew that he had enlisted in the IDF and been severely injured in action against the Egyptian foe?

Did I lose both my legs for the homeland or am I mistaken and this is not my homeland at all? Because I thought of myself as a Jew, I made *aliya* to Israel and was drafted into the army but it seems that all this is not sufficient. What must I do to be a Jew?⁵⁵

Since the 1990s, the enlistment in the IDF of far larger numbers of people whose *halakhic* status is similar to that of Frank has transformed what was once a rare curiosity into a widespread phenomenon. It has

also resulted in the appearance of cases that are, if anything, even more tangled and tragic. One that occasioned particular debate concerned Lev Paschov, an immigrant from the FSU, born to a Jewish father, who was killed while on active duty in southern Lebanon in August 1993. Although Paschov was originally buried in a military ceremony alongside other Jewish Israeli fatalities, his body was exhumed on the orders of the military rabbinate as soon it was discovered that his non-Jewish mother had never converted. Keeping to the letter of *halakhic* law, the IDF rabbinate insisted that Paschov could not therefore be allowed to remain in ground consecrated for Jewish use, and in a ceremony that many Israelis found to be as macabre as it was divisive, his remains were re-interred in a plot designated for gentiles. Far from diluting differences in Israel between observant Jews and an immigrant soldier, death on the battlefield in a common cause had merely proved how wide they in fact are.⁵⁶

Conclusion

Relations between religiously Orthodox and non-observant personnel in the IDF have always been complex. Time has done nothing to bridge the differences between the two segments of the force complement, or to make them more amenable to adjustment. On the contrary, thanks in large part to various sociological and demographic processes at work both within the IDF and in Israeli society at large, the gulfs between the two communities have in recent years become noticeably wider, as much within the armed forces as in Israeli society at large. So much is this so that the rose-tinted portrait of the IDF as a melting pot, presented some forty years ago by Samuel Rolbant (referred to in the introductory section above), now seems to carry the whiff of caricature. Experience shows that, contrary to the intentions of both Ben Gurion and Rav Goren, common military service does not always foster mutual understanding between the two communities. If anything, in many areas conscription merely allows their distinctions and differences to find new expression.

In sum, the IDF does not appear to be the appropriate framework for bridging between Israelis who are and who are not religiously

observant. Israel's armed forces have quite enough to do without being burdened with that task, which in any case is better left to educational institutions in possession of the required expertise.

NOTES

1. Yitzchak Greenberg, *Am Lochem* ("The Israeli Reserves Army: Laying Down the Foundations 1949-1950"), Sdeh Boker: The Ben-Gurion Research Center, 2001).
2. Address to newly commissioned officers, 1949. Reprinted in D. Ben-Gurion, *Yihud ve-Yi'ud* (Collected speeches; Tel-Aviv: Am Oved, 1971), p. 81.
3. Record of meeting cited in Mordechai Friedman, *Ha-Yechidot ha-Datiyot Ba-Haganah u-va-Palmach* (The Religious Units in the Haganah and Palmach), Ramat Gan: Bar-Ilan University Press, 2005), pp. 109-112.
4. Samuel Rolbant, *The Israeli Soldier: Profile of an Army* (New York: Yoseloff, 1970), p. 154.
5. E.g., Kimmie Caplan, *Besod Ha-Siach ha-Charedi* (Internal Popular Discourse in Israeli Charedi Society: Jerusalem: Merkaz Zalman Shazar, 2007).
6. On the origins of these arrangements, see Menachem Friedman, "The Structural Foundation for Religio-Political Accommodation in Israel: Fallacy and Reality," in Ilan Troen (ed.), *Israel: The First Decade of Independence* (Albany: SUNY Press, 1995), pp. 51-82.
7. Even those observers who find some evidence of a generational shift in *charedi* attitudes toward military service in Israel admit that "there is very little practical inclination to take part in soldiering." Nurit Stadler and Eyal Ben-Ari, "Other Worldly Soldiers: Ultra-Orthodox Views of Military Service in Contemporary Israel," *Israel Affairs*, 9 (2003), 17-48. Citation from p. 44.
8. For the figures prior to 2007, see Stuart A. Cohen, *Israel and Its Army: From Cohesion to Confusion* (Routledge: London, 2008). Four of the ten military fatalities sustained by the IDF in January 2009, during operation Cast Lead, were young men educated in national-religious educational institutions.
9. For recent examples, see the views expressed by former minister Shulamit Aloni and Dr. Yagil Levi in Alex Fishman, "Follow me! With the Almighty's Help," *Yediot Aharonot* (Hebrew: Tel-Aviv daily), festival supplement, October 20, 2008, pp. 6-9.
10. Roger Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, Mass: Harvard University Press, 1992).
11. Gordon W. Allport, *The Nature of Prejudice* (Reading, Mass: Addison-Wesley, 1954).
12. Gary Gerstle, *American Crucible: Race and Nation in the Twentieth Century* (Princeton, N.J.: Princeton University Press, 2001), pp. 220-237.
13. For a review of the research literature documenting this phenomenon in the USA (e.g., with respect to relations between Afro-Americans and white Americans, and as shown in attitudes toward Jews after World War II), see: Ronald R. Krebs,

- “A School for the Nation? How Military Service Does Not Build Nations, and How it Might”, *International Security* 28 (2004), pp. 85-124.
14. Cynthia Enloe, *Ethnic Soldiers: State Security in Divided Societies* (Alabama: University of Georgia Press, 1980).
 15. See e.g., Henry Dietz et al. (eds.), *Ethnicity, Integration and the Military* (Boulder Colorado: Westview Press, 1991), citing evidence from Ethiopia, Nigeria, China, Greece, Turkey—and Israel).
 16. For an appreciation, especially of his landmark work: *Meishiv Milkhamah* (Responding to War), 3 vols. (Jerusalem: Ha-Idra Rabbah, 1983-1994), see Aryeh Edrei, “War, *Halakhah* and Redemption: Army and War in the *Halakhic* Thought of R. Shlomo Goren” (Hebrew), *Kathedra* 125 (2007), 119-148.
 17. Aron Kampinsky, “Religion, Army and Society in Israel: Changes in the Military Rabbinate, 1948-2006” (Hebrew) unpub. Ph.D. thesis, Bar-Ilan University, 2008, chap. 4.
 18. For the text of Goren’s broadcast on June 5, 1967 (laced with quotations from Deut. 20:3-4), see Menachem Michaelson, “Ha-Rabbanut Ha-Tzeva’it,” in *Tzahal be-Cheilo* (*The IDF and Its Arms*), vol. 16, ed. Ilan Kfir and Ya’akov Erez (Tel-Aviv, Revivim, 1982), pp. 83-132.
 19. Kampinsky, *op. cit.*
 20. Personal observation over several years reveals that the vast majority of participants in such lectures, conforming to the practice of soldiers the world over, take the opportunity provided by the breaks in their training schedule to fall into a deep sleep. On awakening, very few pick up the materials laid out on the tables for their edification; and who is to say how many of those who did so actually read the text, let alone take to heart its message?
 21. See Amos Harel, “IDF Rabbi Under Fire for ‘Brainwashing’ Soldiers,” *Ha-Aretz* (Hebrew daily), October 23, 2008.
 22. For a review of these accusations, published on the morning of the first meeting of the Orthodox Forum, see Ethan Bronner, “A Religious War in Israel’s Army,” *The New York Times*, March 22, 2009, “Week in Review,” p. 1.
 23. See especially the program entitled “Identity and Purpose” initiated at Beit Morasha in 2000 by then Chief of Staff, Lt.-Gen. Moshe Ya’alon.
<http://www.bmj.org.il/english/ContentPage.aspx?id=35&Page=Identity%20and%20Purpose%20Overview>
 24. Rabach Halabi, *Ezrachim Shevi Chovot* (Citizens of Equal Duties: Druze Identity and the Jewish State), Tel-Aviv: Ha-Kibbutz ha-Meuchad, 2006.
 25. Dafna Izraeli, “Gendering Military Service in the Israel Defense Forces,” *Israel Social Science Research* (1997), 12: 129-166; Eve Levy-Schreiber and Eyal Ben-Ari, “Body-Building, Character-Building and Nation-Building: Gender and Military Service in Israel,” *Studies in Contemporary Jewry*, 16 (2000): 171-190; and Orna Sasson-Levy, “Contradictory Consequences of Mandatory Conscriptioin: The Case of Women Secretaries in the Israeli Military,” *Gender and Society*, 21 (2007): 481-507.

26. Or a panoramic survey: Yagil Levy, *Israel's Materialist Militarism* (Lanham, Md.: Lexington Books, 2007).
27. R. A. Eiskovits, "Intercultural Learning among Russian Immigrant Recruits in the Israeli Army," *Armed Forces & Society*, 32 (2006): 292-306.
28. Asher Cohen and Bernard Susser, *Israel and the Politics of Jewish Identity: The Secular-Religious Impasse*, (Baltimore: Johns Hopkins University Press, 2000).
29. For the background, see Asher Cohen and Jonathan Rynhold, "Social Covenants: The Solution to the Crisis of Religion and State in Israel?" *Journal of Church and State*, 47 (2005): 725-745.
30. For a pioneering study of this group, which also justifies the nomenclature see Yaacov Yadgar, "Charles Liebman and Jewish-Israeli Traditionalists (*masortim*)," in Stuart Cohen and Bernard Susser (eds.), *Ambivalent Jew: Charles Liebman in Memoriam* (New York: JTS Press, 2007), pp. 173-184.
31. Ido Lieberman, "Religious Zionism: Towards Segregationalism" (Hebrew). unpub. Ph.D. thesis, Bar-Ilan University, 2004. This tension is also fully illustrated in the paper that Rabbi Yoel Finkelman contributed to this volume: "It's a Small, Small World: Secular Zionism as Reflected in a Contemporary Religious-Zionist *Parshat Ha-Shavuah* Pamphlet."
32. For a brief description, see Stuart A. Cohen, "Dilemmas of Military Service in Israel: The Religious Dimension," *War And Peace in the Jewish Tradition* (ed. L. Schiffman) (New York: Yeshiva University Press, 2007), pp. 313-340.
33. See: http://cms.education.gov.il/EducationCMS/Units/Mechinot_Kdam/Odot (accessed November 2008).
34. Edna Lomsky-Feder and Eyal Ben-Ari, "From 'The People in Uniform' to 'Different Uniforms for the People': Professionalism, Diversity and the IDF," in: J. Soeters and J. van der Meulen (eds), *Managing Diversity in the Armed Forces: Experiences from Nine Countries* (Tilburg: Tilburg University Press, 1999), pp. 157-186.
35. See Zeev Drori, *Between Faith and Military Service: The Nahal Haredi Battalion* (Jerusalem: The Floersheimer Institute for Policy Studies, 2005).
36. Figures released by the IDF indicate that of the 7,500 males who graduate from national-religious high schools each year, just over 12 percent register in one of the recognized *hesder* programs, from which almost a third drop out after the first year. For an example of Stern's strictures, see his lecture at a seminar held at Bar-Ilan University, Nov. 21, 2007, published in *IDF Preparations for Future Challenges* (Hebrew: BESA Studies in National Security, Bar-Ilan University, no. 24, 2008), p. 12.
37. http://cms.education.gov.il/EducationCMS/Units/Hemed/Odot/Alfon/ysivot_hasder.htm
38. In this connection, it is worth noting the fate of the one *hesder* program that explicitly rejects the segregationist trend and offers young men the opportunity to combine *Torah* study with a full three years of service in the IDF. Known as

- shiluv*, and originally founded by the national-religious kibbutz movement, this program has not proved very successful. In fact, by 2007 registration had become so low that one of the two institutions at which it was housed, the *Yeshivat Ha-Kibbutz Hadati* located at Kibbutz Ein Tzurim, was completely shut down.
39. Elisheva Rossman-Stollman, "Religion and the Military as Greedy Frameworks: Religious Zionism and the IDF" (Hebrew), unpublished Ph.D. dissertation, Bar-Ilan University, 2005.
 40. "Ha-Shiluv Ha-Ra'ui"; General Staff Order 33.0207. Text in: <http://www.aka.idf.il/rights/asp/info.asp?moduleId=6&catId=22706&docId=22735>
 "In every training program or course in which both sexes participate, and in which there is a fear of physical contact or of a boy and a girl being alone together or of an activity in diaphanous clothes, both male and female religious soldiers will be allocated to a homogenous group (boys or girls) at least as large as a platoon."
 41. Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster 2000), esp. pp. 22-24.
 42. Thus, the military ambience is referred to only rarely, even in R. Avraham Wasserman's *Rei'achah Kamochah*, published in 2008 by the *hesder* yeshivah of Ramat Gan, of which the author is principal.
 43. For possible exceptions, see his discussion of *kriyat ha-torah* by Sabbath desecrators (*Meishiv Milkhamah*, Vol. 2, pp. 169-180), and of use of radios by non-observant soldiers in IDF recreation facilities on *Shabbat* (*ibid.*, p. 191).
 44. R. Yehudah Amital, Rosh Yeshivah at *Har Etzion*, published what seems now to be recognized as the most exhaustive *teshuvah* to the last question in 1971. His text, which extends over four densely argued pages, was distributed in *Alon Shevut* (a typewritten newsletter that was photocopied and posted to individual students of the yeshivah on active service), no. 10, 1971, pp. 15-18 (author's private collection). This *teshuvah* is often cited in more recent answers to similar enquiries. See e.g., R. Aviner, in the *Ateret* newsletter, no. 8 (1991) and *Har Etziyon*, no. 477 (1995), p. 324.
 45. These queries have for several years been of particular interest to Rav Rontzki, the present Rav Tzeva'i Rashi, see e.g., his article in *Ateret* no 23 (1997), pp. 10-11.
 46. For an explicit reference to this principle, see Harav Amital, *op. cit.*, who adds: "And there are reasons to extend the discussion on this point and to add other reasons for leniency, especially in the armed forces, but this is not the place to be lengthy."
 47. This is an especially predominant theme in Rabbi Nachum Rabinovitch's *Melumedie Milkhamah: Shut Be-Inyanei Tzavah u-Vitachon* (Ma'aliyot: Ma'aleh Adumim, 1993), esp. pp. 29-77. R. Rabinovitch devotes an entire section of this book to "Ha-Arevut Ba-Tzavah," which is characterized by his insistence on the need to find every possible means of bringing about *kiruv* between Orthodox and

secular (whom he categorizes as “*tinokot shenishbu*”)— especially in a military context.

48. See especially, the recently published collection of materials entitled *He-Hazit she-ba-Oref* (ed. Sarel Weinberger and Amichai Bitner, privately published, Petach Tikva, 2007).
While much of the collection is devoted to programmatic articles that analyze the relative importance of military service in rear formations, also included are a number of *responsa* that discuss the sort of issues that observant soldiers in such units have to confront, especially vis-à-vis their non-observant comrades. These include the sharing of kitchens and kitchen utensils (e.g., microwave ovens) that soldiers keep in their offices (pp. 294-297); norms to be followed by male soldiers who work in clerical capacities in close proximity to women soldiers (p. 408); and possible allocations of rota duties in rear offices between observant and non-observant soldiers on *Shabbat* (pp. 479-482).
49. See Ze'ev Drori, *The Israel Defence Force and the Foundation of Israel: Utopia in Uniform* (London: RoutledgeCurzon 2005).
50. A. Carmeli and J. Fallon, “Motivation to Serve in the Israeli Army: The Gap Between Cultural Involvement and Cultural Performance,” in N. Lewin-Epstein, Y. Roi, and P. Ritterbrand (eds.) *Russian Jews on Three Continents: Migration and Resettlement* (London: Frank Cass. 1997) pp. 389-405; E. Lomsky-Feder. and T. Rapoport, “Juggling Models of Masculinity: Russian-Jewish Immigrants in the Israeli Army,” *Sociological Inquiry*, 73 (2003): 114-137.
51. Asher Cohen, “Non-Jewish Jews: Non-Halakhic Approaches to the Question of Joining the Jewish Collective,” in Stuart Cohen and Bernard Susser (eds.), *Ambivalent Jew* (n. 29 above), pp. 157-172. As this study shows, the situation thus created is made even more complex by the fact that “a great majority of the persons classified as non-Jews live together with Jews in mixed family frameworks.... In effect, therefore, halakhically based distinctions between Jews and non-Jews intrude upon the family bedrooms; they separate the master bedroom from the children’s room, and differentiate between Jewish and non-Jewish grandchildren of the same grandfather who sit down together at the seder or at the Russian holiday of *Novi God* (New Year).”
52. Interview with the current director of the *Nativ* program, Mr. Amichai Eitam, February 15, 2009. Of the 3,000 troops who registered for initial *Nativ* courses in 2008 (out of an estimated cohort of roughly 7,000 possible candidates), only 800 (most of whom were women) completed the entire seven-month cycle and went on to convert.
53. Two sources summarize most of the available materials in particularly succinct fashion.
 1. Rav Yitzchak Kaufman, *HaTzavah ke-Halakhah: Hilkhhot Milkhamah ve-Tzavah* 2nd. ed. (Kol Mevasser, Jerusalem, 1994), which includes instruction on such matters as whether soldiers may give a *devar Torah* in the presence

- of non-Jewish troops (p. 309); whether non-Jewish troops can be ordered to perform on *Shabbat* non-essential tasks forbidden to a Jew (p. 315); and on eating food prepared by non-Jewish cooks (p. 319).
2. A series of memoranda on “Amira le-Goy” by Rav Yishai Samuel, distributed in the monthly bulletins circulated by the Golan Hesder Yeshiva in Chispin, 2003-2005 (author’s private collection).
 54. E.g., the response on “Amira le-Akum” authored by Rav Y. Z. Rimon, in the bulletin distributed by the Yerucham Hesder Yeshiva, *Mi-Midbar Matanah*, no. 42 (2006). Author’s private collection.
 55. On the letter, and especially on the debate that it generated between Yeshayahu Leibowitz and Shmuel Hugo Bergmann, see Yonah Hadari, *Messiah Riding on a Tank* (Hebrew: Machon Hartman, the Tzivion Center – Bar-Ilan University, the United Kibbutz Press 2002), pp. 170-172.
 56. For a critical review of the rabbinat’s decision, based on a detailed investigation of the *halakhic* sources and considerations see Rabbi Yehudah Shaviv, “Loved in Life [II Sam. 1:23]—and in Death?” (Hebrew), *Techumin* 14 (1993-1994): 319-330.

12

It's a Small, Small World: Secular Zionism Through the Eyes of a Religious- Zionist *Parashat* *HaShavua* Pamphlet

Yoel Finkelman

I always make it my business to be on time for *shaharit* on Friday mornings in my local Beit Shemesh synagogue. This is not out of devout piety, I admit, but out of a desire to make sure that I have access to the full range of *parshat hashavua* pamphlets which are distributed weekly in my synagogue, as they are in thousands of synagogues throughout Israel.¹ Were I to miss *minyan* on Friday morning and arrive even a few

minutes late for Friday *minhah*, I would, to my dismay, be left without the full selection of reading material.

Parshat hashavua pamphlets are much more than ways to share homiletical *divrei Torah* or *halakhic* decisions, because these pamphlets include political and social commentary on a range of issues, and they generally work to articulate a worldview and ideology for synagogue goers in Israel's complex society.² By placing these pamphlets in synagogues, publishers hope not only to circulate information, but to create public discourse, to influence the ideology and attitudes that help religious Jews construct their identities. *Parshat hashavua* pamphlets have emerged as an important alternative media for a Religious-Zionist community that feels, at least in part, alienated from the mainstream national media.³

In fact, *parshat hashavua* pamphlets may be Israel's fastest growing print media, and a journalist recently estimated that more *parshat hashavua* pamphlets are distributed than all of Israel's three major daily newspapers combined.⁴ A typical Religious-Zionist synagogue in Israel receives at least twenty different pamphlets each week, most produced by various Religious-Zionist groups but some by Habad or other organizations. These represent a small fraction of the total number of pamphlets produced on a regular basis in Israel by the entire range of Orthodox communities.⁵ For the most part, these pamphlets arrive early Friday morning to the door of the synagogue, distributed in bulk by a central distributor, though some can be brought by congregants, either on an ongoing basis or *ad hoc*.⁶ The free distribution, wide range of issues addressed, and the broad interest among synagogue goers make these pamphlets an important window through which to look closely at the various aspects of the communities that produce and consume them.⁷

This article will use these pamphlets to trace ideological trends within contemporary Religious-Zionism. This volume focuses on relations between Orthodox and non-Orthodox ideological groups, and therefore I will focus on a leading ideological camp within contemporary Religious-Zionism and how it envisions secular Zionism. In order to make this task manageable, I will confine myself to one particular pamphlet, namely *Olam Katan* [A Small World]. I could easily have

amassed almost identical sources (albeit in lower concentration) from other pamphlets identified with the “Rav Kook School,” such as *Rosh Yehudi*, *BeAhavah UveEmunah*, *Komemiut*, *Yesha Shelanu*, *Me’at Min HaOr*, or *Ma’aynei HaYeshua*. And the positions articulated in *Olam Katan* are shared by much of Religious-Zionism’s rabbinic and educational leadership. The position I will try to outline here reflects a significant if not hegemonic voice in contemporary Religious-Zionism.

I intend this as a kind of ideological snapshot of a particular moment in the ongoing saga of religious-secular relations within the Zionist movement. For that reason, I chose to focus on the most recent material I could find: those pamphlets that appeared between the spring of 2008 (when I was invited to attend the conference upon which this volume is based) and the end of the calendar year.⁸ There is nothing particularly surprising about what I am about to describe. Anyone following the internal discourse of Religious-Zionism in the past few years will find this description familiar, typical of what is being voiced in educational institutions, the Religious-Zionist press, and rabbinic sermons, at least within the leading, so-called *mamlakhti*⁹ wing of the “Rav Kook school.” For many North American readers, however, it may be novel and may shed more detailed light on the way Orthodoxy is playing itself out on the other side of the ocean.

Olam Katan began to appear in the Spring of 2004, in part as a response to the recently announced disengagement plan and a sense that the general media were no longer speaking to the concerns of the Religious-Zionist youth.¹⁰ Today *Olam Katan* is distributed in approximately 60,000 copies per week, near the top of the list of the most distributed.¹¹ *Olam Katan* is very popular, the first to disappear from my synagogue’s specially constructed “*parshat hashavua* pamphlets holder,” and the situation is similar in other synagogues.¹²

Olam Katan is both similar to and different from the other Religious-Zionist *parshat hashavua* pamphlets. Like the others, it appears weekly, distributed for free in Religious-Zionist synagogues throughout the country. Following a typical pattern, *Olam Katan* includes things that would be recognizable as Torah: homiletical interpretations of the weekly portion, *halakhic* information, and expositions of *hassidut*, for example.¹³ And, like other pamphlets, *Olam Katan* also

contains material of a political, social, historiographical, self-help, and ideological nature. In fact, *Olam Katan* stands out in the high percentage of the latter, more magazine-like content, including fiction, poetry, letters to the editor, youth-centered news, in addition to political and social commentary, remarks on current events, humor, and the like.¹⁴ Following the trend, *Olam Katan* is glossy, colorful, and attractive, combining text with photos and artwork, and its pages are covered with articles, photos, and eye-catching advertisements for Religious-Zionist educational institutions, cultural initiatives, books, wedding halls, clothing, and other businesses, without which *Olam Katan's* publishers could certainly not afford to produce it week after week.¹⁵ Yet, *Olam Katan* is distinctive in its more colorful format and its large broadsheet pages, which make it seem that much more like a work of mass print media than a genre of traditional Torah literature.¹⁶

Still, the most important difference between *Olam Katan* and other *parshat hashavua* pamphlets is that *Olam Katan* is written for, and to a significant degree by, young adults.¹⁷ This youthful style is related to another aspect of its distinctiveness: the broad range of voices that appear on its pages. For the most part, authors, particularly of lead articles, reflect the mainstream of the educational and rabbinic leadership of the "Rav Kook school" in Religious-Zionism. Yet the editors of *Olam Katan* make it their business to include a range of voices and positions. On occasion, and with appropriate framing, *Olam Katan* quotes figures who do not identify with Religious-Zionism, or even with Orthodoxy, which, according to the editor, is in part an attempt to challenge Religious-Zionism to hear and respond to different voices on the Israeli scene.¹⁸ *Olam Katan* raises dispute and disagreement within the Religious-Zionist camp, allowing for point-and-counterpoint exchanges and letters to the editor in response to columns in the previous week.¹⁹ As we shall see, the youthful style of the pamphlet and its diverse body of writers allow for debate, conversation, and at times internal criticism of religious Zionism, all of which may help explain the pamphlet's popularity.

It is precisely *Olam Katan's* youthful willingness to raise more than one voice that makes it such an intriguing window into the internal discourse of Religious-Zionism, both because ideas that repeat them-

selves and are not subject to significant debate can be safely assumed to reflect a certain ideological consensus and because multiple voices about issues make for a much richer description of Religious-Zionist ideology.²⁰ Even while disagreeing over certain details, the voices in *Olam Katan*—the authors, editors, letter writers, and advertisers²¹—share a certain collective ideological vision, one that is central in contemporary Religious-Zionist education and ideology.

Whatever the intentions of the creators and editors of *Olam Katan*, the notion of a “small world” neatly captures some of the tensions in contemporary Religious-Zionism and its relationship to secular Israel.²² Religious-Zionism is a “small world,” an isolated sector within the population, which, as I have argued elsewhere, has a great deal invested in isolation from general Israeli culture.²³ It wants to maintain its self-contained smallness out of fear of the big wide world out there. But the notion of a “small world” has another connotation as well. The world outside of the Religious-Zionist enclave is not as big and threatening as insiders might imagine. In fact, secular Zionism is small and weak. It is, perhaps, in its “death throes,” falling apart from the inside (*Olam Katan*, 181, p. 3). Secular Zionism is, today, so weakened that Religious-Zionist Jews can emerge from their small-world enclave and fix, transform, and conquer that small world of secular Zionism.

This narrative has emerged as central in contemporary Religious-Zionist ideology as part of a response to an ongoing crisis that developed during the years of the Oslo accords, reached a crescendo with the Rabin assassination, and has (as of this writing) culminated in the disengagement/expulsion. On an almost weekly basis, *Olam Katan* emphasizes things that fit with this alternative meaning of the expression “small world,” as the pamphlet works to motivate Religious-Zionist youth to go out and change the condition of contemporary Zionism.

Kookian Religious-Zionism and the Secular State: Some Background

Religious-Zionism has always had, and perhaps always will have, an ambivalent and conflict-ridden relationship with secular Zionism. On the one hand, the desire to live and settle in the Land of Israel is a matter of great religious significance for Religious-Zionists, as is the unity of *Am Yisrael*. On the other hand, Orthodox Jews in the mod-

ern era have always found it difficult to cooperate with non-observant Jews, a difficulty that is only extended when the secular side of the equation is the powerful majority, as it has been for almost all of Zionist history. This difficulty is magnified by the particular claims of secular Zionism. The notions that God rewards those who perform his commandments and that keeping *halakhah* is a prerequisite for living a good Jewish life were undermined by secular Zionist claims that an equal or better Jewish life could be lived without *mitzvot* and by that movement's success in creating a non-observant Jewish community in the Land of Israel.

Religious-Zionism has had many ways of addressing this challenge. In some cases, these tensions eventually created a break between the religious and the secular, as in the Netziv's decision to drop his association with the Hibbat Tziyon movement.²⁴ Others, such as R. Yitzhak Ya'akov Reines, diminished the conflict by arguing that cooperation with secular Zionism was largely disconnected from religion. Zionism is primarily a tactical movement designed to save Jewish lives and provide safety. Rav Soloveitchik took a more philosophical tack, distinguishing between a "covenant of fate," shared by all Jews and inviting cooperation between them, and a "covenant of destiny," where Orthodox Jews must go their own independent way.²⁵

But the writers and assumed readers of *Olam Katan* were brought up on a different vision, that of R. Avraham Yitzhak HaKohen Kook. According to his dialectical ideology, the secular Zionists were not "really" secular; they merely perceived themselves as such. Deep in an unacknowledged and submerged part of the secular Zionist collective psyche was a hidden religious motivation, one that is destined to emerge from its hiddenness and transform self-proclaimed secular Zionism into a messianic spiritual utopia.²⁶ But in the three quarters of a century since Rav Kook's death, that vision has not materialized. In fact, it certainly would have seemed more plausible to attribute secret religious motivation to the socialist-collectivist idealism of Second Aliya *halutzim* [pioneers], as did Rav Kook, than it would to attribute similar motivations to the citizens of contemporary Israel's increasingly individualistic and capitalistic society.

In the years following the Six Day War, much of Religious-Zionism, following the lead of R. Tzvi Yehudah Kook (son of R. Avraham Yitzhak), imagined that the Land, and Israel's miraculous conquest of that Land, would be the spark that would ignite the latent religiosity of the populace. Religious-Zionists would exemplify the classical Zionist value of *halutziut*, the pioneering spirit, and merge it with religion, in order to serve as a model for secular Zionism. The Territories were more than a place to live; they were a stage in the redemption, a way to unleash the latent spirituality inherent in the State.²⁷ But this, too, failed to materialize. The settlements grew, but they never became part of the Israeli consensus, and they did not succeed in bringing the rest of the Jewish nation to a renewed appreciation of the Land and its sanctity. Instead, they became the subject of hot political debate, with many Israelis viewing them as a political and moral burden rather than a stage in the redemption.

The sense that the secular population was growing alienated from the settlements and from all that they represented for Religious-Zionist ideology became worse with the signing of the Oslo accords (1993) and the gradual handing over of more territory to Palestinian control. Clearly, secular Israel did not see in the Land of Israel what the Rabbis Kook saw in it. In November 1995, with the Rabin assassination, an open rift developed between Religious-Zionism and a broad spectrum of the non-Orthodox population, with much of the general population viewing Religious-Zionism as a dangerous and potentially violent movement, and with the Religious-Zionist community defensive about its responsibility for the assassination (or lack thereof). These tensions reached a head in the summer of 2005 when the State of Israel withdrew from the Gaza Strip and several settlements in northern Samaria, forcibly removing the Jewish residents of these areas from their homes. This situation was made worse by a sense that only the Religious-Zionists seemed to care.²⁸ Under these conditions, on what basis can Religious-Zionism maintain its Kookian optimism about the future of secular Zionism?

Solving the Nation's Problems in Between *Aliyot: Olam Katan's* Diagnosis

The Kookian background and the disengagement color contemporary Religious-Zionism's diagnosis of the problems in contemporary Israel. The underlying crisis is not in Religious-Zionism itself, but in secular Zionism, which, it is claimed, has abandoned the classical Zionist values on which the State was founded—those very values that could have been transformed into genuine religiosity. Secular Zionism has abandoned love of Land and of People—things that reflect a dedication to ideals, to collectivism, to self-sacrifice—and replaced them with a selfish postmodern individualism.²⁹ “The secular population is sunk in a situation of complete escapism, which is the main reason that it was not aware of the human pain and the crisis [of the disengagement].... All the great ideas and ideals which characterized old-time Zionism are no longer a pillar of fire.... For many years, the secular population has not been very interested in spiritual and abstract visions, which have become the almost exclusive legacy of the Religious-Zionist community” (*Olam Katan*, 164, p. 4). The decision to withdraw from Gaza is reflective not only of misguided security considerations. It is symptomatic of a much deeper malaise: a misunderstanding of the “spiritual connections between the People of Israel and its whole Land,” indeed of the larger relationship between the “body and the soul, the spiritual reality that exists in every physical body” (*Olam Katan*, 165, p. 2).

This conception of contemporary secular life as selfish escapism, devoid of genuine values, appears in *Olam Katan's* fiction column in a short story about a young man who had left his Orthodox upbringing for a secular lifestyle. The story presents him sitting in a bar to pass the time, drinking beer after beer, trying to comfort himself after the end of yet another relationship with a short-time girlfriend. His life is utterly devoid of any transcendent meaning, and he has no significant goals. “Today is a new day,” he says, speaking to himself in third person, reflecting his self-alienation. “He will go to work, where he is very successful. He will forget everything. He will find a new girlfriend who will heal the wounds in his heart. He will return to the pubs in the evening to drink lemon vodka or a martini, to laugh with friends, to live

with women. He will forget everything and go back to living normally, without God or faith or other nonsense” (*Olam Katan*, 163, p. 8).

Olam Katan protests against a perceived attempt to imitate and borrow from contemporary “Western culture, which makes us pay a heavy price” (*Olam Katan*, 182, p. 1), rather than attempting to construct an authentic spiritual, Israeli-Jewish culture. For at least one author, Western culture is Judaism’s ultimate eschatological antagonist. The messianic war of Gog and Magog will occur when “the gentile cultures will instinctively understand that a republic of faith may sprout in the Land of Israel, [a republic] which stands in absolute contrast with their entire lives. [The gentiles] will gird their last strength for war.... In the first stage... Jerusalem will fail. Israeli culture will seem to be defeated by the overwhelming flow of foreign cultures.” In this context, at least some secular Jews are perceived as traitors. “In a flood of materialism, some of the nation will join the foreign armies.... [But] one part of the nation will not be taken captive and will maintain its position of faith” (*Olam Katan*, 173, p. 3; also see *Olam Katan*, 157, p. 3). Another author, equally dissatisfied with Western culture and secular Israel’s imitation of that culture, adopts a less confrontational attitude. There need not be an apocalyptic battle between Religious-Zionism and the West, because the West, after a period of crisis, will realize the emptiness of its own position. “Western culture will discover... that all of my [i.e., Western] world and all of my assumptions about God and man, about human nature and love, were all preposterous—‘Your Torah is true’” (*Olam Katan*, 135, 4).

Secular Zionist abandonment of its own values is particularly manifest in contemporary Israeli political culture, which is perceived as being selfish and short-sighted, in large part because of its lack of long-term religious vision. Then Prime Minister Ehud Olmert is a target of particularly harsh attacks. His perceived lack of principles is viewed as symptomatic of a larger malaise within secular Zionism, and as contrasting with the idealism of Religious-Zionism. “We, the religious, are a ‘people’ [*am*] of principles.... Being principled is great because it means that you are an idealist. And sticking to one’s ideas is certainly better than to be a person who isn’t interested in principles.... Olmert is a Prime Minister who reflects most clearly the opposite... someone

without principles.... At the end of the day, his lack of principles will explode in his face" (*Olam Katan*, 159, p. 1).

Olam Katan also joins much of the rest of the religious community in Israel in attacking "the rot which has spread in the court system" (*Olam Katan*, 168, p. 1). Israel's judicial system is perceived as being anti-religious and left wing, the pinnacle of the post-Zionist secular elite that is stripping Israel of its original Zionist values.³⁰

Furthermore, the government's lack of dedication to land and to true Zionist values leads to the nation's socio-economic problems. A Religious-Zionist politician explains that "One who is prepared to give in and compromise on questions of policy [regarding land and security] is also likely to be 'socially' ineffective." That is why the Religious-Zionist parties, "the ones who care about the completeness of the Land," are also "effective, focused and dedicated just as much to caring for the weak and frail" (*Olam Katan*, 161, p. 3). Indeed, an article entitled "Citizens Instead of the Establishment" summarizes a year of Israeli social-justice initiatives by saying that "The overwhelming majority of the initiatives which developed here were initiatives of citizens and not the government" (*Olam Katan*, 171, p. 13).

The current Israeli establishment has reverted to an exilic "*galutiut*, model 2008" (*Olam Katan*, 135, 4). One short story compares the fates of three Jews, each named Yitzchak. In the first incident, Yitzchak owns an inn on a gentile nobleman's land, presumably in early modern Russia. The nobleman murders the poor and defenseless Jew when the latter cannot pay his taxes in a timely fashion. In the second, a heroic Yitzchak plans an ultimately fatal but still laudable attack against Nazi soldiers. In the third, Arabs kill Yitzchak, a contemporary Israeli reservist, when his officers refuse to allow him to take a pro-active stance in battle (*Olam Katan*, 160, p. 8). The contemporary government and defense establishment, it is claimed, have more in common with the *galuti* situation of the helpless innkeeper than they do with the heroic example of self-defense.

Contemporary Israel has replaced the classical Zionist collectivist ethos, which is to the liking of contemporary Religious-Zionism, with a new individualistic ethos. Writing about the dangers of an overemphasis on psychology, which focuses on the individual's comfort and satis-

faction, one article claims that, “Placing man’s psychology in the center is currently a force that is destroying the State, crumbling society, and destroying the family—and in the end will destroy the individual’s life” (*Olam Katan*, 173, p. 2). In a related article, the same author refers to the entire “cursed” field of psychology as a “modern heresy” for its “anthropocentrism.” It is the task of “religion” to “make its contribution to modern man by saving him from his self-centeredness” (*Olam Katan*, 169, p. 1). Several religious psychologists responded critically to this statement, but they did not question the notion that self-centeredness is a problem in Israel (*Olam Katan*, 170, p. 4).

But, Religious-Zionism as reflected in *Olam Katan* is also interested in distinguishing between the secular Zionist leadership, which is perceived as without values, and the masses, who are often described as being closer to the religious tradition than people think. The previously cited article that attacks Olmert for his lack of principles explains that the “masses” have a “divine intelligence,” which allows them to understand what their leadership does not. The task of the ideal “leader,” unlike the contemporary political leadership, is to “know how to unify the divine intelligence that is hidden in the masses who are below it [the leadership]... and then to know how to bring them one step at a time toward that lofty ideal” which makes up the destiny of the people (*Olam Katan*, 159, p. 2). One gets the distinct impression that this author envisions Religious-Zionism as just such a leadership, at least in potential.³¹

Several articles on the crisis in Sederot, the Israeli development town that was (and as of this writing still is) under threat of rocket attacks from Gaza, reflect these concerns. The primary problem is that “the State of Israel has abandoned them,” hinting at similar criticism of the government’s abandonment of those who were uprooted by the disengagement. “Try to understand the kind of craziness that the State of Israel maintains for its citizens.” Here, however, the problem is not only with the leadership but with the average citizen as well. “I don’t know how many of you have really internalized what is happening here in your own land, in your State, some two hour’s drive from your home.” One poster, copied in miniature on the pages of *Olam Katan*, juxtaposes a picture of young people casually drinking coffee in Tel

Aviv with a picture of an explosion in Sederot. The poster echoes an attack on secular Zionists during and after the disengagement, “those who sat in coffee shops and who avoided the horrible reality between sips of grande-American-latte which they drank in their Tel Aviv bubble” (*Olam Katan*, 154, p. 2).

Further to blame are the news media, which are described (quoting a secular left-leaning journalist and now politician Shelly Yichimovitch) as being “yellow journalism that works on the darkest urges by blurring the boundaries between a freak show and seriously addressing the issues” (*Olam Katan*, 171, p. 12). “The press can be run without ethics or integrity” (*Olam Katan*, 154, p. 4). “The media, with its roots in the West, emphasizes materialism and... makes self-realization the ideal goal,” rather than collectivism or Judaism (*Olam Katan*, 152, p. 4).

These media, in a fit of self-justification and abandonment of values, refuse to show the negative consequences of the withdrawal from Gaza and discourage attempts to fight for the sake of the Land and its safety. The media know how to “transmit pain and compassion when they really want to, but I do not understand why so often in Sederot the camera shows specifically people in the least sympathetic situation, how they manage in each report to spread the sense that ‘there is nothing to be done.’” The Religious-Zionist community is actually doing something about it, for the author of this article is the mother of “one of the ‘strong’ and idealistic families, those who are willing to sacrifice for the collective,” implicitly opposing the secular Zionist establishment which is said to be mired in individualism and selfishness (*Olam Katan*, 154, p. 2).

Another article decries the cultural dangers that are created because the army distributes secular newspapers, which color the news in their own secular-left fashion. Once the young and impressionable soldiers get accustomed to those papers, they develop reading habits that they then take with them into adulthood. Why, ask *Olam Katan* writers, does the army not distribute *Makor Rishon*, the Religious-Zionist newspaper that has attempted to reach the secular public? Perhaps the lack of high-quality, genuinely Zionist news media in the army is part of the reason why “the spirit of battle is not what it once was” (*Olam Katan*, 169, p. 3).

In this sense, *Olam Katan* perceives contemporary secular Zionism as a “small world.” It is weak, selfish, devoid of genuine values, and unwilling to sacrifice for the values that once motivated it. This bitter criticism of secular Israel reflects a growing Religious-Zionist alienation from contemporary Zionist culture, a sense that Israeli society is rotting from the inside. The question, then, is what to do?

Solutions

One possibility is to abandon the potential that Zionism might have presented, to join the Haredi ranks who openly reject Zionism as a movement and ideology, an option that has some appeal on the fringes of Religious-Zionism.³² But there is another option: to roll up one’s sleeves and begin the hard work of improving what is perceived as failing. The latter is the option that *Olam Katan*, and much of contemporary Religious-Zionism, advocates.

This tension between the two responses is reflected in two juxtaposed articles that envision Israel’s 100th birthday, in celebration of the State’s sixtieth anniversary. Well-known author, Smadar Shir—born into an Orthodox family but no longer Orthodox—parodies Israel’s future, envisioning it as contemporary secular Israel’s perceived failures writ large. “Curly Ortal” the clown leads the official Independence Day celebration, the guests of honor being a stupid beauty queen, a Jewish Israeli Holocaust denier, a woman from Sederot who finally leaves her bomb shelter to come to the ceremony, and a Minister of Education who is the only one in the crowd who speaks Hebrew. “Next year in Los Angeles,” declares the MC-clown.

This adult pessimism from the establishment is juxtaposed with the youthful optimism of the head of the Students’ Union in the town of Shoham. In forty years, Tel Aviv will be a green city, dotted with beautiful parks. Two million American Jews will have come on *aliya*, in search of Israel’s world-class educational system and to celebrate the national *Pesah* holiday. The entire land of Israel will be settled with Jews, except those parts that are left pure and pristine for hiking. This young woman entitled her essay “Lots and Lots of Work” (*Olam Katan*, 152, p. 4), implying that if only the youth do the work that they are

supposed to, then Israel has the potential not to become a disastrous dystopia but an ideal utopia.

For the youth to accomplish this, Religious-Zionism must break out of its isolationism. “Israel is a country of bubbles. The secular population and the religious population live in separate bubbles.... Religious Zionism... [did not realize] that the vision of the complete Land of Israel never settled in the hearts” of the non-religious population. It is a kind of cultural “autism on the part of the Religious-Zionist community” (*Olam Katan*, 164, p. 4). “The claim [that had motivated the early settler movements such as Gush Emunim] that revolutions can be motivated from a distance has disappeared from the world.” (*Olam Katan*, 162, p. 3).

Hence “The task of the Religious-Zionist community today is to raise up the Jewish [i.e., religious] foundation which is hidden in the recesses of Israeliness” (*Olam Katan*, 179, p. 4). And it must do so by breaking out of its isolationism. But the call, here, is for a particular kind of emergence and involvement. This is not integration in which one goes into the secular world to learn from the goodness that is there (as in the American Modern Orthodox discourse of *Torah UMadda*), nor is it the integration that comes from dialogue between equals. Indeed, religious-secular dialogue for the sake of honest communication and the finding of common ground is largely absent from *Olam Katan*’s rhetoric. Instead, *Olam Katan* advocates an attempt to go into that world as an evangelical, as a missionary.³³ Religious-Zionism must create a new Zionist culture that is closer to Zionism’s supposedly authentic religious roots. Religious-Zionism has, up to now, been satisfied to speak to Israelis about “small things,” but the Religious-Zionist community has not made any serious efforts to “change the Israeli discourse,” from one of pragmatic security to one of the integration of the physical with the spiritual (*Olam Katan*, 165, p. 2).

Indeed, the solution proposed in *Olam Katan* cannot come from secular Zionism, for both substantive and rhetorical reasons. Substantively, the lack of true Jewish and Zionist values makes it impossible for secular Zionism to solve its own problems. At least among the leadership, there are no longer enough secular Zionist values left for the implicit sanctity to emerge. Furthermore, at the rhetorical level, *parshat*

hashavua pamphlets are written for internal religious consumption, and they are not a forum through which to communicate with and influence secular Zionism.³⁴ In addition, focusing on Religious-Zionist activism reinforces the notion that no secular Jewish movement is really adequate and that only Orthodoxy can eventually succeed for modern Jews.

For some, the State of Israel is on the cusp of a youth-led revolution. “The generation that founded the State will be replaced by a new generation, and it seems that there will be a revolution on all the fronts.... Look [for the revolution] not among the adults, but rather among the fresh youth, who... [must] not stand around, but gird their loins and build the kingdom of God.” They will do so by replacing current secular decadence with something better, namely “pure Jewish courts and government” (*Olam Katan*, 168, p. 1).

That is, the crisis of the withdrawal ought to be used as a springboard for building and growing in new directions, in particular those directions that help secular Zionism heal itself from its recent failures. “Personal or sectarian pain [over the disengagement]... is important, but that is far from the point.... We are mourning also for those who don’t even recognize the seriousness of the act.... In the right measure and at the right time, [mourning] creates strength, demands new responsibilities.” And there are many, many tasks. Each person should choose “whatever lights him up—settling in the hearts [i.e., bringing the message of Religious-Zionism to the secular populations], settling on hilltops, studying Torah, purifying the court system, building a proper Israeli news media, to integrate or provide an alternative, to build the vessels of the Temple, or to distribute flyers in the streets” (*Olam Katan*, 165, p. 1).

One primary area of activism involves a Religious-Zionist attempt to “change the Israeli discourse.” Religious-Zionism is here not merely to fight for sectarian concerns but to re-envision what the State of Israel is all about. Religious-Zionism must teach the People of Israel that there is more to the Land than security. There is a “spiritual connection between the People of Israel and its complete Land,” which is representative of the wider connection between physicality and spirituality in the universe. “The Creator put us here for that very reason—to

combine the physical with the spiritual.” Changing Israel’s discourse is “a long and tiring process, in which, without concern for specific immediate consequences, we raise the spiritual factors to the discourse in the street and to the debates in Israel. We must write articles and give speeches.... We must get on radio programs and speak only about the physical-spiritual connection between the People and the Land” (*Olam Katan*, 165, p. 2). There is something ironic here. The notion that changing discourse can itself change reality is itself a Western, postmodern notion, which this Religious-Zionism claims to be repudiating.

Still, one way to achieve that goal involves a renewed commitment to go to the community of secular Jews and bring them closer to Torah and to Religious-Zionist values. “*Garinim Toranim*”—Religious-Zionist seed communities that are planted in secular or traditional neighborhoods to be agents of social and religious change—will be part of a movement of “local change” and can help bring about the desired revolution. “Ideas like ‘social involvement’ and ‘community influence’ have become part and parcel of the Religious-Zionist scene” (*Olam Katan*, 162, p. 3. Also see *Olam Katan*, 156, p. 4). Yeshivat Eretz Hemdah advertises its new “*Beit Midrash for Community Rabbis*.” This advertisement appears in the same issue as calls for young people to join a *garin Torani* in the largely secular and up-scale city of Hertzelia and to found new *garin Torani* in the poor development town of Natrat Elit (*Olam Katan*, 160, pp. 3-5. Also see *Olam Katan*, 154, p. 4). Even the University of Haifa, an institution that seems to have no interest in furthering the Religious-Zionist ideological and religious agenda, understands that it is likely to attract students from among the readership of *Olam Katan* by advertising an opportunity to establish a religious seed community that will be active in the university and in the largely secular (and Arab) city (*Olam Katan*, 158, p. 2).

One central part of this activism is the new movement of *hahzarah beteshuvah* that has become central in Religious-Zionist discourse in the past few years.³⁵ Linking the willingness to abandon territory in the Land of Israel with the secular nature of much of the population, one rabbi explains that, “If we strive to keep all parts of the Land of Israel... the center of our activities must be spreading *teshuvah* to each and

every house, family and individual in Israel” (*Olam Katan*, 168, p. 1). Similarly, an advertisement encourages students to “organize activities and study days for ‘secular’ youth on the topics of: heritage, identity, and Zionism” (*Olam Katan*, 162, p. 5). A yeshiva ties several themes together, when its advertisement calls on youngsters to join its ranks. “The People of Israel are getting lost, and you are busy with yourself? Stop living in a movie!!! Become a trailblazer for the People of Israel! Join those who are creating a new yeshiva for outreach” (*Olam Katan*, 157, p. 4).³⁶

There is a critical difference between the way in which Religious-Zionism contextualizes its outreach and that of a typical Haredi *teshuvah* activist. For the Haredi community, on the whole, the goal is to bring an individual or family toward more serious and consistent observance of *halakhah* and toward a stronger identity with the Haredi community. But Religious-Zionism has broader goals. Drawing from another central theme in Rav A. Y. Kook, Religious-Zionism focuses its efforts not only on individuals but also on the broader field of culture. That is, Rav Kook combined a critique of what he saw as the decadence and immorality of some aspects of secular culture with an optimistic idea that Torah is capable of motivating art, literature, and culture that would express and expand Torah’s influence and fields of expression. As Rav Kook put it, “We shall transform all the positive aspirations of life—social and cultural, pragmatic and economic, esthetic and political—into a firm anchor of the Divine spirit and a radiant Torah that will shine forth from Zion.”³⁷ For example, an advertisement for a college with a special “religious track” attempts to attract students by inviting them to a conference on the topic of Jewish economics, claiming thereby to help “change the face of Israeli society” from one with a presumably more selfish economics to one that is to be more fair, caring, and holy (*Olam Katan*, 170, p. 4).³⁸

The goal, then, is not only to transform individuals, but to transform the entire cultural atmosphere. Hence, Religious-Zionist discourse celebrates numerous ways of creating cultural expressions that are specifically Jewish (*Yehudi* in Religious-Zionist lexicon—though at times the expressions *emuni* [faithful] or *Torani* [Torah-oriented] are used as well). The term *alternativah* [alternative] has become a kind

of catch-phrase in Religious-Zionist discourse, a term that connotes both the diagnosis of the collapse of Zionist culture as well as the task of Religious-Zionism to replace that culture with something better and more sanctified. Religious-Zionists are to go out into the places where Israeli culture is being constructed and create alternatives that are more holy, value-laden, Jewish, and content-filled. As R. Yisrael Rozen put it in a different *parshat hashavua* pamphlet, not long after the disengagement:

We will conquer the Israeli democracy from the inside by directing more and more worthy people to the media, to the courts, to politics, and even to art. When our influence will be measurable in these areas, as it is in the army today, we will prove that it is possible to lead a Jewish, Zionist, and democratic state.³⁹

The first and most important target of this agenda is the political sphere, since Israel is such a highly politicized and politically aware culture, and since one of the central manifestations of the proclaimed abandonment of Zionist values appears in political decisions such as land-for-peace deals or the withdrawal from Gaza. The “first” task of the religious parties, according to one author, is to “set up an overall *alternative* regarding the plethora of national issues which occupy us each and every day.” He blasts the existing Religious-Zionist political establishment for its narrow concerns and lack of vision. “You continue to play cheap parliamentary games when you should be directing and leading an entire nation. (A national *alternative*, remember!?)” (*Olam Katan*, 162, p. 8, emphasis mine).

Predictably, spokespeople for the Religious-Zionist political parties make it clear that this criticism is mistaken. This is so not because they disagree with the agenda, but because (as politicians tend to do) they claim that they are already fulfilling that agenda. “Despite the monotonous, endless and boring repetition ... that ‘We care only about the Land of Israel,’” this is merely “the media’s nonsense.” The Religious-Zionist politicians are active, of course, in the battle for the complete Land of Israel, but also, even more than the other parties, in social justice, the rights of the weak, the long-term educational infra-

structure, etc. etc., exactly those spheres in which secular Zionist politics has failed (*Olam Katan*, 161, p. 3, Also see *Olam Katan*, 152, p. 3).

Indeed, according to many authors, the religious community could, in the near future, send one of its representatives to the seat of the Prime Minister. “It is no secret that if the religious community in Israel would unify, they could lead the country” and win the elections (*Olam Katan*, 164, p. 2. Also see *Olam Katan*, 164, p. 5). One young man states explicitly that, “The minority can lead.” He calls on the Religious-Zionist political leadership to “Take the wheel of the country” (*Olam Katan*, 162, p. 8. Also see *Olam Katan*, 154, p. 5).

Not everyone agrees that the Religious-Zionist takeover of the secular political establishment is imminent.⁴⁰ One author rejects the notion “which has spread widely in our camp, that... it is enough that we [attempt to] take the leadership into our hands in order for them [the rest of the population] to support us” (*Olam Katan*, 163, p. 8). In part, this is true because Religious-Zionism has been too isolationist. “The separation” from Israeli culture “explains in the most simple way why until now a proper leadership has not developed from within the Religious-Zionist community, [a leadership] which can have an influence and take over political, policy and social leadership” of the country (*Olam Katan*, 165, p. 1). Even those who doubt the short-term possibility of religious political leadership claim, messianically, that, “In the long term we will certainly become the leaders. In the end we will win and in the end things will be fine” (*Olam Katan*, 159, p. 1).

More often than not, however, the goal is not to take over, but to influence, *lehashpiah*. An advertisement, for example, asks in big bold letters: “Do You Want to Have an Influence?”, hoping to draw young people in their twenties into an educational initiative to “strengthen Jewish values” outside of the devout Religious-Zionist enclave (*Olam Katan*, 158, p. 4). Another advertisement for a course of study in film and television asks young students to “Come and Have an Influence in the Media” (*Olam Katan*, 173, p. 3), without stating explicitly the narrative that lies behind the call to arms. Like *alternativah*, the term *lehashpiah* functions as a code for a broader collection of values—the desire of Religious-Zionism to change existing secular Zionist culture. This is precisely why a Religious-Zionist organization sponsors

a course in photojournalism and why it advertises that course to the youth who read *Olam Katan*—to help Religious-Zionist images reach the press (*Olam Katan*, 171, p. 15). In fact, the very publication and popularity of *Olam Katan* demonstrates that Religious-Zionists are capable of creating a weekly news and media magazine that reflects that community's values and concerns.

In addition to politics and the media, the creative arts are another important area where Religious-Zionism is meant to be “influential” by creating an “alternative.” *Olam Katan* advertises a “creative writing workshop” for up-and-coming Religious-Zionist writers (*Olam Katan*, 173, p. 4), and it publishes short fictional stories each week, which were collected into a book.⁴¹ An article on the “*Agadeta*” creative writing contest for Religious-Zionist authors explains that “literature” has a “great influence” on culture, and up to now the secular left has dominated that field. “It is critical that we raise the voice of Torah and the voice of roots and Zionism by developing the world of creative culture” (*Olam Katan*, 165, p. 7).

Advertisements for new religious theater, such as *Te'atron 'Amukah'* or *Yotzrot*, appear regularly (*Olam Katan*, 160, p. 7; 173, p. 6). Founders of a religious music festival see themselves as an alternative to the secular festivals, like “Boombamela” with its focus on “letting go... and drugs.”⁴² In contrast, the religious music festival “is a way of spreading Judaism.... The general community is longing for and very thirsty to hear good Jewish music.” Indeed, the organizers look forward to the day when general radio stations will start playing religious music as well (*Olam Katan*, 164, p. 3. Also see 166, pp. 2-3).

In order to influence the world of Israeli creative arts one needs proper training, and so *Olam Katan* advertises an institution of higher learning that combines “academic studies with a *beit midrash* for dance, drama and Jewish art” (*Olam Katan*, 162, p. 3). Alternatively, one can learn a useful profession while helping to transform the decadence of contemporary Israeli fashion by attending a “*Fashion Midrashah*” or another course in clothing design (*Olam Katan*, 172, p. 7; 173, p. 5; 162, p. 7, among others. Also see *Olam Katan*, 166, p. 1).⁴³

The agenda spelled out in *Olam Katan* is, for the most part, *mamlakhti*. That is, despite the disengagement, the State of Israel remains

the legitimate representation of the Jewish people, and Religious-Zionism must continue to maintain its positive relationship with the State, its culture, and its institutions (*Olam Katan*, 152, p. 4). There is also an anti-*mamlakhti* camp within Religious-Zionism, though it is considerably smaller, and the anti-*mamlakhti* position retains a certain pull for some *Olam Katan* authors, particularly regarding the anger about the disengagement. “Behold you are divorced from me/ with this strangling ring/ according to the law of Ehud [Olmert] and Ariel [Sharon],” declares one poem (*Olam Katan*, 165, p. 8).⁴⁴ In addition to anger, however, some of this attitude reflects a concern that Religious-Zionism will lose the advantages that isolationism holds for religious Orthodoxies. For all the proclaimed desire to integrate into the existing establishment in order to change it from the inside, there is an equally powerful pull toward the safety and religious purity of the isolationist enclave, particularly in the wake of the traitorous disengagement.

An anonymous editorial regarding the third anniversary of the withdrawal reflects on this very tension, suggesting a compromise. The *mamlakhti* camp, it claims, suffers “suddenly from an inability to criticize or even raise the most natural feelings of disappointment and anger, which should be the portion and right of someone who sees himself as part of a body, a family and a State.” The non-*mamlakhti* camp, in contrast, succeeds in expressing the legitimate feelings of criticism and anger, but in its rejectionism and isolationism it fails “to take true responsibility for this creature which is called the State of Israel.” In fact, the respective failures of both camps “explains in the simplest way the failure of the nationalist, Religious-Zionist camp [to produce] a proper leadership which will have influence and take political, policy and spiritual leadership” over the rest of the country. The new Religious-Zionist youth, in contrast to the older generation, is now finding the right balance. It knows when to attack and criticize and remain distant, but it also remains attached and involved enough to change what needs to be changed. This Religious-Zionist youth “knows that it is an important, indeed a critical and dominant part, of the developing puzzle that is reaching completion” (*Olam Katan*, 165, pp. 1-2).

The rhetoric in *Olam Katan* is particularly interested in celebrating signs of success. “Now that the Zionist ethos... is no longer burn-

ing in the way that it was... a vacuum has been created... Certain [non-Orthodox or non-Jewish] initiatives are, here and there, filling this emptiness... but they do not have the ability to satisfy the soul. Look at what is happening in the secular world regarding spiritual searching—more and more people are turning to Kabbalah or the Far East.” But these kinds of searches, according to Religious-Zionist rhetoric, cannot satisfy non-observant Jews, who, in their heart of hearts, are looking for a genuine Religious-Zionist Orthodoxy. “These people want a synagogue with everything that that implies. And here the Religious-Zionist community can offer something unique” (*Olam Katan*, 164, p. 4).⁴⁵ A short poem by an anonymous woman from Tel Aviv—a city that symbolizes the heart of the secular establishment and the place where *teshuvah* efforts have been particularly pronounced—celebrates the supposed secular return to Judaism. “I came from the black/ and I returned to the light... I was here and I heard/ and returned [*hazarti*] greatly. Now I am here/ remaining forever/ with the never ending light” (*Olam Katan*, 154, p. 8).

Similarly, *Olam Katan* emphasizes non-Orthodox Israeli artists and celebrities who use their talents to “reconnect” with the tradition. The music review section of *Olam Katan* celebrates albums by mainstream, non-Orthodox Israeli artists such as Ehud Banai, Meir Banai, and David D’Or, whose music has been influenced of late by traditional Jewish sources (*Olam Katan*, 173, p. 6). Similarly, Shuli Rand, the now Breslover Hasid (he was born into a Religious-Zionist family and was secular for a time) perhaps best known for his Israeli-Oscar winning performance in his movie “*Ushpizin*,” released an album that “nobody questions is completely ‘a song to God,’” and which sold enough copies to become a “Gold record” (*Olam Katan*, 164, p. 3). An advertisement invites Religious-Zionist youth to attend one of Rand’s concerts in the well-known Tzavta concert hall in Tel Aviv, not a place known for its religious atmosphere, under the direction of secular rock star Asaf Amdursky (*Olam Katan*, 168, p. 1).⁴⁶ Most prominently, a more than two-page spread contains an interview with Amir Benayoun, a popular singer who has become more observant over the course of his career, and whose lyrics reflect an appreciation of and love for traditional Jew-

ish texts and liturgy. That his music has been appreciated by Israel's musical *branzha* [snobby elite], and that it gets significant playing time on Israeli radio, contrasts, according to *Olam Katan*, with the mindless music of other popular singers and reflects the tremendous possibilities of cultural influence (*Olam Katan*, 171, pp. 8-10).

On the whole, many of the Religious-Zionist spokespeople in *Olam Katan* are convinced that this agenda of cultural revolution will succeed. It is only a matter of time. In the not too distant future Israeli culture "will no longer be 'Israeli.' Nor will it be secular in the sense that that term is used today. In historical terms, this [secular Israeli culture] cannot survive. Nor will it be 'religious' in today's sense of the term. The secular Zionist Israeliness of today and the 'religious' Zionism of today will combine into something genuinely new. This will be a Jewish culture... the culture of the Third Temple" (*Olam Katan*, 152, p. 4).

Internal Tensions and Contradictions

This agenda is not without its problems. One longtime problem involves the paternalism in this approach. Religious-Zionism is convinced that it knows that secular Zionism is really religious, knows where secular Zionism has gone wrong, and knows how to fix it. To quote one of the more explicit and extreme voices, "Secular Zionism has gone bankrupt, and they see that Religious-Zionists are the ones who are succeeding.... It all depends on us" (*Olam Katan*, 181, p. 3). Secular Zionism has long critiqued the implicit paternalism in Rav Kook's notion that he knows self-proclaimed secular and atheistic Zionists better than they know themselves. Indeed, critics from within Religious-Zionism have attacked this paternalism as being immodest and arrogant.⁴⁷

In addition, there are other problems with the Religious-Zionist attempts to transform secular Israeli culture, because one becomes dependent on the internal logic of the outside culture. When one sets out to create an alternative to an existing secular media, one has no choice but to follow at least many of the codes, concerns, and values that are inherent in that media. If one wants to create a new, better film

culture, then one must produce film, and that film must be attractive by the standards of the genres and by the economic forces of the open market. And what these forces demand may not match what religious values deem ideal.

This issue also came to the fore in an exchange on the pages of *Olam Katan* regarding the alternative “religious” newspaper *Makor Rishon*.⁴⁸ One anonymous author celebrates its successes. “When I see a newspaper like *Makor Rishon*, I am happy because [it shows] that it is possible to create a proper Israeli press.” It is not just for the *migzar* [in-group]. It “listens to the world outside of the courtyard but makes sure not to let in too much of the dirt” (*Olam Katan*, 157, p. 1). For at least one reader of *Olam Katan*, however, even *Makor Rishon* is inadequate. “*Makor Rishon* is just not a newspaper that meets [*halakhic*] standards. Reading most of this newspaper is simply prohibited according to *halakhah* just as reading any other secular newspaper is prohibited” (*Olam Katan*, 159, p. 6). Immodest pictures, reviews of upscale restaurants, real estate sections without enough focus on the settlements, *lashon hara*, and focus on sports stars are all inappropriate, “to mention nothing of the monthly section for women that violates all basic rules of modesty” (*Olam Katan*, 159, p. 6).⁴⁹

This attack on *Makor Rishon* led to a backlash. Yes, the paper is “not perfect,” but one cannot “wish the paper great success, hoping that it will become the ‘country’s newspaper,’ and at the same time call to cancel one’s subscription. You want something pure and clear, with no dilemmas and problems? You can remove the sports section, the financial pages, the entertainment, and the analysis. You can replace it with *parshat hashvua* and articles about *halakhah*. You can replace the ‘secular’ name *Makor Rishon* with a more ‘Jewish’ name like *Shabbat Kodesh*, make the format smaller, and distribute it in synagogues. Then we can read it comfortably during prayers and continue to cry, with absolute justification, that the media, and following them the nation, is against us” (*Olam Katan*, 160, p. 8).

The example of *Makor Rishon* points to another challenge inherent in the attempt to create an alternative to the secular culture. One may produce a religious alternative not in order to influence the secular, but in order to prevent religious people from consuming the dangerous

secular culture. Rather than influencing secular culture, it may become part of a isolationist religious culture, preventing contact between Religious-Zionists and others. After praising *Makor Rishon* for its quality, “Jewish” reporting, one author in the discussion of the newspaper asks, “Why, despite all the efforts, has *Makor Rishon* not succeeded in really breaking out into the secular and traditional sectors? Why, in the radio’s summaries of the morning newspapers, is it not there on the table? Perhaps it is a marketing problem, perhaps it is a secular conspiracy, and perhaps there is a deeper problem” (*Olam Katan*, 157, p. 1). Similarly, as the lead singer of the “religious” band, *Oyf Simkhes*, put it, the rock-star status of Orthodox musicians is problematic from a Torah perspective, but without the religious alternative the youth would be “pushed into the arms of the playlist of [the secular music station] Galgalatz” (*Olam Katan*, 166, p. 4).

Indeed, as Yonatan Cohen has argued, part of the very success of *parshat hashavua* pamphlets in the religious world involves a desire to create a separate, isolationist media, due to religious dissatisfaction with the secular media. An individual might read *Olam Katan*—or other print media with a similar agenda, such as *BaSheva*, *Nekudah*, or other *parshat hashavua* pamphlets—only to cancel his subscription to the now redundant non-religious current events magazine. *Olam Katan* and like publications preach the value of emerging from the Religious-Zionist enclave to have an impact on, among many other things, the print media, at the same time as those publications hope to replace for the Zionist readership some of the print media that they are meant to influence.⁵⁰

But there is also significant reason to believe that the isolationist function of Religious-Zionism’s thick culture is not entirely successful. Many readers of *Olam Katan*, ones who in principle largely agree with its agenda, are fans of the same culture that they claim to want to influence or replace. The youth of that community are extensive consumers of secular Israeli and international popular culture.⁵¹ *Olam Katan* as much as admits this when it celebrates the secular musicians who turn to the tradition, assuming a readership familiar with and accustomed to that music.

Furthermore, even when a Religious-Zionist cultural product

does succeed in crossing over, does succeed in creating something that is consumed by the secular public, it may not play the role that the ideologues originally desired. Take the controversy that arose regarding “*Serguim*,” the popular television series that tells a story of several young, single, religious people from Jerusalem. The program was developed by Eliezer Shapira, a graduate of the Ma’aleh film school, a school that was founded, at least in part, to train young religious people to create an alternative to the perceived decadence of Israeli entertainment culture. On the surface, this is precisely what ideologues associated with *Olam Katan* would like: a religious-created program that could cross over and become popular among the general population. Despite this potential, the show did not meet the standards of at least some of the religious and rabbinic leadership.

R. Shlomo Aviner explained on the pages of *Olam Katan* that watching the program is “certainly prohibited. There is inappropriate language and immodesty.... It is cheap, shallow, stupid, and an embarrassment to the Religious-Zionist public” (*Olam Katan*, 168, p. 1). Another article blasts the show for its lack of realism and the lack of *halakhic* behavior by its protagonists. “*Serugim*,” it is claimed, paints a false and misleading picture of the religious and social lives of the Religious-Zionist public,⁵² making secular Jews think that the Religious-Zionist community as a whole is uncommitted and shallow. Another writer goes so far as to place the Religious-Zionist producer of the program outside of the camp. “We didn’t ask *you* to cover over *our* weaknesses.... Just don’t portray *us* using *your* old stigmas” (*Olam Katan*, 170, p. 4, emphasis mine).

The Religious-Zionist community began to train its youth to be cultural producers for the larger public but soon discovered that the skills that these youth developed could be used in directions other than what the ideologues demanded. The show’s co-writer and developer wanted to present Religious-Zionist singles—of which he is one—in a way that he saw them (and in a way that would turn a profit). In an interview in the secular press he explained that “We do some scandalous things with provocative issues, but we do it well. It’s not giving in to ratings. It’s serious issues, in the cleanest and most modest way.... No one wants to make a PR movie about religious people.... The result

[of making the series the way I saw fit] is more identification.”⁵³ Literature, film, and the arts rarely remain in the confines that the ideologues would like, at least in an open society where individuals are free to ignore the ideologues and where the forces of the market are often stronger than the forces of the preachers.⁵⁴

But writers in *Olam Katan* remain “confident” that despite “*Serugim*” and its shortcomings, “Many of those who wear knitted *kippot* have not yet picked up the gauntlet of proper Jewish creativity, one for which we have waited for two thousand years. I am convinced that there is ... an authentic Jewish creativity that does not kick at the tradition and submission to God, but [which] ... will create new fruits that have not yet existed in the world. But it seems that we will just have to wait a little while” (*Olam Katan*, 169, p. 2).

Some Concluding Questions

The mainstream Religious-Zionist ideology that is reflected in *Olam Katan* is not the only Orthodox voice in Israel working to articulate a stance toward the secular Zionist cultural establishment. If Haredi *teshuvah* activists also envision bringing the secular closer to Judaism, they expect to do so on a case-by-case, individual-by-individual basis. They certainly have no willingness to train their own youth for work in the secular cultural mainstream.⁵⁵ The more left-wing elements of religious Zionism do not share with *Olam Katan* the fierce criticism of secular Israeli culture, and therefore have less invested in replacing it.⁵⁶ There is also a rather large group of ideologically unself-conscious middle class Religious-Zionists who are so integrated into Israeli general culture that they have little motivation to transform it.⁵⁷

In contrast, *Olam Katan* and the influential ideological and educational group which it reflects have set for themselves a rather large task of transforming Israeli culture from the inside. And there are, in fact, signs of an increased presence of religion in Israeli public life. Certainly, the appearance of religious journalists such as Sivan Rahav-Meir on Israeli television; movies such as “*Medurat HaShevet*” and “*Hesder*” by the graduate of the religious school system, Yosef Cedar; the success of the fiction of R. Hayyim Sabato; art galleries with shows by artists such as Tzvi Malnovitzer; the “Judaism” sections on the websites of Israel’s

two largest newspapers (*Yediot Aharonot* and *Ma'ariv*, www.ynet.co.il and www.nrg.co.il respectively); the publication of the winners of the “*Agadeta*” fiction contest on the website of *Yediot Aharonot*;⁵⁸ the activism of Religious-Zionist *teshuvah* organizations such as Rosh Yehudi; and many similar things all point to ways in which religious voices are making their way out of the enclave,⁵⁹ though I am not convinced that all of this is entirely a result of Religious-Zionist activism. I will make no attempt to predict how far this trend might go and how close Religious-Zionism might get to achieving its goals.

But I would like to suggest that Religious-Zionism’s cultural agenda is not only about fixing the perceived faults in secular Zionism. It is also, and perhaps primarily, an internal discourse, a conversation that helps Religious-Zionism negotiate its identity crisis in the wake of the Oslo agreement, the Rabin assassination, and the disengagement. That is, in addition to looking at what *Olam Katan* criticizes about its community’s practice, it is also worth examining what is out of bounds for *Olam Katan*, what aspects of Religious-Zionist ideology are not questioned. Religious-Zionists did not do an adequate job of communicating their values to the secular public and did not put enough energy into other transformative cultural endeavors. It is time to change that approach. But several aspects of Religious-Zionist ideology are not subject to question by authors and editors, most apparently the messianism and the centrality of the settlement movement. Indeed, the editor of the pamphlet agreed in conversation that he did not want to challenge those aspects of Religious-Zionist ideology.

That is to say, according to this ideology, Religious-Zionism’s faults were primary ones of omission rather than commission. It is not that the messianism or settlement ideology was mistaken or misguided. It is that Rav Kook’s prediction of the sanctification and religionization of Zionism has not yet panned out and that the secular establishment did not come to appreciate the Religious-Zionist sacrifices for the sanctity of the Land. But they will. It is only a matter of time, and perhaps an additional kind of activism on the part of Religious-Zionist youth. The ideology that Religious-Zionism has been proclaiming for decades remains fundamentally correct and coherent; it merely needs an addition.

Hence, the ideology articulated in *Olam Katan* diminishes Religious-Zionism's blame for recent failures by focusing on the faults of secular Zionism, which has failed to live up to its own values and now needs Religious-Zionism to save it from itself. It is not Religious-Zionism that has failed, that misread the map, that went off in wrong directions. It is secular Zionism that has become derailed. In the words of one particularly alienated youth, "We are the only ones who have real values in this country" (*Olam Katan*, 181, p. 3).

Further, this ideology leaves Religious-Zionism in the center of history. The disengagement does not call into question Religious-Zionism's self-perception as the axis around which messianic history rotates. It merely requires shifting the angle of that axis. In the language of Thomas Kuhn, the fault lines in post-disengagement Religious-Zionism do not require an ideological paradigm shift, but some restructuring of details and priorities.

That is to say, what *Olam Katan* leaves out of the conversation is also a way of limiting the identity crisis that has emerged in the wake of the Oslo accords and the disengagement. *Olam Katan* is willing to criticize its community, but its ideology also absolves Religious-Zionism of a need to rethink certain core aspects of its previously stated ideology, and it frees Religious-Zionism of responsibility for its failure to accomplish some of its goals. Critics from within and without Religious-Zionism have, for some time, suggested that activist messianism can lead to irrational policy by encouraging an exaggerated self-confidence and a sense that failure is impossible. Furthermore, critics claim that the focus of so much of Religious-Zionism's resources on settlements is a prime example of just such an irrational messianic policy. Or, put somewhat differently, Religious-Zionism's settlement focus and its messianism may bear more of the blame for its own problems than *Olam Katan's* rhetoric is prepared to admit. Perhaps the disengagement has many reasons beyond a supposed collapse of secular Zionist values. I, for one, have much sympathy for this critique, but the rhetoric and ideology expressed in *Olam Katan* do not engage those possibilities. This can push the discussion to a more comfortable place, one in which Religious-Zionism retains the historical, ideological, and national high ground.

NOTES

1. I would like to thank Eliezer Finkelman, Kalman Neuman, Jeffrey Saks, Yonah Goodman, Neri Levi (an editor of *Olam Katan*), David Shatz, and the participants at the Forum for their helpful comments on earlier drafts of this paper. In particular, my thanks to the organizers of the Forum whose invitation helped change my Friday night habit of reading pamphlets from the status of *averah lishmah* to a mere *mitzvah haba'ah be'averah*.
2. Yosef Russo, editor of *Olam Katan*, said so explicitly in a telephone interview on December 29, 2008. On these pamphlets as alternative news media see Jonathan Cohen, "Politics, Alienation, and the Consolidation of Group Identity: The Case of Synagogue Pamphlets," *Rhetoric and Public Affairs* 3:2 (2000): 247-275; and idem, "Itonut LeHatzi HaAm," *Panim* 1 (January, 1997), available at <http://www.itu.org.il/Index.asp?ArticleID=1102&CategoryID=494&Page=2>, viewed Oct. 15, 2008. Also see R. Yisrael Rozen, "Synagogue Pamphlets or Family Magazines," *Shabbat BeShabbato* 1245 (Bereishit, 5768), last page.
3. On Religious-Zionist attitudes toward the mainstream media, see Einas Gevel, *HaTzibbur HaDati Leumi VeHaTikshoret: Yahasei Ahavah Sinah* (Tel Aviv: Tel Aviv University, 2006).
4. Kimmy Caplan indicates that the first pamphlet appeared in 1975 but that the flowering of the genre began in the late 1980s. Stuart Cohen, in this volume, points to the military synagogue pamphlet *Mahanayim* as a precursor in the 1950s and 1960s to the phenomenon. Today there are over 100 pamphlets. Yitvat Weil claims that 1.5 million copies of *parshat hashavua* pamphlets are distributed weekly, but that is the same number suggested by Cohen, writing ten years earlier. I have little doubt that the number of pamphlets and the total number of copies is higher today than those estimates even from a few years ago. Caplan claims that there are probably more copies of *parshat hashavua* pamphlets distributed in synagogues each week than there are actual synagogue goers. See Ettinger, "Mi Amar SheHaltonut HaKetuvah Gosseset," *Ha'arezt*, April 1, 2007, <http://www.haaretz.co.il/hasite/pages/ShArtPE.jhtml?itemNo=844617>, viewed Dec. 10, 2008; Kimmy Caplan, "Alonei Parshat HaShavua BaHevrah HaYehudit HaOrtodoksit BeYisrael," in *Sifriot VeOsfei Sefarim*, ed. Moshe Slochovski and Yosef Kaplan (Jerusalem: Zalman Shazar Center, 2006), 447-482. Yitvat Weil, "HaHavayah Me'atzevet Et HaHakarah," *Eretz Aheret*, (May-June, 2008), 48-53.
5. In a typical week, my synagogue receives *parshat hashavua* pamphlets associated with Religious-Zionism's ideological right wing: *Shabbat BeShabbato*, *Komemiyut*, *Yesha Shelanu*, *Rosh Yehudi*, *BeAhavah UveEmunah*, *Me'at Min Ha'Or*, *Ma'aynei HaYeshua*, *Talmei Ge'ulat Am Yisrael*, *Sivan* (aimed specifically at women), as well as the pamphlet to be focused on here, *Olam Katan*. We also receive pamphlets with a somewhat more liberal bent (*Shabbat Shalom*, *Matzav HaRuah*, *HaShabbat Tzohar*, and *Shabbaton*, the latter sponsored by the tourism industry and sporting many advertisements for organized tours to Europe and the Far East); a one-page pamphlet sponsored by the Religious-Zionist construction company

Mishav; several associated with Habad (*Sihat HaShavua* as well as *Eretz Yisrael Shelanu*, an extreme politically right-wing voice with close ties to Habad). Two more pamphlets, specifically for children, are designed to facilitate child-parent study and are distributed by the organization *MiBereishit*. *Shalom La'am*, a small-format pamphlet, is also designed for children. *Me'orot HaDaf HaYomi* deals with the upcoming week's *daf yomi* learning, while the short-lived *Zug O Pered* focused exclusively on issues of dating, marriage, and family life. Other pamphlets appear less regularly, such as *Derekh Emunah*, *Siah HaSadeh*, *Nahalei Ba-Gad*, *Et Lidrosh* (sponsored by the liberal Orthodox group *Ne'emanei Torah VaAvodah*), *Ezri Me'Im HaShem* (for a particularly *tzedakah* organization), *Kolekh* (sponsored by the Orthodox feminist organization of the same name), and the more academic *HaDaf HaShevui* (sponsored by Bar-Ilan University). On occasion there are others, sometimes associated with particular *yeshivot* or institutions, or from followers of Meir Kahana, though they come and go by the week. On occasion, publishers use the centralized distribution to leave copies of ideological pamphlets, *halakhic* literature, or propaganda of other kinds in synagogue lobbies. Sometimes the pile of weekly pamphlets also includes advertising circulars or political propaganda without any *divrei Torah*.

Shabbat Shalom, messianic Habad pamphlets, and Bar-Ilan University's pamphlets appear regularly but are generally absent from the central distribution, either because they are unwelcome on ideological grounds or because lack of advertising keeps them out of the centralized distribution. The OU Israel Center's *Torah Tidbits* is distributed exclusively in English-speaking neighborhoods throughout Israel and has a different, but well-organized, distribution system. Over forty *parshat hashavua* pamphlets can be downloaded at <http://balevavot.ios.st/Front/NewsNet/reports.asp?reportId=222778>, viewed Nov. 22, 2008. The religious-Zionist website *kipa* publishes a weekly summary of the *parshat hashavua* pamphlets, <http://www.kipa.co.il/jew/show.asp?id=30516>, viewed Dec. 11, 2008. The left-wing Religious-Zionist group *Tzionut Datit Re'alit* for a time produced a weekly internet column criticizing perceived errors in fact and judgment in the previous week's *parshat hashavua* pamphlets. See <http://www.tzionut.org/RRL.asp>, viewed Dec. 10, 2008.

6. This centralized distribution is coordinated with a handful of advertising agencies which serve as intermediaries between advertisers, editors, and readers. It seems likely that these agencies earn the most profit from this endeavor, which explains their interest in coordinating circulation. The centralized distribution seems to be a recent development, since Caplan reports that as of seven or eight years ago most of the distribution was conducted by mail. See Caplan, "*Alonei*," pp. 458-460.
7. While such pamphlets exist in North America, there are many fewer. They tend to be locally produced and generally focus more exclusively on traditional genres of Torah and less on the more magazine-like content of the Israeli versions. This focus is related to the fact that current events are seen as less religiously loaded in

North America; to the centrality of local communities rather than national communities; to the difficulty of mass distribution; and to the lack of advertisers to pay for the endeavor.

The popularity of *parshat hashavua* pamphlets does not mean that all are perfectly satisfied with either the medium or the message. The pamphlets are seen by critics as a shallow distraction from prayer, overly commercialized, too political, sources of extra work for *gaba'im*, and sources of mounds of extra *genizah*. See, for example, Udi Mikhelson, "Makat HaAlonim," <http://www.ynet.co.il/articles/0,7340,L-3384565,00.html>, viewed Dec. 11, 2008, and Yisrael Rozen, "Synagogue Pamphlets or Family Magazines," *Shabbat BeShabbato* 1245 (Bereishit, 5768), last page, as well as Caplan, "Alonei," pp. 462, 465.

8. More precisely issues 151-183, from the end of *Pesah* through the end of December 2008. With the call for national elections in November 2008, some aspects of *Olam Katan's* rhetoric changed, pushing toward somewhat narrower party concerns. I will not, therefore, discuss the explicitly party-centered articles that appeared after issue 175.
9. The term *mamlakhti* (pronounced *mileil*, with the accent on the "la") refers to the wing of Religious-Zionism that is still religiously and emotionally attached to the State of Israel despite the disengagement. For an analysis of the anti-*mamlakhti* camp, which reflects an ideological commitment both similar to and different from what is being described here, see Hillel Ben Sasson, "Iyyun BeSiah HaKoah Ha'Adkani Shel Hagei HaRav Kook Al Rek'a HaHitnatkut MiRetzu'at 'Azah UTzeefon HaShomeron," *Alpayyim*, 31 (2007), 80-89.
10. Weil, "HaHavayah," p. 51. Also see Etinger, "Mi Amar."
11. Interview with Russo. Weil, "HaHavayah," reports that *Sihat HaShavua* of Habad is printed in 180,000 copies and *Ma'ayan HaShavua* of Shas is printed in 120,000 copies. They are exceptional in that regard.
12. On the popularity of *Olam Katan*, see Weil, "HaHavayah," pp. 48-51.
13. One of the most popular columns, pioneered in *Olam Katan* and later copied in other pamphlets, is the "Shut SMS," which allows readers to ask *halakhic* questions and receive responses by cell phone text message. A selection of these exchanges—with range from the most basic and banal *halakhic* questions to ones of a highly individualistic and personal nature—are printed each week in only tens of characters.
14. In both *Olam Katan* and other *parshat hashavua* pamphlets, the line between Torah and political or social editorializing is difficult to define, and methodological purists might suggest that I am imposing those categories on literature that rejects such a distinction. Still, while *Shabbat BeShabbato*, for example, more or less confines its political and social commentary to the back page, *Olam Katan* has a higher ratio of social and political commentary to "pure Torah."
15. Regarding advertisements, one editor is quoted as saying, "I am not comfortable with the advertisements, but there is no other way to maintain this." At the end of the day, the salaries of the editors, advertising agencies, and distributors are paid

- by the advertisers, and profit is a significant motivating factor in the growth of this media. In fact, some of the *parshat hashavua* pamphlets, such as *Shabbaton* or *Mishav*, are sponsored not by ideological organizations, but by for-profit companies who use the *divrei Torah* in order to legitimate circulating their advertising in the synagogue. On advertisements, see Ettinger, “*Mi Amar*,” and Caplan, “*Alonei*,” p. 457. On layout, see Yoav Shorek’s “*Harbeh Min HaOr*,” *Akdamot* 9 (2000), 223-224, and Caplan, “*Alonei*,” pp. 469-471 .
16. In synagogues in which I have visited, it is not uncommon to see both youth and adults sitting casually with its large 61x47 cm. pages unfolded in front of them, reading it during services like subway passengers with their copies of *The New York Times*. Russo indicated that he hopes that the large format makes it more uncomfortable to read during services, though he suspects that this is not a particularly effective method of avoiding improper behavior.
 17. The target audience, according to the editors, are youth between ages eighteen and twenty-five, though there is good reason to suspect that many readers are younger or older. The editors themselves are in their late twenties and early thirties (interview with Russo). While there are pamphlets specifically for children and some with a “children’s page” (see Caplan, “*Alonei*,” pp. 476-477), to the best of my knowledge *Olam Katan* is unique in its focus on young adults. Further, it is the only one with which I am familiar that gives significant voice to young writers.
 18. The editors are independent of any institution or formal rabbinic oversight, though Russo indicated that they generally turn to several leading rabbis and educators for advice. Pamphlets such as *Kolekh* and *Shabbat Shalom*, associated with the left of Modern Orthodoxy, also raise voices from outside of Orthodoxy.
 19. According to the editor, *Olam Katan* receives many responses but prints only ones that address an issue from a new angle. The responses are edited for content and politeness. For responses and internal debate, see, for example, the discussion of boycotting stores that hire Arab labor (*Olam Katan*, 164, p. 8); the interview with R. Aharon Lichtenstein, (*Olam Katan*, 171, pp. 5-6), which explicitly bills him as an alternative to other rabbinic voices; and the attack on rabbinic attitudes toward homosexuality (*Olam Katan*, 154, p. 8, in response to *Olam Katan*, 153, p. 3).
 20. Religious-Zionism is even more diverse than the impression given here because the range of voices in *Olam Katan* do not include the entire spectrum and privileges certain voices over others. For the most part, I will not cite authors by name. Their individuality as authors is less important here than the attempt to portray the collective ideological voice which *Olam Katan* airs, advocates, and exemplifies.
 21. It is not always clear whether the advertisers share *Olam Katan*’s vision or whether they express themselves in this language in order to appeal to *Olam Katan*’s readership.

22. Russo explained that he sees the title as referring both to the modest smallness of the individual, and to the fact that that small individual is capable of changing the world. This idea is related, but hardly identical, to the meaning that I am associating, perhaps somewhat homiletically, with the title.
23. Yoel Finkelman, "On the Irrelevance of Religious-Zionism," *Tradition* 39:1 (2005), 21-44.
24. On Netziv's frustration with the secular nature of the early Zionist settlers, see Gil S. Perl, "No Two Minds Are Alike: Tolerance and Pluralism in the Work of Netziv," *The Torah U-Madda Journal*, 12 (2004), 90-92.
25. On Rav Reines, see Michael Tzvi Nehorai, "*LeMahutah Shel HaTzionut HaDatit: Iyyun BeMishnoteihem Shel HaRav Reines VeHaRav Kook*," *BeShevilei HaTehiyah* 3 (1989), 25-38, as well as Aviezer Ravitzky, *Messianism, Zionism, and Jewish Religious Radicalism*, trans. Jonathan Chipman (Chicago: University of Chicago Press, 1996), 33-36. On the challenge of religious-secular cooperation at the beginning of the Zionist movement, see Ehud Luz, *Parallels Meet: Religion and Nationalism in the Early Zionist Movement, 1882-1904*, trans. Lena J. Schramm (Philadelphia, New York, and Jerusalem: Jewish Publication Society, 1988). On Rav Soloveitchik, see his essay *Kol Dodi Dofek* trans. Lawrence Kaplan as *Fate and Destiny: From the Holocaust to the State of Israel* (Hoboken, N.J.: Ktav, 2000).
26. On Rav Kook's dialectical approach to secular Jews, secular Zionism, and messianism, see Tzvi Yaron, *The Philosophy of Rabbi Kook*, trans. Avner Tomaschoff (Jerusalem: World Zionist Organization, 1991), Chap. 10; Dov Schwartz, "*Bein Zeman LaNetzah: Iyyunim BeTefisat HaAra'ut Shel HaHillun BaRa'ayon HaTzioni HaDatit*," in *Yahadut Penim VaHutz: Dialog Bein Olamot*, ed. Avi Sagi, Dudi Schwartz, and Yedidya Stern (Jerusalem: Magnes Press, 2000), 169-181; idem, *Etgat UMashber BeHug HaRav Kook* (Tel Aviv: Am Oved, 2001), 45ff. Also see Jerome I. Gellman, "Zion and Jerusalem: The Jewish State in the Thought of Rabbi Abraham Isaac Kook," in *Rabbi Abraham Isaac Kook and Jewish Spirituality*, ed. Lawrence J. Kaplan and David Shatz (New York and London: New York University Press, 1995), 276-289.
27. On land, messianism, and the Jewish People in settler ideology, see Gideon Aran, "Jewish Zionist Fundamentalism: The Bloc of the Faithful in Israel (Gush Emunim)," in *Fundamentalisms Observed*, ed. Martin E. Marty and R. Scott Appleby (Chicago: University of Chicago, 1991), 265-344; idem. "A Mystical-Messianic Interpretation of Modern Israeli History: The Six Day War as a Key Event in the Development of the Original Religious Culture of Gush Emunim," *Studies in Contemporary Jewry*, 4 (1988), 263-275; David Newman, "From *Hitnachlut* to *Hitnatkut*: The Impact of Gush Emunim and the Settler Movement on Israeli Politics and Society," *Israel Studies*, 10:3 (2005): 192-224.
28. For a fuller treatment of Religious-Zionist responses to the disengagement, see Lilly Weissbrod, "Coping with the Failure of a Prophecy: The Israeli Disengagement from the Gaza Strip," *Journal of Religion and Society* 10 (2008), available at <http://moses.creighton.edu/JRS/pdf/2008-2.pdf>, viewed Dec. 22, 2008.

29. On the destructive nature of postmodernism, see *Olam Katan*, 164, p. 5.
30. Weil, "HaHavayah," 51. Also see *Olam Katan*, 152, p. 6, and Ettinger, "Mi Amar."
31. On the desire to blame the problems on the elite rather than the masses, see Jonathan Cohen, "Group Identity," p. 263.
32. See Weissbrod, "Prophecy."
33. In this, contemporary Religious-Zionism has much in common with America's self-proclaimed Moral Majority of the 1980s. Facing a perceived crisis of modern individualism and a weakness in the original and supposedly authentic Protestant American values, the Moral Majority called on American evangelicals to emerge from their isolationism to have an impact on America, to change America from the inside, and to do so by taking over the cultural and political institutions which were, it was claimed, fueling America's secular self-destruction. For more on this theme, see Susan Friend Harding, *The Book of Jerry Falwell: Fundamentalist Language and Politics* (Princeton, N.J.: Princeton University Press, 2000). This is related to a phenomenon that scholars have referred to as a "world transformer" style of fundamentalism, one that attempts to emerge from its enclave to influence and change the world around it. See Gabriel Almond, Scott Appleby and Emmanuel Sivan, *Strong Religion: The Rise of Fundamentalism Around the World* (Chicago: University of Chicago Press, 2003), 168-179 (though the book does not associate Gush Emunim with this model).
34. There is one Religious-Zionist *parshat hashavua* pamphlet that is, at least overtly, designed for the secular public, namely *Rosh Yehudi*. However, many of its articles are full of internal Religious-Zionist language and categories and seem to be for internal consumption. Also see Caplan, "Alonei," 471-480.
35. In a previous essay I questioned whether this was a long-term trend or a short-lived rhetorical episode. With the perspective of several years, it seems to be taking hold rather strongly. See my, "On the Irrelevance of Religious-Zionism," 30-31. The theme of *hahzarah beteshuvah* gets more emphasis in *Ma'aynei HaYeshuva*, *Rosh Yehudi* and *BeAhavah UveEmunah* than it does in *Olam Katan*.
36. Also see the advertisement on *Olam Katan*, 161, p. 1, and the interview in 154, p. 5. Also see *Olam Katan*, 174, p. 4 and 169, p. 3.
37. *Iggrot HaRa'ayah* (Jerusalem: Mosad HaRav Kook, 1962), vol. 2, 340. For a brief English summary of the larger issue, see Yaron, *The Philosophy of Rav Kook*, Chap. 8.
38. The advertisement does not seem aware of the irony in suggesting that students who feel that they must study economics in a special track for religious people might not develop the skills to integrate into larger society. Also see the wider discussion of proper economic policy in *Olam Katan*, 180. The lead article in this issue quotes a major rabbinic figure at the time of the Great Depression who seemed to believe that money can never actually be lost, since if one person spends it another one gains it. If this is the level of economic sophistication with which the future Religious-Zionist leadership comes to problems of the current global economic crisis, then the possibility of a genuinely Jewish economy strikes

- me as extremely remote. (Interestingly, the American Haredi monthly, *The Jewish Observer*, recently quoted the same rabbi, echoing the same misunderstanding of economics. See “The Current Crisis and Its Causes,” *The Jewish Observer*, 41:8 [November, 2008], 8-9).
39. Quoted in Ben Sasson, “*Siah HaKoah*,” 79
 40. This theme of a Religious-Zionist Prime Minister and political leadership appeared well before the announcement of the elections that were held in early 2009. In fact, once the elections became a reality, this rhetoric slowed. *Olam Katan* celebrated the creation of the briefly unified Religious-Zionist *HaBayit HaYehudi* party and lamented its quick fragmentation. However, under conditions of actual elections, it became clear that there would be no Religious-Zionist Prime Minister, at least not this time around. Hence, speaking of one would create an impression of lack of seriousness rather than of political optimism.
 41. *Sippur Katan: Sefer HaSippurim Shel HaShevu'on Olam Katan* (Jerusalem: Olam Katan, 2006-2008). Also see *Olam Katan*, 182, pp. 4-5 on fiction. According to at least one secular critic, the book is so poor, the stories so shallow and unimaginative, that it is clear that Religious-Zionism does not have a rich understanding of the human experience. See Ron Ben-Nun, “*Olam Katan Me'od*,” <http://www.ynet.co.il/articles/0,7340,L-3634397,00.html>, viewed Dec. 7, 2008.
 42. See <http://www.boombamela.co.il>, viewed Oct. 19, 2008.
 43. On the centrality of modest dress for women in Religious-Zionist thought, see Yosef Ahitov, “*Tzeniut: Bein Mitos LeEtos*,” in *Ayin Tovah: Du Siah UPulmus Be-Tarbut Yisrael*, ed. Yosef Ahitov et al. (Tel Aviv: HaKibbutz HaMe'uhad, 1999), 224-263.
 44. The anti-*mamlakhti* camp may be smaller, but it has a power of influence—to my mind, mostly destructive—that is out of proportion to its numbers. Also see the suggestion of not saying *Hallel* on *Yom Ha'atzma'ut*, advocated by someone who was expelled from his home during the disengagement, in *Olam Katan*, 153, p. 4. This suggestion raised the ire of an author in *Olam Katan*, 154, p. 8. Also see the response to the violence between soldiers, police, and Religious-Zionist youth in Hebron in December 2008, *Olam Katan*, 181, 3. Ehud “Barak, the idiot.... Let the Broadcasting Authority burn.... They don't want us to ‘take them over.’ So they are killing us slowly.... Someone who says not to refuse orders... should go to hell.” The editors contrasted this view with that in a facing article that demands “Heroism—yes, violence—no,” and with a letter from a secular observer who “respects and appreciates” the Religious-Zionist community but asks that they stop the violence. “If I have any more hope in this country, I expect it to come from you. I have not given up hope yet” (*Olam Katan*, 181, p. 2). Also see the pro-*mamlakhti* response in *Olam Katan*, 183, p. 3.
 45. These passages are quotes from Prof. Oz Almog, who is not himself Religious-Zionist. It is clear, however, that the editors of *Olam Katan* identify strongly with much of what he said. Having him say it has the rhetorical advantage of indicating that even “objective observers,” who are not tainted by Religious-Zionist

ideology, agree with the Religious-Zionist diagnosis of the problem. In part, the sense that the reader is meant to identify with Prof. Almo—despite his criticisms of Religious-Zionism—is strengthened by the fact that the other person interviewed for that article, Dr. Gadi Taub, reflects virtual heresy in Religious-Zionist discourse by praising the withdrawal from Gaza as a return to core Zionist and democratic values, and sees much of the Religious-Zionist response and reaction to the withdrawal as anti-democratic and as subverting Zionism.

46. Also see *Olam Katan*, 171, p. 13. *Olam Katan* also laments the opposite phenomenon, secular artists who are rejected by the secular establishment when they adopt too right-wing a political stance. See *Olam Katan*, 154, p. 7, on the failure of Ariel Zilber's career once he became outspoken about his (rather extreme) right-wing political views.
47. On Rav Kook's paternalism, see Aviezer Ravitzky, "The Question of Tolerance in the Jewish Religious Tradition," in *Hazon Nahum: Studies Presented to Dr. Norman Lamm in Honor of His Seventieth Birthday*, ed. Yaakov Elman and Jeffrey Gurock (New York: Yeshiva University Press, 1997), 359-391. Also see Efrat Shapira-Rosenberg's (who identifies with Religious-Zionism) column on the website of *Yediot Aharonot*, provocatively entitled "End the Occupation!" [*Dai LaKibbush*], which rejects this new "conquest-centered" attitude by Religious-Zionism and calls on the movement to go back to what she sees as the historical insistence on more humble integration. See <http://www.ynet.co.il/articles/0,7340,L-3635525,00.html>, viewed Dec. 9, 2008.
48. The newspaper is not overtly religious, though it is run by religious people, is marketed to that segment of the population, and is largely read by Religious-Zionists, in large part because of its right-wing political orientation and pro-settlement attitude.
49. That *Olam Katan* is willing to criticize *Makor Rishon* so harshly is remarkable given that the newspaper serves as the distributor for the pamphlet.
50. This seems to be the attitude of at least some Religious-Zionist consumers in Gevel, "*HaTzibbur HaDati*." Also see Cohen, "*Itonut LeHatzi HaAm*," and Weil, "*HaHavayah*."
51. See Gevel, "*HaTzibbur HaDati Leumi*." Also see Yonah Goodman, "*HaNo'ar HaTzioni Dati BeEin HaSe'arah*," in *Lilkot BaShoshanim—Darkei Hitmodedut VeKivvunim Hinukhi'im LeDoreinu*, ed. G. Kind (Jerusalem: NP, 2006).
52. Several Religious-Zionist Jerusalem singles reported to me that they found it fairly realistic. Or, as one of the voices in *Olam Katan* explained, "'Serugim' is far from perfect... just as (most of, all of) our lives are imperfect. This is a show (among other things) about my [religious single] life, and I thank... the producer who created it" (*Olam Katan*, 170, p. 4). Later in the article, the author, a *Ram* in a Religious-Zionist yeshiva, openly admits his failure to follow Jewish law related to sexuality. This admission is rare, perhaps unprecedented, in the mainstream Orthodox popular literature with which I am familiar.

53. Quoted in Ben Jacobson, "Tightly Stitched Stories," *The Jerusalem Post*, Sept. 22, 2008, available at <http://www.jpost.com/servlet/Satellite?cid=1222017352074&pagename=JPost%2FJPArticle%2FPrinter>, viewed Sept. 23, 2008.
54. I have reflected on a related tension in Haredi fiction in my "Medium and Message in Contemporary Haredi Adventure Fiction," *The Torah U-Madda Journal* 13 (2005), 50-87.
55. Indeed, in the Haredi adventure novels which I studied some time ago, only a *ba'al teshuvah* could write pro-Haredi articles for the secular press. The Haredi establishment would never train its own members for such a task. See my "Medium and Message," pp. 62, 70-71.
56. See my discussion of this group in "On the Irrelevance."
57. See Asher Cohen, "*HaKippah HaSerugah UMah SheMeAhoreha: Ribbuy Zehuyot BaTzionut HaDatit*," *Akdamot* 15 (2005): 6-30.
58. See <http://www.ynet.co.il/articles/0,7340,L-3614729,00.html>, viewed Dec. 18, 2008.
59. Also see Jeffrey Saks' contribution to this volume, which discusses initiatives to provide religious information, services, and culture to the non-Orthodox public.

13

Lessons Religious Zionism Can Learn from Modern Orthodoxy in America: Civil Marriage in Israel*

Marshall J. Breger

A. INTRODUCTION

Modern Orthodoxy, like all religions in America, is shaped by the American culture of liberal individualism and pluralism. American Catholics are more pluralistic than their European counterparts. The same is true of American Islam and, I would suggest, American Judaism. While Modern Orthodoxy in the United States is based on vol-

untary affiliation in a pluralistic society, few can deny that Orthodox institutions and *kehillas* have thrived (although one could argue that they have become largely monotone and insular). In stark contrast, religious Zionism in Israel is a monopoly that has found itself in a *kulturkampf* with a secular majority in part because of that monopoly. What American Orthodoxy can offer to Israel is an appreciation for how Orthodoxy can succeed as a voluntary community rather than a state monopoly. It can also underscore the values of the “rule of law”—values that are somewhat shaky in a society with a socialist past, the formidable challenge of state building (*mamlachtiyut*)¹ in its formative years, and a seemingly unending war on terror.

This article will consider how religious Zionism should respond to proposed changes in the existing status quo in regard to the so-called Orthodox monopoly on marriage in Israel. The issue is one both of principle and of prudence. My hope is that raising this question will assist in advancing the purpose of this conference, to examine “The Relationship of Orthodox Jews with Believing Jews of Other Religious Ideologies and Non-Believing Jews.”

B. THE SECULAR COMMUNITY IN ISRAEL

Who are the “non-believing” secular Israelis? A recent Israel Democracy Study suggests that 51 percent of Israelis are secular. Thirty percent describe themselves as traditional, and 19 percent as Orthodox or *haredi*.² A 2009 poll for the Fifteenth World Congress of Jewish Studies shows that 59 percent of the Jewish public define their level of knowledge about Judaism as middling to sparse and 45 percent of the secular public show no interest in Judaism.³ But these numbers don’t tell us very much. A great deal depends upon the meaning of “traditional,” which can range from nostalgia, to tribal identification, to non-Orthodox forms of Judaism such as Conservative or Reform. Another important factor is whether the “traditional” appellation is made by a Sephardi, Ashkenazi, or Russian Israeli.

It is likely that at the inception of the state many secular Israelis, the Sephardim in particular, wanted the synagogue they did *not* attend to be Orthodox. Such an arrangement would provide the religion they

were used to for life cycle events. However, this view is less prevalent today. While it is also correct that the 2000 Avi Chai Report suggests that a good percentage of Israelis observe various *mitzvot* such as lighting Shabbat candles or fasting on Yom Kippur,⁴ these positive findings may well provide cold comfort. A proper interpretation of these data is likely to suggest that Israelis are turning Jewish rituals into Israeli customs and that adherence to these rituals is as much an affirmation of Israeliness than of Jewishness—certainly *halachic* Jewishness. I am aware of the claim that these studies are supposed to show a continuum in religious practice. And it is certainly positive that Israeli mothers are lighting candles in front of their children on *leil shabbat*. If you hold to the theory of the *pintele yid* in everyone, there will now be a memory to call upon in later years to waken one's Jewish soul. But until we know a great deal more about motivation and intention, we would be unwise to place that candle-lighter in the "religious"—let alone "Orthodox"—category.

Furthermore, the very meaning of the term "secular" in Israel has changed. In the early days of the state, both the *Mizrachi* (later *Mafdal*) and *Mapam* activists had a common historical memory and common vocabulary,⁵ however different their views. When Hashomer Hatzair *kibbutzim* debated how to create a "superior human personality," their conversation in many ways mimicked (in form if not in content) the conversations of religious educators as to how to form a personality imbued with *yirat shamayim*. But as Shmuel Sandler of Bar Ilan University suggests:

With Israeli society distancing itself from Marxism and socialism, it became more secular. Permissive Western norms cannot be stopped at the social or geopolitical borders. Cable TV and satellites have imported practices and beliefs. The breakdown of socialism as an ideology created a vacuum at both the elite and mass levels that was replaced by post-modern individualism and Western liberal democracy. While the religious camp kept its traditional communal and collective value system and even moved further toward communalism and segregation, secular Israeli society abandoned its collective norms and practices. The emphasis on individualism and

personal success diluted Zionist maxims, thus weakening what was once defined by Charles Liebman and Eliezer Don-Yehiya as Israel's civil religion.⁶

Indeed, we should note that this more recent iteration of secularism reflects a kind of “universalist-secularism,” which is more of a lifestyle than an ideology. Moreover, this non-ideological Israeli society is one that wants to normalize or privatize all of social life: to disaggregate the collective into the atoms of its individualistic existence. Its paradigm is the Tel Aviv architect who told *The New York Times* in April 1998 that “hedonism is basically a very good drive to embellish your life.”⁷ The North Tel Avivian, we are told, “carefully cultivates a new Israeli aesthetic along the Mediterranean.”⁸

This aesthetic involves the dilution of Judaism in everyday life with the further integration of Israel into modern Western culture. Some commentators have referred to this mantra as a “universalist ethic” that transcends race, creed, and national origin and thus necessarily reduces the importance of religion.⁹ This secularism as lifestyle, or secularism of “convenience,” is prominent among intellectuals.¹⁰ How it interfaces with the so-called “traditionalists” in the Israeli sociological spectrum remains to be seen, but one cannot overstate its importance. Asher Arian has called the mid-1970s switch from collectivism to secularism the rise of a “second Israeli republic,” marked by an individualist political ethos and firmly established by the mid-1990's.¹¹

One example of this cleavage between the religious and secular in Israel is in the differing attitude of the two camps toward the Supreme Court and the value of the “rule of law.”¹² The opposition to the *hitnatkut* (the 2005 Gaza withdrawal) has led a growing number to urge soldiers to disobey orders and to flout judicial decrees on the grounds that they are loyal to principles of Torah and that the state is not loyal to those principles. Already “half of all national-religious city residents support the right of settlers to refuse orders to evict Jews from settlements,” according to one recent Bar-Ilan study.¹³ As a religious settler told me some years ago, “the state has left us and we will therefore leave the state.” Then we have the development of post-Zionism¹⁴ — an ef-

fort to make a non-Zionist, indeed non-Jewish narrative for the state of Israel. Its best reflection can be seen in Bernard Avishai's book, *A Hebrew Republic*,¹⁵ in which Avishai (like icons of the Canaanite movement such as poet Yonatan Ratosh)¹⁶ argues for an Israel that is a nation of Hebrews (not Jews or Muslims) with its own historical and normative identity.

To a significant extent, the large-scale disenchantment of religious Zionism with the Supreme Court reflects a denigration of the rule of law. While this disenchantment is sometimes exposed as a critique of the lack of proportional (read religious) representation on the Court (ignoring religious Zionist judges such as Elyakim Rubenstein and Neal Hendel), it is often a concern that the Court protects so-called "rule of law" values (that is to say secularist universal values) over Torah values.¹⁷

C. ISRAEL AS AN ORTHODOX RELIGIOUS MONOPOLY

In 1947 David Ben Gurion formulated an historic compact with the Ultra-Orthodox Agudat Yisrael in which he guaranteed that the future Jewish state would maintain four important Jewish practices. In an exchange of letters with the leadership of Agudah in Jerusalem, he guaranteed that the nascent Jewish state would (1) maintain *Shabbat* as the official day of rest; (2) observe *kashrut* in state establishments (such as the army); (3) entrench the jurisdiction of the rabbinical courts over personal status (i.e., marriage and divorce); and (4) ensure a separate system of religious schools run by the state. In addition, Ben Gurion later agreed to defer all *yeshiva* students from the draft.¹⁸

The upshot of this agreement was that public space in Israel is officially denominated Jewish. But what does that mean? It certainly does not mean that Israel is a theocracy¹⁹ nor even that Judaism is the state religion. Legally, Judaism is only one of the many recognized and state-supported religions.²⁰ In fact, former Chief Justice Barak has pointed out:

The Jews in Israel are not considered as members of one religions congregation.... Considering the Jews as a "religious

congregation” is a Mandatory, Colonial approach. It is invalid in the State of Israel. Israel is not the state of the “Jewish congregation.” It is the state of the Jewish people.”²¹

What the Jewishness of the Jewish state means is that state institutions should have a Jewish character—this is actually a sociological, not a legal description. The historic 1947 compact meant that the State of Israel would maintain Jewish symbols and that those symbols would be Orthodox ones. Thus in a country where most of the population were secular, the normative definition of Judaism was Orthodox. And while the intention at the time was to “contract out” the definition of Orthodox to Religious Zionism, for reasons too complex to describe here, it appears that the definition of Orthodox may have, in fact, been relegated to *haredi* Orthodoxy, albeit they are not part of the religious Zionist world

While most Israelis (certainly most Jews) are comfortable with the state’s maintaining a Jewish character, sustaining Orthodoxy as the legal definer of what it takes to be Jewish has become increasingly problematic. It is much more than the issue of Reform and Conservative rabbis arguing for State recognition of their rabbinical legitimacy. We know from the 2009 elections that Avigdor Lieberman and the Yisrael Beiteinu party are prepared to contest the idea of subcontracting state Judaism to Orthodox Jews. Many of the Russians who voted for Avigdor Lieberman (including those who are fully *halachic* Jews) intensely identify as Israelis and as Jews—but their Judaism does not necessarily exclude celebrating Christmas or eating pork. The *haredim*, at least, understand this—which may be why Rav Ovadia warned that a vote for Lieberman is a vote for Satan.²²

One central question faced in 1947 was the extent to which Jewish law should control in the new State of Israel. During the Mandate there was a considerable emphasis on creating a “Hebrew” law to parallel efforts to create Jewish culture in literature, music, and art. “Hebrew” law was not necessarily *halacha*—many of those supporting the idea of Hebrew Law were socialists and adherents of cultural Zionism.²³ Rather, it was based on the view (drawn from nineteenth-century scholars like Von Savigny), that the law of a nation should reflect its “national

spirit,” or “soul.”²⁴ The effort to base the new state on Jewish law failed in 1948 not least because the citizens of the new state saw themselves as “the desert generation” unready for a wholesale change in the legal system.²⁵ Others like Chief Rabbi Herzog, sought to base the law of the Jewish state on *halacha*, lamenting that “even if non-Jewish law were wonderful” it would still be unacceptable from a national and religious point of view that “the people of Israel in their own land rule only in accordance with foreign law.”²⁶

I should reiterate that the “status quo” agreement did not mean that Israel became a theocratic state. Both freedom of religion and freedom for irreligion were protected. Indeed the basis of the Israeli legal statutes passed in 1948 was not Jewish law as scholars like Kalman Kahana, a British Talmudist and Cambridge professor,²⁷ desired, but rather English law.²⁸

We must remember that this arrangement created a religious monopoly in which a religious minority imposed its views on the secular majority for upward of fifty years.²⁹ How did this minority manage to control such large parts of the Israeli social order? Many scholars have pointed to the Israeli political system and its fractioned party system which requires coalitions to govern. Given the historic splits between secularism and revisionism and disputes over the “national question,” the religious parties were largely “one-issue” parties prepared to join coalitions that protected the religious monopoly. Many point to Israel as a “consociational” democracy,³⁰ a conceptual paradigm developed by a Dutch political scientist to explain the existence of political stability in a society with deep social cleavages.³¹ Others suggest that the “consociational” paradigm is long out of date and that Israel is best understood as a “rifted democracy”³² with deep cleavages on fundamental value issues. Still others suggest that the secular minority in some sense accepts religious coercion because “religion in Israel is more than an influence on national identity, it is a constituent part of that identity.”³³ While the secular do not want to practice a religious lifestyle, they want the state to support the rudiments of such a lifestyle so as to make it available to them in times of need. Indeed, often “non-religious Israelis, even those who consider themselves atheists, identify with elements of Jewish tradition and culture.”³⁴ The logical

result of this connection between religion and communal identity is that in Gerald Blidstein's words, for secular people, "the willingness to tolerate rabbinic control ... reflects a communitarian understanding of society."³⁵

On this view, Orthodox control of personal status is deemed essential for "national unity."³⁶ As one *haredi* commentator suggested, "[J]ewish marriage is key to Jewish survival and demanding it of Jews—as a 'symbolic act' for those who reject its premises—is hardly an onerous request."³⁷

But it can no longer be said that requiring the *hiloni* citizen to accept the religious monopoly on marriage "is hardly an onerous request." In the past this may have been the case, because many of the secular were traditional and wanted some connection to a Jewish-oriented state. They were comfortable with Jewish symbols as public symbols of the State. And, they were likely to follow much of Jewish law at least in a broad sense for cultural³⁸ and nationalist,³⁹ if not religious, reasons. Further, whatever the rhetoric, the "religious authorities ma[d]e little effort in practice to impose their legal rules on the secular majority, even where they are committed in principle to doing so."⁴⁰ This lack of a "morals police" has allowed restaurants and stores to remain open on *Shabbat* (usually in secular neighborhoods) and has in practice increased entertainment options on *Shabbat* (as long as they don't interfere with the lifestyle of religious neighborhoods). Indeed, there is radio and TV on *Shabbat* (the necessary work permits for the state employees presumably handed out on the grounds that this is vital national work). One might argue that it is this lax application of the religious monopoly in daily life (as opposed to life-changing events such as marriage and divorce) that has allowed the Orthodox monopoly to survive until now without a decisive secular backlash. But the secular acceptance of Orthodox domination of personal status issues is not likely to continue forever.

As a religious Jew, one has an instinctual recognition of the need for community and an appreciation of the value of sacrifice for the sake of community. But even in a communitarian society with a healthy regard for sacrifice, it is difficult to imagine secular persons rejecting a marriage partner with whom they are in love because of technical

religious defects in the arrangements. I doubt that many Conservative Jewish *kohanim* would refrain from giving up their *kahuna*⁴¹ and therefore not wed a divorcee with whom they were in love. In an age of individualism, the notion that persons not already committed to the Orthodox community would revise or abandon their marriage arrangements to suit Jewish law for the purpose of sustaining “the Jewish people” is an increasingly problematic notion.

In this regard, it is important to note that the Mandate delegation of personal status issues to religious courts differs in one vital respect from the present Israeli situation. While the jurisdiction of religious courts over Jews in personal status matters during the Mandate was exclusive and applied “whether or not the person concerned desired to be taxed or adjudicated upon by a religious court,”⁴² membership in the Jewish community was in some sense a voluntary act. That is so because “there was, under British rule in Palestine, one way of escape: the question of who was a Jew, for purposes of exclusive rabbinical jurisdiction, was determined by an official register of membership in the Jewish community (*Knesset Yisrael*) and the registration was not compulsory, but could be opted out of.”⁴³

Interestingly enough, Judge Haim Cohn has pointed out that “as an empirical matter, secular Jews, in the main, did not opt out during the mandate.”⁴⁴ Only the ultra-Orthodox chose to be *ausgemeinde*.⁴⁵ This approach was not followed after the creation of the State where the question of “who is a Jew” “for the purpose of personal status jurisdiction was relegated to the rabbinical courts themselves.”⁴⁶

D. BREACHING THE ORTHODOX MONOPOLY ON MARRIAGE IN ISRAEL

1. Marriage in Israel Today

Under current law there is no civil marriage in Israel. Following the Ottoman custom, personal status has been under the exclusive jurisdiction of the recognized religious communities.⁴⁷ For Jews this meant the Orthodox religious authorities.⁴⁸ Thus there has been no legal mechanism for intermarriage in Israel or for marriage between those for whom marriage is in some way forbidden under *halacha*.⁴⁹ Indeed, for at least some period of time the Rabbinate maintained a

secret “blacklist” of persons not eligible for marriage because they were considered to be *mamzerim*.⁵⁰

There is one loophole: persons can marry abroad and have that marriage recognized by the courts (if not by the religious authorities) under principles of private international law.⁵¹ Further, for a time there was the possibility of a “private,” or contractual, marriage, which would then be registered with the state. While this apparently was possible in the early years of the state, it appears to be foreclosed today.⁵²

In recent years, increasing numbers of young Israelis have chosen to reject the Orthodox monopoly on marriage and leave Israel to get married abroad. According to 2000 figures, one of every ten Israelis who married in 2000 went abroad to marry.⁵³ Many go to Cyprus, where one can fly in for the “ceremony” at the town hall and return for a reception in Israel all in one day. In 1990, 270 Israelis were married in Cyprus. In 2000 the number was twelve times as many, totaling 3,340. A 2005 report estimated that although 30,000 Israelis married in Israel in an Orthodox ceremony, 12,000 went abroad,⁵⁴ primarily to Cyprus.⁵⁵ Others are married by proxy in Paraguay and receive their certificate of marriage via mail.⁵⁶ All these marriages are recognized in Israel under the Foreign Judgments Enforcement Act⁵⁷—surprisingly even same-sex marriages from abroad are recognized.⁵⁸

And increasingly, young people are choosing alternative commitment ceremonies (some under the Conservative or Reform rubric). According to former Senior Advisor to the Jewish Agency Bobby Brown, the numbers suggest “at least half of the young couples in this country are getting married in ways other than the traditional path.”⁵⁹ The Israel Action Center (admittedly not an impartial source)⁶⁰ pegs the number as “25% of couples.”⁶¹ The Cummings Foundation claims that the number of alternative ceremonies “has exploded.”⁶² Whatever the number, it is astonishing. And it does not reflect only couples who could not get married in a *halachic* context. Rather, the disdain for the religious establishment on the part of a growing number of couples is so great that they are voluntarily rejecting *halachic* marriage in favor of ceremonies that express their love and spiritual commitment.

One additional consequence of the lack of a civil marriage option in Israel is the growth of joint cohabitation as a form of sociological

marriage with legal consequences. As one commentator has put it, in the Israeli legal and public discourse the need to “compensate those unable to marry is presented, time and time again, as justification for strengthening the institution of cohabitation.”⁶³ Thus under Israeli statute and judicial interpretation, a cohabitant’s inheritance, property rights, and alimony rights are the same as that of married couples.⁶⁴ And the “entry” requirements for cohabitation status are minimal.⁶⁵ Furthermore, cohabitation status is available not only to those who cannot marry under the Rabbinate, but to those who can but choose not to. Thus, while the Rabbinical monopoly of marriage may serve to reinforce the symbolism of Jewish unity, the facts on the ground appear to work otherwise.⁶⁶

Under present circumstances there are 300,000-400,000 Russians who made *aliyah* under the Law of Return but who for various reasons are not considered Jewish by the Rabbinate.⁶⁷ It is unlikely that those 300,000 and the people who want to marry them will feel that the imposition of *halachic* norms that preclude their marrying is an acceptable sacrifice to sustain national unity. If the Rabbinate were willing to promote conversion among this group, the structural crisis this problem engendered would diminish in intensity and indeed become manageable. But as is well known, the exact opposite seems to have taken place and the problem of marriage among the Russian population cannot be long evaded.⁶⁸

In the last century, Judge Haim Cohn accepted as a given the necessity of flying to another country to marry a divorcee given the constraints placed on him by his *status* as a *kohen*.⁶⁹ While secular, he was of a generation imbued with Jewish tradition, if not Jewish observance (indeed he was a former student at Yeshiva Mercaz HaRav). It is simply inconceivable that a substantial number of non-Orthodox young people will continue to accept this anomaly in a Western-oriented democracy.

There is one further point of interest. It is in one sense inaccurate to speak of the Chief Rabbinate’s monopoly on marriage. As a technical matter the power to legitimate marriages is not limited to the Chief Rabbinate. The Chief Rabbinate can register marriages performed by rabbis not part of the Chief Rabbinate if it so chooses. Since the 1930s

it has extended that authority to *haredi* rabbis. This is done today through the various *haredi badetz* courts, which are authorized to register marriages and pass the paperwork to local rabbis in the Rabbinate for processing. Thus, even though they remain *ausgemeinde*, so to speak, the Chief Rabbinate registers their marriages.

Currently, the *Tzohar* rabbis are requesting that couples who wish to marry be authorized to go to any rabbi recognized by the Chief Rabbinate, not, as now, only the rabbi of the city where they reside. This privilege would open the way for rabbis who belong to *Tzohar*, several of whom are chief rabbis of cities—such as Rabbi Ya’acov Ariel of Ramat Gan and Rabbi Gideon Perl of the Gush Etzion Region—to register couples who live outside their jurisdiction.⁷⁰

The resulting opportunity for choice would cause couples to likely register with those rabbis who are more open and flexible.

2. Religious Views on Civil Marriage

The Orthodox commitment to a religious monopoly on marriage has begun to fragment—whether on the basis of principle or prudence is unclear. There are reports that Rav Ovadia has agreed to a proposal that would permit civil marriage for couples classified as “unmarriageable” by the Rabbinate, such as non-Jews.⁷¹ The Chief Rabbinate Council purportedly met March 5, 2009, to discuss the subject of civil marriage⁷² and reached a tentative compromise.⁷³

The problem, of course, is less for those couples whom the Rabbinate does not consider Jewish than for cases of intermarriage between a Jew and non-Jew and for cases where Jewish couples choose not to go through a *halachic* marriage process. Former Chief Rabbi Bakshi-Doron actually proposed in a 2004 speech to the *Tzohar* rabbis that civil marriage be allowed among Jews. His argument was that “coercion creates antagonism among secularists” and “if marriage is not under a framework of law and coercion it would draw more people to marry through the Rabbinate.”⁷⁴ In addition, Rav Bakshi-Doron suggested that those *hiloni'im* cynically using a rabbi may well create a mockery of religion. Similar arguments have been made by Rav Amital, who observed:

I am inclined against maintaining the current status-quo, both because of the problems created by the *aliya* of so many immigrants who are not Jewish—problems which cannot be solved within the current political framework—and because of the constant rise in the number of couples who are looking for alternative weddings. Until now I supported the possibility of civil marriage being extended only to those disqualified from being married according to *halakha*, but today I believe that it is possible to make this option available to whoever seeks it. I believe that only a small minority within Israeli society, other than those who are *halakhically* disqualified, will forgo a wedding “in accordance with the law of Moshe and Yisrael.” For this reason, allowing civil marriage will not cause any real damage to the Jewish character of Israeli society. On the contrary, many of those who choose the route of civil marriage today do so as a rebellion against religious coercion and the religious establishment. We may hope that with a lowering of the motivation to rebel, on the one hand, and the increased supply of young rabbis who conduct weddings in a manner that is compatible with young secular couples, on the other, the number of instances will shrink even further.⁷⁵

There is a further *halachic* benefit to allowing the option of civil marriage. From a *halachic* perspective, of course, civil marriage is no marriage at all. Thus if a couple entered into a civil marriage and subsequently split up, there is no need for a religious divorce, and in the absence of *halachic* marriage there is no question of *mamzerut* if there are offspring from any adulterous relationship.⁷⁶ Thus, counterintuitively perhaps, promoting some form of civil marriage would reduce the incidence of *mamzerot* from a *halachic* perspective.

3. The Politics of Civil Marriage

There have been numerous efforts in the past to create some form of civil marriage, but they have come to naught. In 1972 Gideon Hausner introduced a civil marriage bill in the Knesset.⁷⁷ Further efforts

were made in 2000 when then Prime Minister Barak proposed his “secular revolution.”⁷⁸

However, even as I write, the landscape is shifting. Yisrael Beitenu placed marriage at the forefront of its 2009 election campaign. After the election, the coalition negotiations between Yisrael Beitenu and Likud called for action on the civil marriage front.⁷⁹ Admittedly after Shas entered the government, insistence on reform lagged. Indeed, on June 10, 2009, the Knesset voted down a Kadima bill that sought to allow couples who are citizens of the State to enter into a legally binding agreement that, while it does not constitute marriage according to religious law, bears the duties and privileges associated with marriage.⁸⁰ However, this past June Justice Minister Yaacov Neeman proposed legislation to allow civil marriage for non-Jewish citizens. It would create a registrar for civil unions to register the unions of couples who belong to no religious community. Before doing so, however, the registrar must publish the details of each request so as to give a religious court the opportunity to examine whether either member of the proposed union belongs to its community.⁸¹

As of October 14, 2009, the bill passed its third reading in the Knesset.⁸² And the government agreed to set up a committee to address other civil marriage issues to report within fifteen months⁸³. Already in 2005 the state recognized a divorce proceeding which took place in the Russian Embassy in Tel Aviv.⁸⁴ As of 2007 an Israeli who was not a member of a recognized religious community could marry a foreign national in that national’s consulate.⁸⁵ (This, of course, was the case during the Mandate.)⁸⁶ And when one of the parties is not Jewish, it is now possible to go to family courts for divorce.⁸⁷

E. HOW SHOULD MODERN ORTHODOXY RESPOND TO THESE DEVELOPMENTS?

Most religious Zionists believe it is imperative to defend the Orthodox monopoly over marriage. This kind of “standing put” is the traditional Orthodox response to social change. I would suggest, however, that one may wish to consider whether there are issues of prudence and issues of principle that would suggest a more nuanced approach. I note some of these considerations below.

1. Is the “Status Quo” Already Changing?

The last forty years have seen the slow disintegration in Israel of the hegemony of the Ashkenazi elite. There has been significant fractionalization within Israeli society with the growth of competing interest groups, including Sephardim, Mizrachim, Ethiopians, Russians, religious, post-Zionist, and secular. While this fractionalization has resulted in an increase in claims against the state by the religious parties, it has increased secular claims as well. And it has led to increased instability in the status quo on religious matters.

If we look at the Orthodox monopoly from the vantage point of Tel Aviv or Holon rather than of Jerusalem or the Gush, it should be obvious that the 1947 status quo agreement is crumbling. Consider the number of malls and restaurants open on *Shabbat* and the growth of stores selling pork in the non-Orthodox parts of the country⁸⁸ (Arkady Gaydamak’s efforts notwithstanding).⁸⁹ Leibman and Don-Yehiya noted in 1984 that “overall, the public observance of the Sabbath in Israel has declined,”⁹⁰ and this trend has surely continued. Further, recent years have seen an increase in “entertainment” on the Sabbath;⁹¹ an increase in the availability of non-kosher foods in restaurants;⁹² *de jure* (if not *de facto*) recognition of non-Orthodox foreign conversions for purposes of the Law of Return;⁹³ and increased nudity in public advertising.

The *modus vivendi* by which significant numbers of traditional and even secular Israelis live with an Orthodox religious monopoly that they do not really like but can accept (i.e., the view that the traditional and secular accept Orthodox public space because it is Jewish space) seems to be failing.⁹⁴

Already in some *hiloni* areas, the Orthodox monopoly has been breached. In at least one city, Modi’in, the state is paying for a Reform synagogue.⁹⁵ In Kiryat Tivon near Haifa, a Reform congregation has moved into a state-funded building.⁹⁶ In Netanya the municipality has proposed allocating land for a Reform synagogue.⁹⁷ Does anyone doubt that this phenomenon will grow in places like Tzur Hadassah, Zichron Yaacov, and Kfar Saba?⁹⁸

2. The Unity of the Jewish People

It has long been argued that the legitimation of civil marriage would destroy the “unity” of the Jewish people, since self-characterization is not a reliable way to determine one’s *halachic* status. But surely this is already the case. While I would not go so far as Yeshayahu Leibowitz, who suggested that the fear of “dividing the nation as a result of rescinding the Law of Marriage and Divorce is ridiculous and perhaps insincere,” it is hard to accept the “national unity” argument today. For one thing, the existing law already undercuts “unity” with the Diaspora, since so many Jews in Europe and America are not married in an Orthodox religious framework. Second, it cannot even be argued that instituting civil marriage will increase the threat of intermarriage. As a glance at the United States or Europe will make clear, “it is not the availability of civil marriage, but cultural intercourse with the non-Jewish environment that encourages intermarriage.”⁹⁹ Third, this so-called national unity does not really exist in Israel today. Religious families almost always check—for reasons both noble and ignoble—the background of their children’s prospective spouses. And fourth, the recognition of foreign marriages by the state (even those illegal under Jewish law) already undercut the reality, if not the myth, of unity.

3. Impact on Religious Authority in the Jewish State

One often-ignored issue is how the concept of the Jewish state relates to rabbinical authority. For secular Jews the answer is obvious: the law of the state trumps the rulings of the religious courts. Ben Gurion, who wanted the integration of church and state not to better promote religion but to better control religion, wrote:

You demand the separation between religion and state, in order that religion should again be an independent factor with which the state would need to compete. I reject this separation—I want the state to keep religion in its hand.¹⁰⁰

For *haredim* the opposite is the case. To a great extent the *haredi* rabbis have not accepted the idea that rabbinical courts are subordinate to the state. For them, the Rabbinate is an “autonomous body” not

“subject to supervisory power of the (secular) Supreme Court. Thus Rabbi Porush, himself a Knesset member, declared from the *rostrum* of the Knesset that “it [the Knesset] had no right to interfere with the State’s highest authority.”¹⁰¹

For religious Zionists, the problem is far more complex. Certainly for religious Zionists such as Rav Kook, the State of Israel and the political decisions of its lawful authorities have religious significance. There have been numerous examples of Supreme Court rulings or Knesset statutes that have in one way or another undercut (or even extinguished) the authority of rabbinical court decisions in particular areas. Still, the question arises whether the *dati* community should obey democratic decisions of the state when these decisions are counter to rabbinical rulings. The problem was posed in the extreme case by the *hitnatkut* from Gaza and in rulings by Rabbinical authorities that IDF soldiers should disobey orders to remove “illegal” settlements on the West Bank.

However a religious Zionist might answer this fundamental question, it suggests that for religious Zionism one can have a Jewish state while accepting Knesset enactments that do not track Jewish law. It suggests that there are interpretations of Jewish law that religious Zionists might not choose to accept.¹⁰²

It is easy to conclude that if civil marriage is desired by the *hiloni* population, it must be a development injurious to religious Jewry. It is easy to get caught up in the symbolism of the religious monopoly on marriage. But it is not self-evident that assigning marriage to the arena of civil society will necessarily diminish the Jewishness of the State of Israel. This is a subject that requires further consideration.

One can privilege all aspects of Jewish life that are viewed as part of Israel’s national patrimony and still justify a shift in the present exclusivist marriage laws. While religious marriage is a vital touchstone of promoting the values of a religious lifestyle, it is doubtful whether a religious marriage is a *sine qua non* of a Jewish state (other than a *halachic* state). It is certainly not part of any essential definition (other than a *halachic* definition). While it has become a symbol of the Jewishness of the state, that is so largely because the Orthodox chose to make it so.

4. Impact on the Chief Rabbinate

Besides the more general question of how some form of civil marriage will affect the religious authority of the rabbinate, one has to specifically consider whether changes in the Orthodox monopoly on marriage will lead to the dismantling of the Chief Rabbinate. I will not discuss the system of Chief Rabbinate at length but only note that whatever its past glories, it is hard to argue that the Chief Rabbinate today has significant spiritual authority.¹⁰³ It is difficult, as well, to conclude that at present the Chief Rabbinate is sensitive to the meaning of the State of Israel in Jewish life. We are far from the likes of Rav Herzog or Rav Uziel *zichronam l'vracha*, whose *halachic* decisions always seemed to take into account the religious value of the State of Israel. Further, given the rift between the *haredim* and the religious Zionists, it is hard to say that the Chief Rabbinate even unites the religious community.

In any case, resolving the problem of civil marriage need not entail dismantling the entire system of the Chief Rabbinate. Rather, it would mean carving out an area of social existence from the Rabbinate's religious monopoly. If so desired, the Rabbinate could still regulate conversion (note that the state already regulates who is a Jew under the Law of Return), public observance of *kashrut*, the Sabbath etc. And it would regulate marriage for those who choose to place themselves under the authority of normative Judaism. Such a change would certainly improve the view of religion and religious life in Israel. It might even assist those who are trying to reform the Chief Rabbinate from within—the goal of those *Tzohar* rabbis who hold state “pulpits.”¹⁰⁴

5. Impact on the Jewishness of the State

Many who oppose removal of the Orthodox monopoly over marriage do so because they believe that the only alternative must be some “American-style” separation of church and state. Indeed, this view was put forward by many at the Orthodox Forum where this paper was first presented. Between no civil marriage and a complete separation of synagogue and state, Orthodox Forum members argued that one should always choose the former.¹⁰⁵

But, it is not clear that the introduction of a civil marriage option will ineluctably lead to the separation of church and state, let alone impact significantly on the Jewishness of the State of Israel. In a recent article, Daphne Barak-Erez underscored the extent to which the relationship between religion and the state in Israel since the 1947 status quo has been dynamic, and in her words, “ever changing.”¹⁰⁶ While in some respects the notion of a state religion has become more entrenched, in many others the Orthodox monopoly on religion has diminished.

Many fear specifically that the loss of the religious monopoly over marriage will lead to an erosion of the Jewishness of the State. But as we have suggested earlier, the meaning of a Jewish State is an essentially contested concept.¹⁰⁷ For most religious Zionists, it does not mean a *halachic* state, since no one suggests that the Israeli legal system is based on Jewish law. (Perhaps it means that the State will “grow into” one based on Jewish law.) Certainly for most Israelis it means more than a state comprised (or mainly comprised) of Jews. For most, I believe, it means that the State’s collective identity is Jewish—although this only raises the definitional question once removed—as it were. The more popular “enlightened” mantra is that Israel is a “Jewish and a democratic state” although the relationship between those concepts is often left unclear.¹⁰⁸ One definition that is usually rejected by religious Zionists (and by most of the population) is the post-Zionist view that Israel is a “state of all its citizens.”¹⁰⁹

The symbolic freight of the notion of Israel as a Jewish state can create conflict for Israelis who seek to be part of the Western democratic tradition. Thus, it should be no surprise that Herzl urged the separation of church and state in his blueprint for the Jewish state.¹¹⁰ While the theoretical issues regarding the relationship between religion and the state in Judaism are rich and complex¹¹¹ for these purposes the question is how to “manage” the challenge of a largely Jewish, albeit not homogenous, society that was founded as a home for the Jewish people. Justice Barak has tried to suggest a definition as follows:

“A Jewish state” is, then, the state of the Jewish people. “It is the natural right of the Jewish people to be like any other

people, occupying its own sovereign state, by its own authority.” It should be a state to which every Jew has the right to immigrate, and in which the integration of the exiles is one of the basic values. “A Jewish state” is a state whose history is integrated and intertwined with the history of the Jewish people, whose language is Hebrew, and where most of the holidays reflect the national renewal. “A Jewish state” is a state in which the settlement of Jews in its fields, cities, and colonies is one of the primary concerns. “A Jewish state” is a state that commemorates the memory of the Jews that were annihilated in the Holocaust, and that is meant to constitute “a solution to the problem of the Jewish people, which lacks a homeland and independence, by means of renewing the Jewish state in the Land of Israel.” “A Jewish state” is a state that nurtures Jewish culture, Jewish education, and love for the Jewish people. “A Jewish state” is the “realization of the generations-long yearning for the redemption of Israel.” “A Jewish state” is a country that espouses the values of freedom, justice, honesty, and peace that are part of the heritage of Israel. “A Jewish state” is a state whose values are drawn from its religious tradition, in which the Bible is the basis of its literature, and the prophets of Israel are the foundations of its morality. “A Jewish state” is a state in which Jewish law plays an important role and in which marriage and divorce of Jews is decided in accordance with the laws of the Torah. “A Jewish state” is a state in which the values of the Torah, the values of Jewish tradition, and the values of Jewish law are among its most fundamental values.¹¹²

Justice Barak’s thoughtful attempt at delineating the contours of a Jewish state shows that there can be varieties of acceptable understandings of Jewish statehood that Zionists (including, I would suggest, religious Zionists) can strive to develop. Unless one takes the position that a Jewish State must be a *halachic* state, it is not obvious why *halachic* norms of marriage are a requisite for the Jewishness of the State.

6. The Balance Between a Jewish and a Democratic State

It is very hard to defend a legal system in which a substantial portion of the population is unable to marry at all within that system. This is true whether or not we wish to think of Israel as a democracy. After all, the ordering of social relations in civil society is one of the most important tasks of any legal system. And if a state cannot provide large numbers of citizens with the mechanisms for marriage and family life, it is in some sense a failed state. One could, I suppose, argue that the Israeli legal system provides sufficient substitute methods—“Cyprus nuptials” or “joint cohabitation”—such that the impact on the secular population is not onerous. That judgment, that it is acceptable to limit opportunities for matrimony in order to maintain the symbols of a Jewish state, will depend on the numbers of citizens affected and the importance of the symbols to the goals of the state.

There is also the question of religious freedom. Can one call a political system democratic when large numbers of its citizens are unable to marry under the laws of the state without violating their religious (or non-religious) convictions?¹¹³

The relationship between a religious majority and the enforcement of a religious lifestyle raises important questions of the relationship of religious Zionism to democratic values. If the commitment to democracy is solely instrumental (to be supported by religious Zionists only when they can field a religious majority), there would be no reason for a secular Israeli to ever vote for a religious member of Knesset.¹¹⁴ How that situation would affect Jewish unity in the Jewish state remains to be seen.

A similar problem was faced by the Catholic Church in Europe. In secular states that were largely Catholic, the Church demanded, as a matter of principle, a religious monopoly in the public and private spheres. In states with Catholic minorities, the Church supported religious tolerance as a tactical or prudential goal. In the 1960s, largely through the work of John Courtney Murray¹¹⁵ and the American Church, the Vatican adjusted its theology to encompass religious tolerance and democracy as a matter of principle.¹¹⁶ The shift was based on the Vatican philosophy of the “dignity of the human person”¹¹⁷ which made religious coercion immoral.¹¹⁸

I understand why Agudat Yisrael and Shas might oppose a similar shift in Israeli law. They are respectively committed to the role of the *Moatzes Gedolei Hatorah* and to the rulings of Rav Ovadia. And their focus is less on the entire nation than on the success of their own sectoral interests (“saving remnant” or not). It is Religious Zionism that is committed to the entire nation, *hiloni* as well as *dati*. Thus, one would imagine, Religious Zionism could find reasons to foster democratic as well as Jewish values so as to maintain Israel as both a Jewish and democratic state, and thus stay connected to the “community of faith” (*brit goral*) that is the Jewish people. It is this commitment that makes Religious Zionism sensitive to the question of coercion of the non-Orthodox.

I am not certain that the religious minority quite understands the extent to which the secular community views the preclusion of a civil marriage option as coercion. It may serve as a useful counterpart to this discussion to focus briefly on Rabbi Yuval Cherlow’s trenchant hypothetical regarding how a hypothetical religious majority in Israel would treat a secular minority. In his paper for this volume, Rabbi Cherlow notes:

Let us assume that there is a religious majority which would enable legislation of any behavioral norms we want—how then would we treat secularism? Would there be coercion to observe the *mitzvot* in both public and private sectors? Would there be legitimization for secular organizations?¹¹⁹

While I am less certain than he is of the likelihood that such a religious majority would come to fruition in Israel before the coming of the Messiah, the questions are of great heuristic value, involving Jewish law as well as Jewish politics. Is there, for example, a duty to create a theocracy if one has the votes to do it? And, of course, once the religious Zionists are in power, would they allow themselves to be democratically voted out? (It was the fear that Islamists would allow only one election that led the Algerian military in January 1992 to prevent the Islamic Salvation Front (FIS) from coming to power in Algeria after it had won in democratic elections.¹²⁰)

Should, for example, a religious majority pass a law that regulates not only the sale of pork but also the eating of pork? The breeding and sale of pork were largely restricted in 1956 and 1962, but that was a time when there was a national consensus on the matter which likely does not exist today.¹²¹ Would a law against pork usage have an exemption for non-Jews in the same way that Gulf States such as Qatar make exemption to its Koranic ban on alcohol for certified Christians?¹²²

The extent to which a religious majority has to accommodate minority religious needs has been fully developed in U.S. jurisprudence, and I will not repeat those arguments here. The question is the extent to which those values would be applicable to a Jewish state with a religious majority. An example, eerily reminiscent of the American litigation regarding “Sunday closing” laws,¹²³ arose in Akko. There, in 2002, the municipality prohibited Arab-owned businesses from opening on the Sabbath in neighborhoods with a Jewish majority.¹²⁴ In 2007, (after the Akko riots) Adalah, a legal defense NGO in the Arab community, petitioned the Supreme Court seeking an injunction. Earlier that year the Akko municipality agreed to allow Arab stores to open on the Sabbath. Petitioners were eight Christians and Muslim businessmen whose businesses are located on streets with mixed populations, in an area with nearly a 27 percent Arab population.¹²⁵ Perhaps this is a case where an “open business” on the Sabbath is a question of violating the Jewishness of public space rather than exercising a private right, since commercial activity by one person on *Shabbat* impacts another person’s religious lifestyle. How we weigh the claims of a Jewish lifestyle against the non-Jews’ claims of *parnassah* (let alone religious expression), or more challengingly similar claims of secular Jews, is a complex public policy question. I suspect it is a *halachic* problem as well.

If the state regulates religious matters in the private realm, Israel will be in the same place as theocracies such as the Islamic Republic of Iran, which enforce religious requirements such as the covering of women’s hair. There can be little doubt that the enmity of the secular minority toward the religious majority would increase. A leading Iranian cleric I know recently published an article in a Tehran theological journal titled “Coercion of Religion Breeds Hatred of Religion.” To the

extent that one cares about the enmity of that part of the Jewish people which is not Orthodox, this point is relevant.

Perhaps the principle that one should not “place a *michshol* in front of an *iver*”¹²⁶ might make this forced morality acceptable. I leave that issue to others.

Of course, the devil is in the details. What is religious coercion to some is to others an appropriate use of the “police power” for the protection of society. And while coercion for the protection of cultural, that is to say Jewish, values is barely legitimate in a social order premised on liberal individualism, it is far more legitimate in one based on communal—that is to say Jewish—values.

I suppose that if a city like Bnai Brak tried to impose separate (but equal?) sidewalks for men and women, they would do so under some claim of the maintenance of public order. And this is, of course, not speculative. In *haredi* areas, where close to 100 percent of the passengers are ultra-Orthodox, Egged has instituted *mehadrin* buses with separate seating based on some principle of “accommodation” to religious needs.¹²⁷ At least one company segregating its passengers is subsidized by the Israeli government.¹²⁸ The issue is now before the Israeli Supreme Court.¹²⁹ While a Transportation Ministry report has found such segregation illegal, the High Court has yet to decide the issues.¹³⁰ Depending on the Court’s decision, it is a short step to requiring separate seating in buses that serve mixed neighborhoods (the No. 2 route in Jerusalem, for example),¹³¹ “men” only sidewalks,¹³² or separate cashier lines in stores¹³³ on a similar principle.¹³⁴

G. CONCLUSION

While there may not be a religious majority in Israel, the 1947 status quo agreement resulted in the legislation of behavioral norms that are viewed as coercion by many of the non-Orthodox and secular. As was suggested earlier, the intensity and extent of the secular backlash depends in part on the extent to which the non-observant find these “behavioral norms” an imposition.

Thus far we have described a reality where, for various reasons, a religious minority has been successful in imposing aspects of religious law on a secular majority. As was pointed out, the extent to which such

a system can survive depends in large measure on the acquiescence (if not support) of that secular majority. And that acquiescence depends in part on the nature and extent of the imposition on the majority. It is, however, well understood, as both a theoretical and practical matter, that there are limits to the coercion that a secular majority will endure. In considering the outer limits of “acceptable” coercion, it is worth considering the insight of Arnold Enker, in relation to the authority of the Chief Rabbinate, that:

there exists a large middle-of-the-road group, one not observant in the Orthodox sense but who adhere to the traditions to a greater or lesser degree. This group’s observance to rabbinic rulings may often be up for grabs and may be influenced by the rabbis themselves and the choices they make. A “central rabbinic authority” is not a very significant force if the center is so narrowly drawn that one must squint in order to see it.¹³⁵

I have no doubt that in ten years there will be some semblance of civil marriage in Israel. In the not too distant future, some combination of Russians, secular, non-Orthodox traditionalists, and romantic youth will succeed in putting together a legislative coalition able to overcome the blocking opposition of the religious parties. The religious parties, we must remember, comprise less than 16 percent of the 2009 Knesset. They gain their power by being a needed swing vote that they trade for support for religious concerns, broadly or narrowly conceived. That blocking opposition is predicated on roughly equal splits in the country on issues of war, land, and security. And some time in the future the country will move sufficiently rightward (a trend reflected in the 2009 elections) so that the religious parties will lose their blocking power, or some political compromise with the Palestinians will be effectuated and both the secular and non-Orthodox traditionalists will unite to unseat the Orthodox religious monopoly.

It may be time for religious Zionists to consider the advisability of negotiating a new “status quo” that would allow for civil marriage in limited contexts while preserving religious Zionist values in other aspects of public life, such as issues of *kashrut* in state institutions, education, public Shabbat observance, or transportation on Shabbat.

Such a proactive approach may well be both prudent as regards religious Zionist interests in the long run and respectful of the interests of all the citizens of Israel, secular as well as religious.

I realize that it is counterintuitive, if not politically incorrect, in the circles to whom this essay is addressed, to suggest that there may well be value for Religious Zionism to relax aspects of the Orthodox religious monopoly in Israel. My intention here is to raise this issue for consideration, not to work out either the tactical or *halachic* issues, which are clearly very complex.

Yet the experience of Modern Orthodoxy in America suggests that legal pluralism need not necessarily result in the decline of religious community.¹³⁶ It is not the case that constricting the parameters of the Orthodox religious monopoly will entail that Israel will ineluctably yield its role as the Jewish state. It is important that the modern Orthodox community include the considerations raised in this article in addressing their response to this important social problem in Israel. Playing ostrich will not suffice.

NOTES

* This piece is current as of November 2009, and does not consider policy developments after that date.

1. The Labor Zionist founders of the state were not particularly interested in law but rather in the use of law and mobilization of legal processes for the building of the state. The importance that Ben Gurion and others laid on state building, or *mamlachtiyut*, made clear that the focus was on *realpolitik* or *raison d'état* rather than lawfulness as a value. This neologism was formulated by Ben Gurion and “roughly translates as ‘acting in a sovereign-like manner.’” Michael Oren. “Ben Gurion and the Return to Jewish Power,” in David Hazony (ed.), *New Essays in Zionism* (Jerusalem & New York: Shalem Press, 2007), pp. 405, 408-409. “By *mamlachtiyut*, Ben Gurion meant the Jews’ ability to handle power—military power as well as democratic and political power—effectively.” *Ibid.*
2. Kobi Nahshoni. “Study: 51% of Israelis Secular.” *Ynet*. (Mar. 3, 2008): <http://www.ynet.co.il/english/articles/0,7340,L-3514242,00.html> (last visited Oct. 29, 2009). This data is virtually identical to survey data obtained from the Central Bureau of Statistics, which indicated that 44% of Israelis are secular, 25% are traditional but not religious, 14% are traditional and religious, 10% are Orthodox, and 7% are *haredi*. The Central Bureau of Statistics (Israel). http://www1.cbs.gov.il/reader/shnaton/temp_shnaton_e.html?num_tab=st07_04x&CYear=2008 (last visited June 29, 2009).

3. Yehuda Schlesinger. "Secular Are Moving Away from Judaism," *Israel Hayom* (July 30, 2009): <http://digital-edition.israelhayom.co.il/Olive/AM3/Israel/Default.htm?h ref=ITD%2F2009%2F07%2F30&pageno=1> (last visited Oct. 29, 2009).
4. The 2000 study found that 48-55 percent observe traditions on Shabbat such as having a festive meal, lighting candles while saying a blessing, or reciting Kiddush. Shlomit Levy *et al.* 2000 *Beliefs, Observances, and Social Interaction Among Israeli Jews, for The Louis Guttman Israel Institute of Applied Social Research* (Jerusalem: Israel Democracy Institute and AVI CHAI, 2002), p. 8. The same study found that 67 percent of Israelis fast on Yom Kippur. *Ibid.* However, these numbers reveal a noticeable reduction in religious observance in the 1990s; in 1993, 77 percent of the population reported that observing Shabbat was an important part of their life, including 39 percent who label themselves non-observant. The 1993 study also found that 71 percent of the Israeli population fast and 69 percent of the Israeli population pray on Yom Kippur. Shlomit Levy *et al.* 1993 *Beliefs, Observances, and Social Interaction Among Israeli Jews, for The Louis Guttman Israel Institute of Applied Social Research* (Jerusalem: The Guttman Institute and AVI CHAI, 1993), available at http://www.avichai.org/Static/Binaries/Publications/Beliefs,%20Observances,%20and%20Social%20English_0.pdf (last visited Oct. 29, 2009).

Some commentators note that respect for tradition does not necessarily translate into religious observance. *See generally* Gershon Shaked. "Israel Society and Secular-Jewish Culture," in *The Jewishness of Israelis: Responses to the Guttman Report*, Charles S. Lieberman & Elihu Katz (eds.) (Albany: State University of New York Press, 1997), p. 159. Similarly, Eddy Zemach noted that while there is an Israeli culture, it is distinct from Judaism. Eddy Zemach. "The Time Capsule," in *The Jewishness of Israelis: Responses to the Guttman Report*, Charles S. Lieberman and Elihu Katz (eds.) (Albany: State University of New York Press, 1997), p. 172. Similarly, Yisrael Bartal responded that the Guttman report revealed a growing separation of the political and religious facets of Judaism. Charles S. Lieberman. "Academics and Other Intellectuals," in *The Jewishness of Israelis: Responses to the Guttman Report*, Charles S. Lieberman and Elihu Katz (eds.) (Albany: State University of New York Press, 1997), p. 64. Specifically, the *haredi* population have concerns about this new Israeli society as an assault on the *haredi* lifestyle. Ahava (Laura) Zaremski. *Refracted Vision: An Analysis of Religious-Secular Tensions in Israel* (Jerusalem: The Floersheimer Institute for Policy, 2005), p. 11.

5. Consider that someone as secular as Amos Oz, who comes from a generation imbued with a collective (albeit secular) Jewish vision, has stated "the Shabbat shouldn't become a national day of shopping. Malls and shopping centers should remain closed on that day." Kobi Nahshoni. "Amos Oz: Shut Down Shopping Centers on Shabbat." *Ynet* (Feb. 18, 2009): <http://www.ynetnews.com/articles/0,7340,L-3673618,00.html>. Amos Oz spoke at a recent conference held by the Tzohar Rabbinic Organization and concluded that all trade and commerce should come to a standstill on the Sabbath but public transportation should con-

- tinue to operate, albeit on an adjusted schedule. "Religion, State, and the 18th Knesset: A New Social, Cultural, and Political Agenda." The Israel Democracy Institute. <http://www.igi.org/il/sites/english/ResearchAndPrograms/Religion%20and%20State/Pages/ReligionStateandthe18thKnesset.aspx> (last visited Aug. 3, 2009).
6. Shmuel Sandler *et al.* "The Religious-Secular Divide in Israeli Politics," *Middle E. Pol'y Council J.* (June 1999): http://www.mepc.org/journal_vol6/9906_sandler.asp (last visited Oct. 29, 2009).
 7. Joel Greenberg, "Israel at 50." *N.Y. Times*. (April 6, 1998), p. A12.
 8. *Ibid.*
 9. Alan Dowty. *The Jewish State: A Century Later* (Berkeley, University of California Press, 1998), pp. 4, 23. Israelis refer to the conflict between Orthodox religion and secular citizens as *Shesa b'am*. Martin Edelman. "A Portion of Animosity: The Politics of the Disestablishment of Religion in Israel," *Israel Stud.* Vol. 5(2000): 204.
 10. Dowty, *supra* n. 9, p. 145.
 11. See Edelman, *supra* n. 9, pp. 205, 207.
 12. See Deborah Sontag. "250,000 Israeli Orthodox Hold Protest Rally Peaceably." *N.Y. Times* (Feb. 15, 1999): p. A3 (discussing a 1999 rally where over 250,000 *haredi* and religious gathered to protest Supreme Court decisions on religion).
 13. Nadav Shragai. "Study: 50% of National Religious City Residents Support 'Refusenik.'" *Haaretz* (Feb. 15, 2009): <http://www.haaretz.com/hasen/spages/1064157.html> (last visited Oct. 29, 2009). In a separate 2009 poll 75 percent of the religious public would defy orders to evacuate settlements, 16 percent claimed "everything must be done so that settlements are not removed, even if this means attacking police and soldiers." Yehuda Schlesinger & Yuri Yalon. "Poll: Religious Becoming More Extreme." *Israel Hayom* (July 30, 2009): <http://digital-edition.israelhayom.co.il/Olive/AM3/Israel/Default.htm?href=ITD%2F2009%2F07%2F30&page no=1> (last visited Oct. 29, 2009).
 14. "The controversial claims at the heart of post-Zionist arguments is that Israel should develop a type of civic identity and an institutional framework oriented to the universal values of liberal democracy. No ethnicity must be ontologically privileged over any other." Ephraim Nimni. *Introduction. The Challenge of Post-Zionism*, Ephraim Nimni (ed.) (London & New York: Zed Books, 2003), pp. 1, 2. Post-Zionists would argue that Zionism has fulfilled its historical purpose (if it ever had one) and would therefore challenge any notion Israel had of being a Jewish state in favor of its becoming a "state of all its citizens." For a general critique of post-Zionism see, Rochelle Furstenberg. *Post-Zionism: The Challenge to Israel* (New York: American Jewish Committee, 1997). "Post-Zionist" has been an all-purpose epithet that is often abused. Right-wing Israelis hurl the term at retired IDF generals who support a two-state solution. Likud members tag Meretz MK's who served in the army with that label. Such people may be wrong-headed, but it is hard to say that they are not Zionists. Only

- for those who hew to particular variants of *eretz yisrael sheleima* does any desire for territorial compromise in pursuit of peace necessarily reflect a non-Zionist approach.
15. Bernard Avishai. *A Hebrew Republic: How Secular Democracy and Global Enterprise Will Bring Israel Peace at Last* (Orlando, Fla.: Houghton Mifflin, 2008), p. 123.
 16. See Yael Zerubavel. *Recovered Roots* (1995), p. 246 n. 36. The Canaanites “advocated a full rupture between members of the new Hebrew nation and Jews of Exile.” *Ibid.*, p. 21.
 17. The difference in approach to the rule of law can be seen clearly in comparing the response of Menachem Begin on being ordered by the Supreme Court to dismantle the first settlement in Samaria, that “There are judges in Jerusalem!” and that of Yitzhak Rabin in ordering the expulsion of PLO terrorists to Lebanon in the middle of the night in an effort to avoid a Supreme Court hearing (as we know, the Court learned of the deportations and issued a temporary injunction while the expulsion was in progress and the deportations were held up for nineteen hours for a Court hearing that ultimately lifted the injunction). See Aharon Barak, “Begin and the Rule of Law,” 10 *Israel Studies* 1 (2005). See also Anshel Pfeffer. “Beinisch May Lose the Sway Her Predecessor Built Up.” *Jerusalem Post*, July 23, 2007: p. 4. For Rabin, see Doug Struck, “Israel Tries to Deport Palestinians: Appeal Thwarts Retribution for Kidnapping Death,” *Baltimore Sun*, Dec. 17, 1992; AP Online, “Israel Orders Hundreds Deported in Unprecedented Retribution.” Dec. 17, 1992.
 18. See Charles S. Liebman & Eliezer Don-Yehiya. *Religion and Politics in Israel* (Bloomington: Indiana University Press, 1984), pp. 31-34. The term “status quo” “first appeared at the time Ben Gurion presented his government to the Knesset following the first governmental crisis on October 30, 1950. The term was first made part of a formal coalition agreement following the elections to the Third Knesset in 1955.” *Ibid.*, p. 139 n. 1. For discussion of the status quo see Eliezer Don-Yehiya, *Religion and Political Assimilation in Israel*. (Jerusalem: Floersheimer Institute for Policy Studies 1999), pp. 41-48. Don-Yehiya (citing Menachem Friedman) suggests that “the letter to Agudat Israel is not legally or politically binding” because “there is no real truth to the depiction of the letter to Agudat Yisrael as the origin of the religious status quo.” *Ibid.*, p. 43.
 19. As in the Islamic Republic.
 20. The British Mandate authorities gave eleven religious communities autonomy in matters of personal law, communal jurisdiction, and full autonomy in their marital affairs. These were Muslims, Jews, and nine Christian denominations, Eastern Orthodox, Roman Catholic, Gregorian Armenian, Armenian Catholic, Syrian Catholic, Chaldean Uniate, Greek Catholic Melkite, Maronite, and Syrian Orthodox. The new State adopted these Mandate arrangements (Law and Administration Ordinance Section 11, 1948) and extended this recognition to the Druze, Evangelical Episcopal, and Bahai communities. Asher Maoz, “Religious

- Human Rights in Israel,” in *Religious Human Rights in Global Perspective: Legal Perspectives*, Johan D. Van de Vyver & John Witte, Jr. (eds.) (The Hague: Kluwer Law International, 1996), pp. 349, 354-355.
21. See, e.g., HCJ 5070/95 Naa’mat v. The Minister of Interior, 56(2) P.D. 721 (752) (President Barak).
 22. “Rabbi Yosef: Lieberman Voters Support Satan.” *Ynet* (Mar. 7, 2009): <http://www.ynetnews.com/articles/0,7340,L-3668135,00.html> (last visited Aug. 21, 2009).
 23. Assaf Likhovski. “The Invention of ‘Hebrew Law’ in Mandatory Palestine,” 46 *The Am. J. of Comparative L.* 339, 359 (1998) “Many of the early advocates of legal revival were devoted secularists, who rejected religion. One of the reasons for the creation of the Hebrew Courts of Arbitration was to free Zionists Jews from the tentacles of Rabbinical Courts of the old Yishuv.”
 24. Fredrich Karl von Savigny. *Of the Vocation of Our Age for Legislation and Jurisprudence* (London: Littlewood and Co., 1831), p. 27.
 25. Assaf Likhovski. *The Time Has Not Yet Come to Repair the World in the Kingdom of God: Israeli Lawyers and the Failed Jewish Revolution of 1948* (Tel Aviv University Faculty Papers, Paper No. 68, 2008), available at <http://law.bepress.com/cgi/viewcontent.cgi?article=1069&context=taulwps>.
 26. Suzanne Last Stone. “Religion and State: Models of Separation from Within Jewish Law,” 6 *Int’l J. Const. L.* 631, 640-641 (2008). Stone points out that while then Chief Rabbi Herzog recognized that the time was not ripe, he had hoped to “have a small corner” for Jewish law in Israeli jurisprudence which could grow over time. See *ibid.*, p. 641.
 27. Kalman Kahana. *The Case for Jewish Civil Law in the Jewish State* (London: Soncino Press, 1960).
 28. Indeed when faced with the question of how to fill in gaps or lacunae in the law, the Knesset instructed judges to seek solutions in English common law. *Law and Administration Ordinance* No. 1, 1948, 1 L.S.I. 7 mandates that “the law which existed in Palestine on the 5th Iyar 5708 (May 14, 1948) shall remain in force insofar as there is nothing therein repugnant to this Ordinance or to the other laws which may be enacted by or on behalf of the Provisional Council of State, and subject to such modifications as may result from the establishment of the state and its authorities.” In 1980, however, the Knesset shifted ground and determined judges were directed to *Moreshet Yisrael*—“the traditions of Israel”—to fill these lacunae, noting that:

“Where a court is required to decide a legal question for which there is no answer in statutory law, judicial precedent, or by analogy, the question shall be determined in the light of the principles of freedom, justice, equity, and peace of the Jewish Heritage.”

Foundations of the Law Act, 1980 34 L.S.I. 181 cited in Menachem Elon *et al.*, *Jewish Law (Mishpat Ivri): Cases and Materials* (1999), p. 421.
 29. Although socioreligious norms are now changing, in the early years of the state, people’s desire to “rest,” albeit rest secularly, was greater than their desire to go to a restaurant by bus.

30. Consociational democracy has four defining traits: (1) government by a “grand coalition” of political elites composed of major groups of a plural society; (2) a “concurrent majority” rule for further protection of important interests; (3) proportional representation; and (4) serious autonomy, individual portions of society to self-govern internal affairs. Arend Lijphart. *Democracy in Plural Societies: A Comparative Exploration* (New Haven and London: Yale University Press, 1977), p. 25. For a critique of this model in the development of Israeli politics see Reuven Y. Hazen. “Religion and Politics in Israel: The Rise and Fall of the Consociational Model,” in *Parties, Election and Cleavages: Israel in Comparative and Theoretical Perspective*, Reuven Y. Hazen & Moshe Maor (eds.) (London: Frank Cass, 2000), pp. 109-140.
31. *Ibid.*, p. 1.
32. Ruth Gavison. “The Role of Courts in a Rifted Democracy,” 33 *Israel L. Rev.* 216, 218 (1999). In a “rifted democracy” such as Israel, courts “should be reluctant to determine specific arrangements and priorities, especially in areas of social controversy.” *Ibid.*, p. 218. That said, it is unlikely that Israeli society can forever avoid coming to terms with such a central issue as marriage among its citizens.
33. Gary Jacobsohn. *Apple of Gold: Constitutionalism in the United States and Israel* (Princeton, N.J.: Princeton U. Press, 1993), p. 79.
34. Asher Maoz. “State and Religion in Israel,” in *International Perspectives on Church and State*, Menachem Mor (ed.) (Omaha: Creighton University Press, 1993), pp. 239, 243.
35. Gerald J. Blidstein. “Halacha and Democracy,” 32 *Tradition* 6, 23 (1997).
36. Yeshayahu Leibowitz. *Judaism, Human Values, and the Jewish State*, Eliezer Goldman (ed.), Eliezer Goldman *et al.* (trans.) (Cambridge, Mass.: Harvard University Press, 1992), p. 181.
37. Steven V. Mazie. *Israel’s Higher Law: Religion and Liberal Democracy in the Jewish State* (Lanham, Md.: Rowman & Littlefield, 2006), p. 179.
38. These are persons whom Prof. Shimon Shetreet calls “traditionalists.” “The traditional Jew combines prayer in an Orthodox synagogue on Shabbat and driving to the soccer stadium, to the barbecue, the beach, or the museum, also on Shabbat.” Shimon Shetreet. “Reflections on Israel as a Jewish and Democratic State,” 2 *Israeli Stud.* 190, 194 (1997). See also Shimon Shetreet. “Resolving the Controversy Over the Form and Legitimacy of Constitutional Adjudication in Israel: A Blueprint for Redefining the Role of the Supreme Court and the Knesset,” 77 *Tul. L. Rev.* 659, 667 (2003) (observing “[t]he traditional Jew may be described as a Jew who adopts conscious freedom of choice in the observance of the Jewish law and religious practice and allows himself certain freedoms that would not occur to the religious Jew. . . . He keeps kosher in his home, builds a sukkah (a hut, as the Jews are obliged to do on the holiday of Sukkot), and observes the customs of mourning as prescribed by Jewish tradition. This combination of tradition and freedom of choice within his traditional lifestyle also extends to the social-political level, and it is clear that it also has ramifications at the legal level.”).

39. Stephen Goldstein points out that “distinguishing between religion and nationalism in Israel is inherently difficult,” suggesting that Israeli law restricting the breeding and sale of pigs and pork products is “so linked historically with the humiliation of Jews by anti-Semites that it transcends religion and becomes national in its nature.” Stephen Goldstein. “Israel: A Secular or Religious State,” 436 *St. Louis U. L.J.* 143, 154 (1992). He makes a similar argument regarding the Sabbath. *Ibid.* pp. 154-155.
40. Alan Dowty. *The Jewish State: A Century Later* (Berkeley and Los Angeles: University of California Press, 1998), p. 168.
41. Such a “waiver” of one’s *kahuna* is “legal” in Conservative Judaism.
42. Haim A. Cohn. “Religious Freedom and Religious Coercion in Israel,” in *Israel Among the Nations*, Alfred E. Kellermann *et al.* (eds.) (The Hague: Kluwer, 1998) .p. 93.
43. *Ibid.* See also Jewish Community Rules, 1927, Chap. 126 of the Laws of Palestine.
44. See Cohn, *supra* n. 42.
45. One notes with interest a recent Lebanese government decree allowing citizens to remove their religious affiliation from their identity cards. The change is largely symbolic, since much of the Lebanese political and legal system is still premised on confessional affiliation. Marc Abizeid. “Crowds queued at ministry to remove sect from ID.” *Daily Star* (Lebanon) (April 14, 2009); Peter Kenyon. “Lebanon Moves to Downplay Religious Affiliation,” NPR. (Feb. 25, 2009); “Lebanon ‘moves right way’ on ID.” BBC. (Feb. 24, 2009).
46. Cohn, *supra* n. 42.
47. This was called the millet system. “As a fundamental principle of the Ottoman legal order, general empire law did not apply to matters of personal status such as marriage and divorce, custody of children, or adoption and inheritance. Instead, under the Millet system of the empire, the legal systems of each religion-ethnic-nationalist group (such as Moslems, Christians, and Jews) governed these matters.” Asher Maoz. “State and Religion in Israel,” in *International Perspectives on Church and State*, Menachem Mor (ed.) (Omaha: Creighton U. Press, 1993), pp. 239, 243. See also Benjamin Bravade. “Millet System,” *Encyclopedia of the Modern Middle East and North Africa* (Macmillan, 2004).
48. Rabbinical Courts Jurisdiction (Marriage and Divorce) Law, 5713-1953, 7 LSI 139, §§ 1& 9 (1952-53) (“Matters of marriage and divorce of Jews in Israel, being nationals or residents of the State, shall be under the exclusive jurisdiction of rabbinical courts. . . .In matters of personal status of Jews, as specified in article 51 of the Palestine Orders in Council, 1922 to 1947, or in the Succession Ordinance, in which a rabbinical court has not exclusive jurisdiction under this Law, a rabbinical court shall have jurisdiction after all parties concerned have expressed their consent thereto.”).
49. E.g., between a *kohen* and a divorcee or a marriage in which one of the parties was illegitimate (*mamzer*) under the meaning of the term in Jewish law.

50. The list was said to range from 2,000 to 10,000 persons and include children of incestual relationships and the offspring of women by children other than their husbands. Clyde Haberman. "Rabbi's 'Untouchables' List Robs Some Couples of Wedded Bliss," *Houston Chronicle* (Dec. 24, 1994): p. A14; Christopher Walker. "Cabinet Minister Vows to Challenge Rabbis' Marriage Blacklist in Court: Israel," *Times* (UK) (Dec. 23, 1994).
51. Foreign Judgments Enforcement Act, 5718-1958, §§ 1 & 10 (1958) ("In this Law, 'foreign judgment' means a judgment given by a court in a foreign state in a civil matter [and] "A foreign judgment which has been declared enforceable shall, for the purposes of execution, have the effect of a judgment validly given in Israel." The Israeli Supreme Court addressed the validity of foreign marriages in the *Funk-Schlesinger* case, finding their registry a valid yet merely "administrative" procedure. HCJ 143/62 Funk-Schlesinger v. Minister of Interior [1963] 17 PD 225. The Court held that a marriage valid in another country is valid in Israel unless the foreign court's conclusion is offensive to Israel's public policy. *Ibid*.
52. Pinhas Shifman. "State Reception of Religious Marriage: Symbols and Content," 21 *Isr. L. Rev.* 501, 518-21 (1986); See also Oscar Kraines. *The Impossible Dilemma: Who Is a Jew in the State of Israel* (New York: Bloch Pub. Co., 1976), p. 15-16; Asher Maoz, "Religious Human Rights in the State of Israel," in Johan D. Van der Vyver & John Witte, Jr., *Religious Human Rights in Global Perspective: Legal Perspectives* (The Hague: Wm. B. Eerdmans Publishing Company, 1996), p. 381.
53. Shahar Ilan. "Four Hundred Brides for 1000 Men," *Haaretz* (Oct. 19, 2006): <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=776653> (last visited Oct. 29, 2009).
54. "Unorthodox Weddings Dividing Israelis," *BBC* (Sept. 13, 2005): http://news.bbc.co.uk/go/pr/fr/-/2/hi/programmes/this_world/4215160.stm (last visited Oct. 29, 2009).
55. The Jewish Life Information Center, <http://eng.itim.org.il?CategoryID=205&ArticleID=404&print=1> (last visited Aug. 2, 2009). See also Barbara Demick. "To Avoid Tangles Israelis Opt to Tie Knot in Cyprus While Most Still Marry In Israel, Some Are Making the Trip to Bypass Strict Rules on Marriage," *Philadelphia Inquirer* (June 6, 1998), p. A1
56. See Joel Greenberg. "Tel Aviv Journal; 'I Do' with a Difference (and a Different Rabbi)," *N.Y. Times* (Apr. 27, 1994), p. A4.
57. See *supra* n. 51.
58. In a November 2006 case, *the Association for Civil Rights in Israel v. Chief Registrar of Population, Ministry of Interior*, HCJ 3045/05, the Israel Supreme Court recognized same-sex marriages performed in jurisdictions where same-sex marriage is legal, such as Canada. See also Talia Einhorn, "Same-Sex Family Unions in Israeli Law," 4 *Utrecht L. Rev.*, 222, 227 (2008).
59. Ruthie Blum Leibowitz. "One on One: Of Clouds and Silver Linings," *Jerusalem Post* (Feb. 19, 2009): <http://www.jpost.com/servlet/Satellite?pagename=JPost/JPArticle/ShowFull&cid=1233304819834> (last visited Oct. 29, 2009).

60. The Israel Action Center for Reform Judaism is a leading advocacy group opposing the Orthodox religious monopoly.
61. *Ibid.*
62. *Ibid.*
63. Shahar Lifshitz. "A Potential Lesson from the Israeli Experience for the American Same-Sex Marriage Debate," 22 *BYU J. Pub. L.* 359, 366 n. 36 (2008); *See generally* Shahar Lifshitz. "The External Rights of Cohabiting Couples in Israel," 17 *Israel L. Rev.* 146 (2004).
64. In some cases the rights of cohabitants are greater than those of married couples. Lifshitz, *supra* n. 63, BYU at 373.
65. A majority of laws do not require a minimum duration of the relationship, and laws that do usually require only that the relationship exist for one year, a rather short amount of time. Lifshitz, *supra* n. 63, p. 364.
66. There is now the suggestion of a "spousal register" where those who do not wish a religious marriage or even the long-term commitment of marriage itself can sign up for a "lesser" degree of commitment with a "lesser" amount of rights. See the writings of Shahar Lifshitz, in particular, *The Spousal Registry*, Policy Paper No. 68 (Israel Democracy Institute 2008), available at http://www.idi.org.il/sites/english/PublicationsCatalog/Pages/PP_68/PP_68.aspx. For a discussion of Lifshitz's views, see Yair Shelag, "Divisive Union," *Haaretz*. (Apr. 10, 2009): <http://www.haaretz.com/hasen/spages/1076050.html> (last visited Oct. 29, 2009).
67. Russia's Chief Rabbi Berel Lazar actually claims that 40% of immigrants from Russia to Israel are not Jewish at all. Neta Sela. "Russia's Chief Rabbi: Living in Israel Weakens Faith," *Ynet* (Oct. 2, 2008): <http://www.ynetnews.com/articles/0,7340,L-3604558,00.html> (last visited Sept. 21, 2009). *See also* Noga Tarnopolsky. "Agency Raps Chief Rabbinate Over Conversion Policy," *The Jewish Daily Forward* (Mar. 7, 2003): <http://www.forward.com/articles/9397/> (last visited Oct. 29, 2009) (noting that almost one quarter of the nearly one million Russian immigrants to Israel in the last decade are not Jewish).
68. Yeshayahu Leibowitz understood this as early as 1954, when he wrote, "Did religious Jewry, in its fear of *Mamzerut* on the one hand and concern for the unity of the nation on the other, think of the problems that will arise the moment—perhaps not so far away—when masses of Jews from the U.S.S.R. or the United States will stream to Israel? These Jews have conducted their lives for two generations, or even more, in accordance with the legal provision and social patterns of their countries of residence. It will not prove possible to trace their precise family status. How does religious Jewry think it could assure the unity of the nation in those conditions?" Yeshayahu Leibowitz. *Judaism, Human Values, and the Jewish State*, Eliezer Goldman (ed.) Eliezer Goldman *et al.* (trans.) (Cambridge, Mass.: Harvard University Press, 1992), p. 181.
69. In 1966 Judge Cohn wished to marry a woman divorced from her first husband and widowed by her second. Orthodox religious law prohibits any male member of the priestly class from marrying a divorcee. Since no rabbi in Israel would

- perform the ceremony, the couple went to the United States to be married by a Conservative rabbi in a private ceremony. Oscar Kraines. *The Impossible Dilemma: Who Is a Jew in the State of Israel?* (New York: Bloch Publishing Co, 1976), pp. 39-42.
70. Matthew Wagner. "Tzohar Rabbis: Privatize Marriage Registration," *Jerusalem Post*, (Oct. 22, 2009).
 71. "Shas: Chacham Ovadia Agrees to Civil Marriage Bill," *Yeshiva World News* (Mar. 8, 2009): <http://www.theyeshivaworld.com/article.php?s=Chacham> (scroll down to Mar. 8, 2009). Rav Amar had proposed this approach in 2005. Shahar Ilan. "But Not for Jews," *Haaretz* (July 28, 2005): <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=605605> (last visited Oct. 29, 2009).
 72. Kobi Nahshoni. "Rabbinat to Discuss Civil Marriage for First Time," *Ynet* (Mar. 4, 2009): <http://www.ynetnews.com/articles/0,7340,L-3680969,00.html> (last visited July 3, 2009).
 73. "Shas: Chacham Ovadia Agrees to Civil Marriage Bill," *Yeshiva World News* (Mar. 8, 2009): <http://www.theyeshivaworld.com/article.php?s=Chacham> (scroll down to March 8, 2009).
 74. Betzalel Kahn. "Shock Over Former Chief Rabbi Bakshi-Doron's Call to Cancel Marriage and Divorce Law," *Dei'ah veDibur* (June 9, 2004): <http://chareidi.shem-ayisrael.com/archives5764/shelach/SHL64abakshi.htm>.
 75. "Civil Marriage—Yes, Reform—No," *Meimad* 10 (5757), cited in Rabbi Yehuda Amital, *Constraint and Complexity: Jewish Worship in an Age of Upheaval*, p. 89 (Jersey City, N.J.: Ktav, 2008).
 76. Leibowitz. *supra* n. 36, p. 180.
 77. Kraines, *supra* n. 52, p. 18.
 78. Anonymous. "Separation Anxiety: Barak's Call for Dividing Religion and State Sparking an Intense Debate," *New York Jewish Week* (Sept. 15, 2000).
 79. "Knesset Votes Against Civil Marriage Bill," *Ynet* (June 10, 2009): <http://www.ynetnews.com/articles/0,7340,L-3729252,00.html> (last visited Aug. 2, 2009).
 80. *Ibid.*
 81. Dan Izenberg. "Debate Begins on Civil Union Bill's Final Draft. Measure Would Apply to Couples Classified as Having No Religion," *Jerusalem Post* (Oct. 14, 2009), p. 2.
 82. Dan Izenberg. "Ministerial Panel Approves Very Limited Civil Union Bill," *Jerusalem Post* (Jul. 20, 2009): <http://www.jpost.com/servlet/Satellite?cid=1246443853820&pagename=JPArticle%2FShowFull> (last visited Oct. 29, 2009).
 83. Elena Sztokman. "An Important First Step," *Ynet* (Oct. 15, 2009): <http://www.ynetnews.com/articles/0,7340,L-3790257,00.html> (last visited Oct. 29, 2009).
 84. See Natan Lerner. "Religious Liberty in the State of Israel," 21 *Emory International Law Review*, 239, 254 (2007) (quoting Rely Sa'ar. "Israel Recognizes Consular Divorce for the First Time," *Haaretz* (May 5, 2005): <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=57248>).
 85. Ronny Sofer. "Counselor Marriage in Israel Approved," *Ynet* (Mar. 9, 2007).

86. "The British government apparently felt it would not be fair to impose a religious law on residents of Palestine who were not citizens of Palestine. Thousands of Jews living in Palestine had retained foreign nationality, and thus could conduct civil marriage before consular offices." S. Zalman Abramov. *Perpetual Dilemma: Jewish Religion in the Jewish State* (Rutherford, N.J.; Fairleigh Dickenson U. Press, 1976), p. 96.
87. In a September 2008 ruling, the Supreme Court found that the Rabbinical Court's Jurisdiction (Marriage and Divorce) Act of 1953 does not empower rabbinical courts to hear applications for dissolution of marriages where one or both of the parties is not Jewish. Applications should be made to the vice-president of the family court. See Avivram Zino. "High Court: Mixed Marriages Not in Jurisdiction of Rabbinical Courts," *Ynet* (Nov. 9, 2006): <http://www.ynetnews.com/articles/0,7340,L-3302583,00.html> (last visited Oct. 29, 2009).
88. Israel has historically adopted bans on raising pigs and selling pork, but these measures have cultivated much resistance over the years. Daphne Barak-Erez. *Outlawed Pigs: Law, Religion, and Culture in Israel* (Madison: University of Wisconsin Press, 2007), p. 3. The legislation in force today leaves the issue to local authorities. *Ibid.*, p. 99. Thus, in practice, pork is available wherever there is a demand. *Ibid.*, p. 102.
89. Sharon Wrobel. "Tiv Taam, Kosher? Gaydamak Says Yes," *Jerusalem Post* (June 11, 2007): <http://www.jpost.com/servlet/Satellite?pagename=JPost%2FJPArticle%2FShowFull&cid=1181228592135>. Given the traditional cultural sensitivity of Jews to pigs, the selling of pork is perhaps a telling metaphor for the cultural change going on in Israel. As coffee shops and restaurants continue to serve bread on Passover and pork even on holidays, self-described traditionalists lament the advent of a "pork in a pita on Yom Kippur and Pesach" culture. Yael Mishali. "We Forgot How to Be Jewish," *Ynet* (Mar. 31, 2009): <http://www.ynetnews.com/articles/0,7340,L-3695237,00.html>.
90. Charles S. Liebman and Elizer Don-Yehiya. *Religion and Politics in Israel* (Bloomington: Indiana University Press, 1984), p. 39.
91. Eliezer Don-Yehiya. "Religious Conflicts in Israeli Politics," in Stuart Cohen and Eliezer Don-Yehiya (eds.), *Conflict and Consensus in Jewish Political Life* (Ramat Gan, Israel: Bar-Ilan University Press, 1986), p. 216 (observing changes in the religious status quo, specifically a sharp decline in *Shabbat* observance).
92. A recent report found that less than 18% of all restaurants in Israel are certified kosher. See Sarit Sardas-Trotino. "More Restaurants to Remain Non-Kosher this Pesach," *Ynet* (Mar. 29, 2009): <http://www.ynetnews.com/articles/0,7340,L-3693763,00.html> (last visited Oct. 11, 2009). That number increases to 22% if one includes restaurants that are defined, but not certified, as kosher. *Ibid.*
93. Josef Federman. "Israel Court OK's Non-Orthodox Conversions," *Associated Press* (Apr. 1, 2005): <http://www.wwrn.org/article.php?idd=16225&sec=59&con=35>. The Supreme Court has further ruled that the state must fund Reform and Con-

- servative institutes that prepare potential converts for conversion. Matthew Wagner. "Reform, Conservative Should Build Shuls with Their Own Money," *Jerusalem Post* (Aug. 26, 2009), p. 5.
94. Even the question of *hametz* on Pesach is in play. Israeli law makes it an offense to have *hametz* in a public place (eating it in your house was never a crime), and a store was considered a public space. Last year Judge Tamar Bar-Ashar Zaban dismissed indictments against four restaurant owners who were accused of violating the *hametz* law ruling that a transaction made inside a store is not public (as opposed to placing the forbidden loaf of bread in the window). This year the Committee for Sanctity of Shabbat warned businesses not to sell leavened bread during Pesach. Kobi Nahshoni. "Jerusalem Businesses Warned Not to Sell Bread on Passover," *Ynet* (Mar. 24, 2009): <http://www.ynetnews.com/articles/0,7340,L-3691416,00.html> (last visited Aug. 2, 2009). After losing this legal battle against food vendors' selling pork, the city of Jerusalem then began appealing to the conscience of vendors, asking them to refrain from selling pork out of politeness to the city's residents. Matthew Wagner. "Religious Affairs: Matzah Brawl," *Jerusalem Post* (Apr. 24, 2008): <http://www.jpost.com/servlet/Satellite?cid=1208870486807&pagename=JPost%2FJPArticle%2FShowFull>.
95. Matthew Wagner. "First State Funded Reform Synagogue to Go Up in Modi'n," *Jerusalem Post* (May 5, 2008): <http://www.jpost.com/servlet/Satellite?cid=1209627010498&pagename=JPost%2FJPArticle%2FPrinter>. Interestingly, this funding was agreed to after the Religious Affairs Ministry was dismantled and responsibility for synagogue contraction transferred to the Housing Ministry. In yet another sign that secular Jewish groups are gaining momentum, secular Jews have also opened a yeshiva where Jews study Torah. Yedidia Meir. "Because Judaism Isn't a Dirty Word," *Haaretz* (Apr. 1, 2007): <http://www.haaretz.com/hasen/objects/pages/PrintArticleEn.jhtml?itemNo=809611>.
96. Nathan Jeffrey. "Government Aid for Liberal Shuls Breaks Orthodox Israeli Monopoly," *The Jewish Daily Forward* (Aug. 20, 2008): <http://www.forward.com/articles/14021/>.
97. The matter has been held up by petitions from the *dati'im* and parallel temporary restraining orders against the opening of Orthodox synagogues while the Reform request is "hanging." L. S. Wasserman. "Netanya Residents Fuming Over Plans to Allocate Lands for Reform Synagogues," *Deiah ve Dibur* (March 5, 2009): <http://chareidi.shemayisrael.com/archives5769/tetzaveh/TZV69netanya.htm>.
98. In that regard, note the comments by Natan Scharansky as Chair of the Jewish Agency: "[t]he Religious Affairs Ministry is not a halachic body and is responsible for providing religious services to all citizens of the state of Israel from all religions, streams and congregations who need services." Matthew Wagner. "State Should Fund Reform, Conservative," *Jerusalem Post* (Aug. 30, 2009), p. 3.
99. Nathan Rotenstreich, "Secularism and Religion in Israel," 15 *Judaism* 259, 269 (1996).

100. Cited in Izhak Englard. "Conflict Between State and Religion in Israel: Its Ideological Background," in Menachem Mor (ed.), *International Perspectives on Church and State* (New York: Creighton University Press, 1993), p. 219, 230.
101. Cited in Gershon Weiler. *Jewish Theocracy* (Leiden: E. J. Brill, 1998), p. 230.
102. As an example, the Jewish Agency is considering halting "identity card" ceremonies before the Western Wall, since the rabbinical authorities have demanded gender segregation at such ceremonies. Yair Ettinger, "Rabbi of Western Wall Wants Immigrants' Welcome Ceremony Segregated," *Haaretz* (Sept. 24, 2009): <http://www.haaretz.com/hasen/spages/1116342.html>.
103. As Rav Aharon Lichtenstein has trenchantly noted:
 The contribution of the rabbanut ha-rashit to the administration and supervision of areas crucial to halachic existence is obvious. Equally self-evident, however, is the fact that, as quintessentially rabbinic authority—whether as spiritual leadership in the broader sense or with regard to the specific area of pesak—it now carries relatively limited weight. Secularists and *haredim* largely ignore it, while the non-Orthodox actively fight it. Its status in the dati-leumi community is more secure, but even there many offer it little more than honorific lip service, having recourse to it only at their convenience. Moreover, as it has become increasingly regarded as the virtual patrimony of a dominant faction, its base of support has narrowed, and the number of those who truly look to it for guidance has dwindled. Even within the world of yeshivot hesder, there are not many who, confronted with conflicting pesakim of the rabbanut ha-rashit and, say, Rabbi Shlomo Zalman Auerbach z.l., would routinely prefer the former.
 "The Israeli Chief Rabbinate: A Current Halachic Perspective," *Tradition*: <http://www.traditiononline.org/news/article.cfm?id=104560> (last visited Nov. 2, 2009).
104. Their reform efforts were severely tested by the recent dispute over the *heter mechira* where "reformist" rabbis like Benny Lau proposed to buck the Chief Rabbinate and offer their own *heter* until happily the Supreme Court intervened—happily for the resolution of the *heter mechira* controversy but less so for the idea of the noninterference by the Court in religious affairs. Steven Erlanger. "Israel's Top Court Backs Loophole in Farming Law," *N.Y. Times* (Oct. 25, 2007): p. A10; Matthew Wagner. "High Court Overrules Rabbis' Stringent Shmita Decision. Restricting *heter mechira* Impinges on Non-Haredi Citizens," *Jerusalem Post* (Oct. 25, 2007), p. 6.
105. A variant of this view is the "slippery slope" argument that even if unintended, civil marriage will cause a swelling surge of secularism in all parts of the society.
106. Daphne Barak-Erez. "Law and Religion Under the Status Quo Model: Between Past Compromises and Constant Change," 30 *Cardozo L. Rev.* 2495 (2009). See also *ibid.*, pp. 2449-2504.
107. As Pnina Lahav has suggested, "Israel prides itself on being a Jewish State. As the Proclamation [of Independence] makes clear, the commitment of the Jewish people to return to its land is its *raison d'être*. But what does Jewish mean? By

- now most readers probably know that Jews have not yet reached a consensus on this issue.” Pnina Lahav. “A ‘Jewish State’ to Be Known as The State of Israel; Notes on Israeli Legal Historiography,” 19 *Law & Hist. Rev.* 387, 420 (2001). Lahav further notes that “[t]he official narrative of the Jewish State is itself a bold attempt to replace another dominant narrative, that of Jewish orthodoxy.” *Ibid.*
108. The tensions within that concept have been explored at length. See, as but one example, Menachem Elon. “The Values of a Jewish and Democratic State: The Task of Reaching a Synthesis,” in Alfred E. Kellerman *et al.*, *Israel Among the Nations*. (The Hague: Kluwer Law, 1998), p.177.
109. See Bernard Avishai. *A Hebrew Republic* (Orlando: Houghton Mifflin, 2008), p. 236 and *passim*.
110. Theodor Herzl. *The Jewish State*. (New York: Herzl Press, 1970), p.100.
111. I am instructed here by Suzanne Last Stone, “Religion and State: Models of Separation from Within Jewish Law,” 6 *Int’l J. Const. L.* (2008) 631; See also Elazer Nachalon. “Structural Models of Religion and State in Jewish and Democratic Political Thought: Inevitable Contradiction? The Challenge for Israel,” 22 *Touro L. Rev.* 613 (2006).
112. Aharon Barak. 3 *Interpretation in the Law: Constitutional Interpretation* (1994), p. 332; cited in Shimon Shetreet, “Resolving the Controversy Over the Form and Legitimacy of Constitutional Adjudication in Israel: A Blueprint for Redefining the Role of the Supreme Court and the Knesset,” 77 *Tulane L. Rev.* 659, 679 (2003). Barak does not seem to have always taken this view. In a more “expansive” mode he has written elsewhere:
- The content of the phrase “Jewish State” will be determined by the level of abstraction which shall be given it. In my opinion, one should give this phrase meaning on a high level of abstraction, which will unite all members of society and find the common ground among them. The level of abstraction should be so high, until it becomes identical to the democratic nature of the state.
- Aharon Barak. “The Constitutionalization of the Israeli Legal System as a Result of the Basic Laws and Its Effect on Procedural and Substantive Criminal Law,” 31 *Israel L. Rev.* 3, 5 (1997).
113. This question evokes the warnings of Theodore Herzl that “clergy... will have no privileged voice in the State... for otherwise they might cause trouble externally and internally.” Theodor Herzl. *The Jewish State* (New York: Herzl Press, 1970), p. 100.
114. Indeed, as a matter of self-preservation he or she would be advised never to do so.
115. Charles E. Curran. *Catholic Social Teaching: 1891-Present* (Washington, D.C.: Georgetown University Press, 2002), p.58. See John Courtney Murray. *We Hold These Truths, Catholic Reflections on the American Proposition* (Lanham, Md.: Sheed & Ward, Inc., 1960), pp. 73-74 (quoting Pope Pius XII, who said, “in certain circumstances God does not give men any mandate, does not impose any duty, or does not even communicate the right to impede or to repress what is

- erroneous and false,” and concluding, “The First Amendment is simply a legal enunciation of this religion.”).
116. Second Vatican Ecumenical Council, *Dignitatis Humanae* [Declaration on Religious Freedom] ¶ 2 (1965) [hereinafter *Dignitatis Humanae*], http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html (last visited Oct. 30, 2009) (“This Vatican Council declares that the human person has a right to religious freedom. . . . This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right”). Although *Dignitatis Humanae* marked the Church’s most profound embrace of religious freedom, notions of religious freedom are present in encyclicals dating back to the nineteenth century. See Pope Leo XIII, *Libertas*, ¶ 4 (Jun. 20, 1888), http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_20061888_libertas_en.html (last visited Oct. 30, 2009) (“As the Catholic Church declares in the strongest terms the simplicity, spirituality, and immortality of the soul, so with unequalled constancy and publicity she ever also asserts its freedom.”).
 117. *Dignitatis Humanae*, ¶ 2 (“[T]he right to religious freedom has its foundation in the very dignity of the human person as this dignity is known through the revealed word of God and by reason itself.”).
 118. *Dignitatis Humanae*, ¶ 2, 4.
 119. Cherlow article, this volume.
 120. “Rulers Taking Power in Algeria Halt Elections to the Parliament,” *N.Y. Times* (Jan. 13, 1992), p. A1. See also “Times of Troubles in Algeria,” *N.Y. Times* (Dec. 4, 1996): <http://www.nytimes.com/1996/12/04/opinion/time-of-troubles-in-algeria.html>. After the FIS won 188 of 230 seats in the December 1991 election, the army staged a coup by ousting the President, erasing the first-round election results, and cancelling the second round of elections scheduled for January 1992. Frederic Volpi, *Islam and Democracy: The Failure of Dialogue in Algeria* (London: Pluto Press, 2003), p. 55. A violent and deadly civil war ensued for years, resulting in over 40,000 dead.
 121. Daphne Barak-Erez discusses legislation and regulations governing the pork industry in Israel during the 1950s and 1960s, including the Pig-Raising Bill of 1953, the Pig-Raising Prohibition in Israel Bill of 1953, the Defense (Prevention of Profiteering) Regulations of 1944, the Food Control (Pig-Raising) Order of 1954, the Local Authorities (Special Enforcement) Law of 1956, and the Pig-Raising Prohibition Law of 1962. Barak-Erez, *supra* note 88, pp. 44-57.
 122. Qatar Pocket Guide, http://qatarpocketguide.com/index2.php?option=com_content&do_pdf=1&id=13 (last visited Sept. 25, 2009).
 123. Sunday closing laws are discussed in Marc A. Stadtmauer, “Remember the Sabbath? The New York Blue Laws and the Future of the Establishment Clause,” 12 *Cardozo Arts & Ent. L.J.* 213 (1994). Their constitutionality was dealt a fatal blow in *Estate of Thornton v. Calder*, 472 U.S. 703, 710 (1985), which found a state law

- violated the First Amendment by permitting observers an unconditional right to not work on their day of Sabbath observance.
124. By-laws in other mixed cities like Lod and Ramle, Tel Aviv/Jaffa do not require Arab businesses to close on the Sabbath. Jack Khoury. "Israeli-Arab Acre Business Petition Court to Allow Work on Shabbat," *Haaretz* (May 15, 2007): <http://www.haaretz.com/hasen/spages/860357.html>.
 125. See The Central Bureau of Statistics (Israel), http://www1.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st02_07x&CYear=2009 (last visited Oct. 11, 2009). See also Press Release, Adalah, "Adalah Petitions Supreme Court on Behalf of Business Owners from Akko: Municipal Regulations Forcing Shops to Close on Saturday Is Unconstitutional." (May 18, 2007), available at http://www.adalah.org/eng/pressreleases/pr.php?file=07_05_18 (last visited Sept. 20, 2009).
 126. Leviticus 19:14.
 127. Yair Ettinger. "Egged Suspends Service Through Mea Shearim After Buses Damaged," *Haaretz* (Feb. 19, 2009): <http://www.haaretz.com/hasen/spages/1065351.html>. (last visited Oct. 30, 2009). Similarly, a bus line providing free bus service between *haredi* neighborhoods and the Western Wall, segregated by sex, was launched in March 2009. "Jerusalem: Haredim Launch Segregated Bus Line," *Ynet* (Mar. 22, 2009): <http://www.ynetnews.com/articles/0,7340,L-3690040,00.html>. (last visited Oct. 29, 2009). *Haredi* women, denying allegations that their rabbis were forcing them to support bus segregation, have come out publicly in favor of gender separation on the bus lines. Kobi Nahshoni. "Haredi Women Push for Segregated Lines," *Ynet* (June 3, 2009): <http://www.ynetnews.com/articles/0,7340,L-3725737,00.html> (last visited Oct. 29, 2009); C.f. Anshel Pfeffer. "Charedi Women Refuse Bus Gender Segregation," *The Jewish Community Online* (Sept. 18, 2009): <http://www.thejc.com/news/israel-news/charedi-women-refuse-bus-gender-segregation>. But other women, including retired Supreme Court Justice Dalia Dorner, have advocated the opposite, encouraging secular passengers to begin riding the segregated buses in order to thwart the gender segregation aboard. Kobi Nahshoni. "Justice Urges Seculars to 'Take Over' Haredi Lines," *Ynet* (May 28, 2009): <http://www.ynetnews.com/articles/0,7340,L-3721869,00.html>.
 128. Alon Harel. *Benign Segregation? A Case Study of the Practice of Gender Separation in Buses in the Ultra-Orthodox Community in Israel*, 20 *S. Afr. J. on Hum. Rts.* 64, 65 (2004).
 129. Isabel Kershner. "Religious-Secular Divide, Tugging at Israel's Heart," *N.Y. Times* (Sept. 3, 2009): <http://www.nytimes.com/2009/09/03/world/middleeast/03jerusalem.html> (observing that the segregation policy is on appeal before the Israeli Supreme Court).
 130. See Kobi Nahshoni. Transport Ministry: "Kosher' Busline Illegal." *Ynet* (Oct. 28, 2009); Dan Izenberg & Matthew Wagner. "Gender Separation on Buses Must Be Voluntary, Ministry Panel Says," *Jerusalem Post* (Oct. 28, 2009). (The Committee found that public buses (including *mehadrin* buses) serving the *haredi* popula-

- tion “were an integral part of the public transportation system and that special rules could not apply.” However, the committee proposed “a year long trial during which passengers on *mehadrin* public bus lines would be allowed to enter from either the front or the rear doors, so those who wished to maintain gender separation could do so.”).
131. Members of the *haredi* community had wanted gender separation on the Number 2 bus line, which runs from *haredi* neighborhoods to the Western Wall, but when Egged refused, they launched their own busline. Kobi Nahshoni. “Haredim Attack Bus, Open Own Line,” *Ynet* (Feb. 19, 2009): <http://www.ynetnews.com/articles/0,7340,L-3674482,00.html>.
 132. Yair Ettinger & Ziel Kyzer. “Haredi Teargasses Women for Using ‘Men’ Only Sidewalk,” *Haaretz* (Oct. 27, 2009) (in *Meah She’arim*, “a special pedestrian interchange was set up on the street to lead men and women to their separate sidewalks.”).
 133. As an example, in Bnai Brak the First International Bank of Israel (FIBI) has introduced a separate teller “for women only.” Dudi Nissim. “Separate Lines for Women in Bnei Brak Bank,” *Ynet* (Nov. 17, 2006). A post office branch in the Menucha Venachala neighborhood of Beit Shemesh has established separate business hours for male and female customers. Beit Shemesh. “Separate Business Hours for Men and Women in Post Office,” *Voz Iz Neis* (May 30, 2006). A nuts and seeds store in the Bucharian neighborhood of Jerusalem has arranged separate entrances for men and women, after recommended to do so by a kashrut inspector. Uri Gilhar. “Jerusalem Stores to Introduce Sex Segregation,” *Ynet* (Feb. 6, 2009).
 134. A similar problem was faced in the United States, where a secular Jewish woman sued a publicly subsidized bus line between Manhattan and Rockland County which permitted Hasidic men to segregate the bus by gender during prayer. Joseph Berger. “Commuters Reach Settlement Over Jewish Prayers on Bus,” *N.Y. Times* (Mar. 13, 1995), p. B4 (noting the case settled, with the parties agreeing that the bus line would not supply a curtain, track, or hooks, to facilitate putting up a curtain to separate male and female passengers).
 135. Arnold Enker. “A Central Rabbinic Authority: Costs and Tradeoffs,” in *Israel as a Religious Reality*, Chaim A. Waxman (ed.) (Lanham, Md.: 1994), pp. 105, 108.
 136. While not an issue for religious Zionists specifically, one should also recognize that the almost wall-to-wall support Israel receives from the United States is predicated on the belief of the American people that Israel is “more like us.” The notion that Israel is not a country based on values of liberal democracy clearly implicates political support in the West and perhaps even among non-Orthodox Jews (the reaction of Reform and Conservative Jewry to the “who is a Jew” problem suggests the level of outcry and its potential effect on support for Israel).

ORTHODOX FORUM
Twenty-First Conference

Sunday and Monday, March 22 and 23, 2009

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Dr. Norman Adler	Yeshiva University, New York, NY
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Rabbi Michael Berger	Emory University, Atlanta, GA
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