

JEWISH IDENTITY TODAY

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**BEHAVING AND
BELIEVING,
BEHAVING AND
BELONGING**

Daniel Gordis

The American Jewish Committee

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FOREWORD

The story is told of Franz Rosenzweig, perhaps the greatest thinker in twentieth-century Judaism, who was ready to convert to Protestant Christianity. Before doing so, Rosenzweig believed he had to know what it was that he was leaving. So began a life-long study of Judaism and Jewish heritage. In effect, Rosenzweig became the model *baal teshuva* or adult returnee to Judaism.

What is less well known has been Rosenzweig's conception of Jewish law. Unlike Martin Buber, Rosenzweig acknowledged the centrality of law to Judaism both historically and theologically. Absent law, Judaism forfeited its unique tradition and teachings. Rosenzweig argued that the task confronting human beings was to internalize the law—to discover its salience to our personal lives. When asked whether he had become observant of Jewish law personally, Rosenzweig responded, "Not yet"—an affirmation and simultaneously a criticism of Mordecai Kaplan's well-known dictum that Jewish tradition possessed "a voice not a veto."

Discussions of the meaning of being Jewish today often fail to ask what claims Jewish law and tradition have in our daily lives as modern men and women. In this paper Rabbi Daniel Gordis argues that for religious movements to be taken seriously, they must articulate a language of norms, demands, expectations, and commitments. The liberal movements within Judaism, in partic-

ular, confront this dilemma. How do we articulate a language of Judaic obligations in a culture that promotes personal freedom, autonomy of conscience, and diversity of lifestyles?

Despite this apparent dissonance with American culture, several reasons exist why we should strive to advance a language of norms within the liberal religious movements. First, the language of individualism and individual rights itself is insufficient in that it lacks the message of obligation and responsibility to others. Jewish teachings can fill the moral vacuum within our lives by asserting that language of responsibility.

Take, for example, the much-maligned rite of bar mitzvah. Bar mitzvah signifies approaching the edge of adulthood, the beginning of taking responsibility legally for one's actions. In our era, when so many are reluctant to assume responsibility for their actions, this rite of passage can be a powerful reminder that we begin to become legally responsible for things that we do.

Secondly, norms are important in an era of extremely fluid boundaries between Jew and Gentile. Much of what passes for Jewishness and Jewish identity today is so general in content as to characterize equally Jews and non-Jews. A distinctive Jewish content, broadly defined to be sure, is necessary to determine what is Jewish and what is not. Jewish norms can supply precisely that distinctive content.

Lastly, norms are important particularly within the liberal movements to ensure their own continuity as religious expressions of contemporary Judaism. Each of the religious movements represents particular Judaic ideals and values. Yet the popular misperception of these movements all too often is that those who are Orthodox are "more committed" and those who are not Orthodox are "less committed" or "less religious." The challenge to the liberal movements lies in creating a Judaism sufficiently vibrant and attractive to place demands upon adherents and inspire greater commitment. A true pluralism will lie not in groups being more or less committed but rather equally commit-

ted to differing expressions of what being Jewish means.

Consideration of such a language of norms raises two additional implications for the current debate over Jewish continuity. First, a language of norms to some extent conflicts with the popular and politically correct language of inclusivity. While no one wishes to be exclusive, we must recognize that a distinctive Jewish content in some respects mandates the capacity to negate otherwise desirable aspects of American society and Western culture. Conversely, a Judaism so inclusive as to be all things to all people is likely to prove so bland and uninspiring that it will be incapable of retaining committed adherents. Therefore, we must strive to be operationally inclusive—open to all Jews interested in leading a Jewish life—yet ideologically exclusive in the sense that we remain committed to distinctive Jewish values and ideals.

Secondly, discussion of norms points to perhaps the most critical weakness within the current Jewish continuity debate. Jewish leaders overwhelmingly desire Jewish continuity but are often unwilling to recognize, let alone pay, the necessary price to secure it. The price is by no means necessarily financial. Rather, it lies primarily in our capacity to live in two civilizations, to take with equal seriousness the claims of both, and to acknowledge occasional dissonance between those claims.

This paper is the fifth in a series, *Jewish Identity Today*, analyzing the meaning of being Jewish today. It is our hope that the paper will catalyze discussion both on the personal meaning of being a Jew and on communal initiatives to enhance broader Jewish identification.

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BEHAVING AND BELIEVING, BEHAVING AND BELONGING

EVER SINCE THE MOST RECENT National Jewish Population Study,¹ the leadership of the American Jewish community has been focused on the challenge of “Jewish continuity.” Indeed, on the eve of the twenty-first century, “continuity” has become a veritable buzzword of American Judaism. But though a host of organizations, foundations, educational institutions, and prominent leaders have hastened to address the problem of continuity with a variety of creative and high-quality programs, many American Jews now realize that our crisis is not fundamentally programmatic. Our problem is not that the programs of American Judaism and its institutions are failing, but rather that Judaism itself seems to have lost its claim upon American Jews. In ways that would have seemed inconceivable only a generation or two ago, American Jews now ask—but cannot answer—a difficult but crucial question: Why be Jewish?

Our crisis of continuity is actually a crisis of identity. When diaspora Jews walk away from Jewish life,² they are making decisions about identity, not theology or religious philosophy. They abandon Jewish commitment not as a result of serious theological disagreement with fundamental principles of Jewish life, but simply because Jewish life has ceased to matter. When asked “Why be Jewish?” they have no good answer. It has become almost trite to note that American life is so inviting and accept-

ing of different immigrant groups that Jews (and others, of course) can simply vanish into the woodwork. More than ever before, American Jews need a conscious reason to remain Jewish, and thus far American Jewish life has basically failed to provide one. As a result, we find ourselves contemplating the real possibility that the American Jewish community as we know it may not survive.³

How can we begin to provide an answer to the question “Why be Jewish?” that will appeal to American Jews, particularly to the “thirtysomething” generation whose loyalty we desperately need and are in danger of losing? What can we do to win back the allegiance of those who have decided—either consciously or simply by default—not to make Jewishness a central part of their lives?

Obviously, we should not expect any single solution to provide a panacea. Turning the tide of American Jewish life will require an investment of time, money, and energy in a variety of arenas, including education of all sorts (for youth, for adults, and for families), a reconnection with Israel, a greater Jewish presence on our university campuses, a reexamination of the goals of the synagogue, and so on. But as important as all these are, by themselves they will not suffice. In this brief paper, I argue that, in addition to all of the above (and the many important agendas not explicitly listed here), any plausible hope for reenergizing American Judaism will also depend on a return to a seriousness about the norms of Jewish behavior. I suggest that so long as American Judaism fails to confront the centrality of norms—or law—in Jewish life, any hope for American Jewish continuity will be dim at best.

To many observers of the current American Jewish scene, this thesis will seem surprising, if not outright counterintuitive. Why, one might ask, is the issue of norms and specifically Jewish behavior so central to Jewish continuity in America? What do either ritual or Jewish social behavior have to do with the trans-

mission of a sense of urgency or passion about Jewish life to a new generation? Isn't Jewish behavior something that one comes to *after* making a decision that Jewish life matters? Is it not also the very issue of halakhah, or Jewish law, that *divides* the Jewish community, rather than bringing it together?

Jewish law is a tremendously complicated world, and no paper of this length could address the philosophical and political issues surrounding it in any depth. Our questions about norms will therefore be somewhat different. We want to know not *what* Jews ought to do at various life-cycle events and throughout the daily rhythm of their lives, but *why* what they do matters. Rabbi Mordecai Kaplan, one of the greatest theoreticians of modern American Jewish life, developed a set of terms that can be very useful here. He spoke of a trilogy of "believing, behaving, and belonging" as necessary components of modern Jewish life. This paper will address the relationship between behaving and the other two. Should belief precede behavior? Should one ever behave before coming to a belief in the obligatory nature of that behavior? Why? Similarly, which comes first, belonging or behaving? Do we behave in a certain way because we feel that we belong to a certain group, or do our feelings of belonging possibly arise out of a pattern of behavior?

This paper addresses those questions. Its argument proceeds in the following fashion: In Section 1, I define more precisely why the American Jewish community's abandonment of norms creates such a problem for Jewish continuity. I look at Peter Berger's notion of plausibility structures, and examine the link between Jewish behavior and our prospects for developing senses of Jewish passion. In Section 2, I explore both the reasons for the gradual but significant American abandonment of norms as a serious component of Jewish life and the implications of that abandonment. I first discuss the characteristics of modernity that have brought about this state of affairs, and then examine more closely why abandoning norms almost necessarily creates a wide

chasm between Jews and the world of their tradition.⁴ In Section 3, I turn to the future and ask whether some new ways of thinking about norms can be constructed that will allow American Jews to return to serious modes of Jewish living without abandoning the intellectual rigor that has thus far stood in the way of such returns. Finally, I consider briefly the options available to those segments of the American Jewish community who may wish to take norms seriously, but who will not or cannot accept traditional halakhah as the definition of what those norms ought to be. What options are available to them? What might pluralism come to mean if more American Jews began to take the notion of norms seriously?

1. The Problem Defined

Among the many ironies of American Jewish life is the observation that while 95 percent of American Jews have rejected the yoke of Jewish law (i.e., the notion that traditional commands regarding behavior have law-like authority), American Jewish leaders continue to understand that this rejection is a death knell for Jewish continuity. For that reason, rabbis of all movements continue to insist that *their* movements still take Jewish law seriously. In the various denominational battles that have both captivated and plagued American Judaism for the past several decades, Reform, Reconstructionist, and Conservative leaders have continually fought to discount the suggestion that only Orthodoxy is serious about perpetuating Judaism based on a reading of the tradition and its law. Non-Orthodox leaders deny the claim that only Orthodoxy is an authentic modern reflection of classic Judaism (whatever one means by “classic Judaism”). The liberal movements insist that they, too, are committed to fashioning their unique images of Jewish life in response to halakhah. The difference, they claim, is not in how important the legal tradition is to them, but in how they read that tradition.⁵

In his numerous volumes of responsa, for example, the prolific author of Reform responsa, Rabbi Solomon B. Freehof (1892-1990), quoted classic sources at every turn. Freehof clearly saw the classic responsa with which he was so familiar as crucial to the formation of his opinion. Indeed, even when he ruled in a completely nontraditional fashion, he apparently felt compelled to cite classic talmudic sources or responsa (with which he clearly disagreed!) because he understood that without citing those texts there was no tradition of which he could claim to be a part, no chain in which he could be a continuing link.

Even when recent Reform leaders have adopted positions that are thoroughly incompatible with halakhah, they apparently have felt the need to include discussion of halakhic texts in their proceedings. For example, Reform rabbis point with pride to their consideration of rabbinic texts in their discussions of such issues as patrilineal descent and the status of gays and lesbians in the Jewish community. Although both these decisions are completely at odds with what classic halakhah mandates, Reform understood that to ignore the halakhic corpus altogether would undermine their assertions that theirs was an authentic Jewish process. As was the case with Freehof, even when their decisions are sometimes in conflict with what the traditional sources seem to advocate, they point to their *consideration* of those sources as indication of the Jewish authenticity of their agenda and process. Examination of the *Journal of Reform Judaism* and other publications shows that today's Reform leaders bristle at the suggestion that Reform perspectives are not informed by halakhah. The irony of Reform interest in the halakhic corpus is that, even in the minds of the leaders of a movement defined originally by a rejection of much of halakhah, Jewish law remains central to their image of Jewish authenticity.

Rabbi Mordecai M. Kaplan, the founder of Reconstructionism and the movement's greatest thinker, wrote with passion about the enduring voice that the traditional Jewish law would

have in his proposed form of modern Judaism. He asserted that although halakhah would no longer be the *only* criterion upon which new Jewish decisions would be based, halakhic sources and the rabbinic tradition in general would remain significant voices in the chorus of Jewish influences seeking to sway modern Jewish decision-making. Kaplan certainly never intended his famed claim that halakhah would have a “vote but not a veto” to imply that one could make reasonable Jewish decisions without access to the world of the rabbinic tradition.⁶

Conservative Judaism has evinced the same qualities. For all its halakhic innovation and openness to confronting emergent moral questions, Conservative Judaism has always insisted on not only the enduring significance, but indeed the primacy of the rabbinic world as it makes its modern decisions. The Jewish Theological Seminary’s decision to ordain women was followed almost immediately by a volume that included a large number of the position papers that members of the faculty had submitted on the issue.⁷ In many, the rigor of textual analysis and halakhic argumentation is extraordinarily impressive and erudite.

All of America’s major liberal Jewish movements, therefore, claim that the biblical and rabbinic traditions are also *their* tradition. None has been willing to cede their claim to being an authentic (or sometimes *the* authentic) representation of the world that those texts reflect. And while each acknowledges a unique reading of Jewish law, all insist that no serious form of Jewish life can exist without law at the center of our consciousness.

But at the same time, virtually none of these movements’ constituencies take Jewish law seriously.⁸ How are we to explain this anomaly? Why have American Jews abandoned Jewish law when even their rabbis suggest that they should not? And why should we care about the fact that this abandonment has taken place?

Modernity and the Demise of Halakhah's "Plausibility Structure." Peter Berger, among the most astute of modern observers of American religion, introduced the phrase "plausibility structure" to refer to those beliefs and assumptions that make religious and other commitments possible. A plausibility structure, as Berger uses the phrase, is the set of intellectual and religious commitments necessary to support not only a religious worldview, but a commitment to a particular way of life as well. If we apply Berger's phrase to the Jewish community, we can argue that modernity has eroded the "plausibility structure" of halakhah.⁹ Modernity has undermined virtually all those factors that contributed to the concept of law remaining relevant and meaningful for individual Jews and their collective communities. As a result of the erosion of halakhah's "world maintenance,"¹⁰ American Jews cannot begin to fathom why they should take norms of Jewish behavior seriously.

Yet when they encounter traditional Jewish texts, American Jews encounter a world in which their modern commitments to individualism, to autonomy, and to democracy are not honored as they would expect them to be. Particularly because American leaders have prided themselves on pointing to the similarities between Jewish and American thought, young American Jews are deeply surprised to encounter the tensions between the two traditions. And having been raised on the notion that individualism and autonomy are sacrosanct, they often find Judaism not only odd, but objectionable.¹¹

Thus our problem goes much deeper than the simple observation that American Jews can find no good reasons to observe Jewish law. Modernity, with its rampant secularization of American life and its celebration of the individual, has not only undermined the plausibility structure for Jewish law in our community, but in so doing has forged a wide gap between most educated American Jews and the tradition we would have them

reconfront. Instead of finding in their tradition a sense of comfort and nurturing, they sense in the world of commandment (mitzvah) a world alien to their own, contrary to many of their most basic convictions. As a result, ironically, a deeper encounter with the tradition has the capacity to push them further away from Jewish life, precisely the opposite of what we would wish.¹²

Is there anything that we can do to repair this divide? Should we abandon our advocacy of tradition and proceed with the forging of a uniquely American variety of Judaism in which dissonance between Jewish and American values will not figure? Some leaders and groups have proceeded in precisely that direction, but they face an equally difficult question. They will have to explain what makes the tradition that they develop distinctively or palpably Jewish. Is it Jewish simply because Jews develop it? How do we know when we have crossed the boundary between legitimate liberal Jewish movements (such as Reform) and illegitimate claims to Jewish authenticity (such as Jews for Jesus)? If we are to fashion our own tradition without reference to a time-honored tradition of text and law, what will serve as the determinant of what is legitimate and what it not?

New Traditions or Tradition Renewed? Most American Jewish leaders have come to realize that “solving” the problem of the demise of halakhah’s plausibility structure by creating a Judaism less dependent on law will not work. Therefore, various thoughtful Jews have advocated “recreating” Jewish life and halakhah, and have sought to reinvent the system of Jewish life.¹³ Despite their creativity, however, preliminary evidence suggests that the experiment has not worked. Creating new traditions is a terribly difficult project, for a variety of reasons. Perhaps primary among those reasons is the fact that much of the power of religious experience comes from the energy created by large numbers of people who share the same ritual and liturgical tastes; new traditions tend to attract only small followings, which often lack the

passion and energy that can be drawn only out of large groups. Ritual also typically affords the participant a sense of connection to tradition and to history; it creates a sense of connection to ancestors. When rituals are so palpably new, they have more difficulty affording these senses of connection.

But there are many other reasons why new traditions are difficult to create. As one scholar has noted, our traditions are in many ways our myths, “vehicles by which a community makes sense of its experience.”¹⁴ For traditions to function in this way, however, they must seem relatively “natural,” time-honored. When rituals are too new, the community’s concentration is trained so sharply on the ritual that it becomes the end in itself, and cannot serve to make sense of the community’s larger experience. Paul Tillich, upon whose work much of this notion of myth is based, noted that although myths are sometimes shattered, new myths are extraordinarily difficult to create.¹⁵ Tillich seems to believe that the likelihood of new myths emerging precisely when we need them is slim indeed. Creating a “new tradition” is probably not possible.

But let me put the point as directly as possible. There is another reason why we would be foolish to seek our answer in a newly created, less “legal” tradition. It is not only that traditions are notoriously difficult to create. Nor is it simply the fact that an emphasis on behavior may be the most authentic expression of Jewish life we can find. The real issue is that Jews have never found anything else as rich, as powerful, or as compelling. No Jewish community has ever survived long without an attachment to halakhah. Without halakhah, Judaism seems hollow and empty. Without the richness of regular Jewish ritual, Jewish life cannot be the living embodiment of the stories and histories that define us. Without norms as pillars of Jewish life, we ultimately become little more than an ethnic version of American liberal commitments.

As we look across Jewish America, the data are undeniable.

Those communities that take norms seriously are raising a generation of children for whom Jewish commitment is a given. And those Jewish communities that have abandoned norms are losing their children at frightening rates. Surely, for those of us who take Jewish survival seriously, that realization must be as compelling as any theological argument could be.

Thus the most promising solution to the American Jewish crisis lies not in a reinvention of Judaism but in a return to Jewish law. Though we as an American Jewish community have now become proficient at declaring our desperate desire for continuity (e.g., grandchildren), we have not asked ourselves what sacrifices we are willing to make to ensure that continuity. We have tried to leave our children's religious formation to the synagogue, yet we have discovered painfully that, while it can help, the synagogue cannot replace the family's important role in this process. We have left the work of religious formation to our schools, and that attempt has failed miserably. Ultimately, we have come to recognize (though not yet to admit) that there is a price to pay for all things valuable, Jewish commitment among them. The price we will have to pay for Jewish continuity is adherence to Jewish norms.

Because the vast majority of American Jews have rejected Jewish law in their personal lives, not only de facto but de jure as well, the suggestion that modern Judaism is theologically and demographically incapacitated without Jewish law at its core is bound to raise many objections. These objections are understandable, but we cannot allow them to distract us from what we now know.¹⁶ Continuity costs. American Jews have decided that they want continuity without financial, personal, or communal costs. But the centrality of norms in the history of Jewish life has always been Judaism's way of claiming that continuity does not come without cost. Those Jewish communities that have had continuity are those that invested in it; and that investment always included a formidable role for personal and communal

norms. While a serious confrontation with Jewish law strikes many American Jews as a cost too high to bear, addressing that impression is part of the challenge facing American Jewish leadership. On the eve of the twenty-first century, American Jewish leadership needs to explore new ways of discussing, describing, and adjudicating halakhah so that it can speak more saliently to the vast majority of American Jews, who at present find that it has little to say to them.

What we need, most of all, therefore, is a new set of tools for approaching halakhah. We sense, however inchoately or viscerally, that the traditional arguments for the observance of Jewish norms do not move us. We need a new vocabulary, a new set of intellectual tools. Can we fashion a new plausibility structure for norms that will speak to American Jews on the eve of the twenty-first century? Before we can answer that question, however, we must first diagnose the problem more carefully. We must sharpen our understanding of what happened to traditional Jewish arguments for behavior when they confronted modernity.

2. The Crisis—Its Causes and Effects

Why is it so difficult for us to embrace the idea of Jewish norms? What exactly do we mean when we say that modernity has eroded the plausibility structure for halakhah? What specifically has happened?

Modernity and the Erosion of Jewish Law. The impact of modernity has been felt in varying ways by different elements of the Jewish community. For the elite, perhaps the most destructive element of modernity for the plausibility structure of halakhah has been the advent and gradual widespread acceptance of biblical criticism. Though he was certainly not the originator of this school of thought, Julius Wellhausen (1844-1918) brought the documentary hypothesis to the attention of the intellectual elite.

Wellhausen argued that the Torah was actually the compilation of at least four previous documents. Though Wellhausen, a committed Christian, was primarily a Semitist and a historian of ancient Israel, the theological implications of his work for Jews was immediately obvious. If the Torah was in fact a compilation of previously written documents, then the Jewish tradition's claim that the Torah had been "received by Moses at Sinai"¹⁷ was undermined. To radically oversimplify complex theological arguments, if God was not the author of the Torah (as Wellhausen appeared to imply and many Jews began to wonder since even Jewish scholars accepted the principles behind the documentary hypothesis), where did the authority of halakhah lie? Why should Jews consider themselves bound to the law if it had been created by other human beings? At the very minimum, the notion that the Torah had not been given to Moses at Sinai word for word seemed to imply greater flexibility in determining that law than traditional authorities had heretofore permitted. At the maximum, however, the implications of biblical criticism seemed to undermine the entire enterprise of Jewish law.

Early Reform leaders in Germany understood the far-reaching theological and legal implications of biblical criticism and built their conclusions into the formal declarations of principles for the Reform movement. In the 1885 Pittsburgh Platform, for example, they asserted:

We recognize in the Bible the record of the consecration of the Jewish people to its mission as priest of the one God. . . . We hold that the modern discoveries of scientific researches in the domains of nature and history are not antagonistic to the doctrines of Judaism, the Bible reflecting the primitive ideas of its own age. . . .¹⁸

Reform leaders also recognized the halakhic implications of this view of the Bible, and in the next paragraph wrote:

We recognize in the Mosaic legislation a system of training the Jewish people for its mission during its national life in

Palestine, and today we accept as binding only the moral laws, and maintain only such ceremonies as elevate and sanctify our lives, but reject all such as are not adapted to the views and habits of modern civilization.¹⁹

Biblical criticism, therefore, had profound implications for modern Jewish life. For Jewish intellectuals, it ushered in a new era of Jewish philosophy that would alter our conception of Jewish life and Jewish law, an era in which we still find ourselves. It undermined the time-honored and popular conception that God had revealed the content of Torah, leaving Jews to struggle anew with a reason to observe a Torah they now believe might have been the product of their ancestors.

American Autonomy and the Undermining of Halakhah. But most human beings are not philosophers. Though many people often ask philosophic questions, particularly in relation to matters such as the existence of God and the perpetual question of evil, most people do not forge their religious commitments on the basis of abstract philosophical notions. For that reason, to fully appreciate how devastating modernity was for the concept of Jewish law, we must turn our attention beyond the elite. We also need to appreciate how modernity and the gradual secularization of the Western world undermined the halakhic commitments of common Jews as well.²⁰

We tend to romanticize Jewish communities of old. We commonly assume that all Jews were deeply pious and fastidious about their religious observance. Modern historians, of course, have proved beyond doubt that this was not the case. But it *was* the case that until Jews began to leave the close-knit Jewish communities of Europe—though individual Jews may have had different practices and different levels of observance—the perceived sanctity of communal standards and a sense of the importance of individual acquiescence to the expectations of the group virtually guaranteed that halakhah would remain a vital element of Jewish

life. As long as Jews were not welcome (to any appreciable extent) in the major cities of Europe, those who might have wished to escape halakhah had nowhere to go. As a result, whether committed to Jewish law in principle or not, they tended to live by it, at least in a public and outward way.

But the sweeping changes that modernity brought to all of Europe also touched the previously secluded Jewish communities of the shtetl. As Napoleon and other leaders began the process of social and economic emancipation for the Jews, individual Jews suddenly found themselves presented with a host of options that previous generations could never have imagined. Jews who wished to leave the shtetl could now find employment in Europe's major cities and economies. *

In certain parts of Western Europe, change was even more dramatic. Not only could Jews make their way into the largest cities, but within those cities the hegemony of the Orthodox rabbinate was rapidly on the wane. In Germany, for example, as soon as authorities recognized Reform as a legitimate form of Jewish communal life, the Orthodox rabbinate lost what had been virtually complete control over religious standards and halakhic decisions.²¹ In the minds of many Jews, as a result, the entire halakhic enterprise came to seem irrelevant. Without a rabbinate that could enforce standards, compliance with Jewish law was suddenly apparently optional. It seemed to many newly emancipated European Jews little more than a vestige of an antiquated Judaism, no longer relevant in the brave new world of postemancipation Europe. With the possibilities for Jewish involvement in European society suddenly seemingly limitless, broad universalist themes began to take the place of law in the community's standards and rhetoric.

Especially in the United States, however, the gradual "defeat" of Jewish law stemmed not only from emancipation and the recognition of non-Orthodox varieties of Judaism, but from the broad implications of the liberalism that swept across Europe

and that came to define American culture. Emerging as it did out of a struggle against monarchy and aristocratic authoritarianism that seemed to stifle society, the political liberalism of Locke, Hobbes, Rousseau—and Thomas Jefferson in this country—celebrated the individual above all else. Reflecting on how that political philosophy came to shape Americans' view of the world, Robert Bellah and his colleagues comment:

Individualism lies at the very core of American culture. . . . We believe in the dignity, indeed the sacredness, of the individual. Anything that would violate our right to think for ourselves, judge for ourselves, make our own decisions, live our lives as we see fit, is not only morally wrong, it is sacrilegious. Our highest and noblest aspirations, not only for ourselves, but for those we care about, for our society and for the world, are closely linked to our individualism.²²

For a society virtually predicated on the preeminence of individualism, Jewish law is bound to seem troubling. Part of the very essence of the Jewish legal tradition is the goal of making the individual secondary to the community. Jews are instructed to pray not when the feeling moves them, but at given moments when the *community* gathers for prayer. Standards for marriage, divorce, children's education, Shabbat observance, and the like are all seen as communal, not personal matters. While that is not to suggest that there is no room for the expression of individuality in the life of the observant Jew (for there absolutely is), it is undeniable that unfettered celebration of the individual and Jewish law do not easily coexist.

This disparity in emphases is evident even in the languages that American and Jewish legal systems employ. More than one scholar has already noted that while American law is predicated on the notion of individual *rights*, classic Jewish law is founded on the notion of *obligations*. And whereas in American law the rights discussed so commonly are those of the *individual*, in Jewish law focuses on obligations due to the *community*.²³

Americans' infatuation with autonomy has given rise to the

celebrated notion of American “volunteerism,” which in turn has permeated much of American Jewish religious life. The central ideas of volunteerism—namely, that we choose what to participate in and how to participate in it—now lie explicitly at the very foundation of many of our core Jewish commitments. Following in the footsteps of Samuel Holdheim (the bold German ideologist of Reform, 1806-1860), Eugene Borowitz, perhaps the most important Reform theologian alive, has made autonomy one of the cornerstones of his philosophy of Jewish life.²⁴ Indeed, both the Reform and Reconstructionist conceptualizations of Judaism place “decision-making” (a clear derivative of autonomy) at the core of their worldviews. In Reform, each individual is charged with making her or his own decision about which practices to observe and how to observe them. In Reconstructionist philosophy, that decision is more a communal one, though it is still clearly derived from the notion that Jewish tradition should be construed as an amalgam of “folkways,” not actual laws.²⁵

The antinomian thrust of Reconstructionist ideology became particularly clear in Reconstructionism’s response to Conservative Judaism’s 1994 pastoral letter on sexuality. Asked whether Reconstructionist Judaism would issue its own guidelines on sexuality, Yael Shuman, director of the Reconstructionist Rabbinical Association, responded, “I can’t imagine we would. We’re not motivated by halakhah, and it is unlikely that we would discuss people’s sexuality when it comes to two consenting adults.”²⁶ “Two consenting adults” is the ultimate language of autonomy. Shuman’s phrase suggests that autonomy has become so central in Jewish life that any comment on sexuality that could be construed as limiting that freedom would be inappropriate.

Shuman’s remarks raise interesting theoretical questions that we cannot discuss in sufficient depth here. But the issues should at least be noted. How far would the doctrine of “two consenting adults” extend? Would it include consensual incest? If

it would not, on what basis would it not? If it would, in what way can the resulting system claim to represent something resembling Judaism? And if consensual incest were not to be considered permissible, why not? Are there limits to the "two consenting adults" principle? If the issue is a conception of morality, what is the source of that morality? On what basis does that morality "trump" halakhah? What makes that morality more authoritative than some alternative system that might permit incest?

Even in Conservative Judaism, in which official doctrine still insists on the primacy and authority of Jewish law, one can easily discern a tendency to define Jewish law to conform to the reality of how Conservative Jews live, rather than to mold their behavior to the mandates of the law. The decision to permit driving to synagogue on Shabbat and, more recently, a suggestion that premarital committed sexuality be given some degree of legitimization are classic examples.²⁷ Here again, an implicit recognition (if not endorsement) of the centrality of autonomy in American life receives clear expression in American Judaism.

The American emphasis on individual rights is also closely tied to the American democratic tradition. Yet despite all the democratization of the American Jewish community and its institutions, Judaism is essentially nondemocratic. That does not imply that it is autocratic, though there are those who would describe Jewish tradition as such. While it is commonplace to note that the Talmud is essentially a record of the dialogue and disagreements of rabbis throughout several hundred years of Jewish life in Babylonia, that is a far cry from democracy. There were clearly authorities whose voices carried more weight than others in certain settings.²⁸ And while it is also true that the rebbe of even the early modern period depended on a degree of popular support for his tenure, his decisions were rendered (at least formally) on the basis of his reading of the relevant precedential legal literature. No one would have suggested with any seriousness that issues of Jewish law be put to a vote.²⁹

There is a fundamental tension, therefore, between the orientation of traditional Jewish texts on the one hand and modern American society on the other. American society, in which the largest community of Jews lives, celebrates the autonomy of the individual above all else, and sees law as essentially a necessary evil designed only to foster the peaceful coexistence of competitive and acquisitive neighbors in a society of limited goods.³⁰ Jewish tradition, on the other hand, celebrates not the individual, but the community. Judaism sees law not as a necessary evil, but as the unique Jewish approach to God, sanctity, and a righteous and moral life.

But why is this difference between the Jewish and American approaches to life so important? Why should we not simply note that Judaism and American political philosophy grew out of two very different cultural settings, and American Jews are blessed with being able to take the best from each tradition? In truth, there are scholars who have taken precisely this position.³¹ But especially for a younger generation of American Jews whose Jewish attachments need to be created and cannot be assumed, the conflict between Jewish and American values is more problematic than it may seem. For what this conflict ultimately creates is a sense of "otherness" about Judaism for a younger generation of Jews for whom American values seem completely natural. As young American Jews, armed with a thoroughly American set of values, approach Jewish tradition and its norms, they experience a serious clash between two very different worlds. And forced to choose, we now see clearly, they will not choose Judaism.

Suggestions such as these raise a variety of provocative questions: Can movements that do not make norms a central part of their worldview survive? Is the outlook for Reform in its present composition dim because of these conclusions? Perhaps. That, in fact, is why some young Reform rabbis are beginning to take norms much more seriously. Are there no means of attach-

ment to Jewish life other than norms? Cannot Jewishness be transmitted in other ways?

Students of American Judaism have often asserted the importance of other modes of attachment to Jewish life. American Zionists have pointed to the importance of Israel in fostering Jewish identity, and they are not wrong. Sociologically oriented observers speak of the importance of Jewish friends, neighbors, and professional associates. Others advocate an even less defined sense of "peoplehood," which they believe can be transmitted without norms. Some, such as Leonard Fein, for example, suggest that political and social activism can and should be the essence of Jewish life, and that the power of this message will successfully foster a sense of Jewish identity. A look at many American Jewish communities reveals that still other Jews believe that Jewish culture will foster profound Jewish identity; for that reason, we now witness a veritable proliferation of Jewish museums around the country. What will work? Israel? Sociological Judaism? Museums? Electronic media such as *Shalom Sesame* and the burgeoning choice of Jewish software?

It would be an exaggeration to suggest that all of these approaches to Jewish life have failed completely. Each can point to many anecdotal success stories, suggesting that Jewish identity and Jewish continuity are not "all or nothing" propositions: there is a gradual continuum between success and failure. At the same time, however, there can be no denying that these approaches are responsible for relatively few instances of passionate commitment to the Jewish people. Why is it that only the ultra-Orthodox community could fill Madison Square Garden with 20,000 people celebrating the completion of a cycle of the study of the Babylonian Talmud? Why is it rare to find Jews who are not part of the traditional community engaged in the regular (daily or weekly) study of Torah outside the synagogue?

The unavoidable conclusion seems to be that continuity requires paying a price. Identity and continuity are not "all or

nothing” or “either-or” propositions, and “low cost” opportunities for involvement, such as those I mentioned above, can be important if they lead to something more substantial. But the danger of low-cost opportunities for Jewish involvement is that they may evoke a pale form of continuity, deluding us into a sense that “Jewish style” is “Jewish substance.” Outside the communities that take norms seriously, there are few Jews who can read Jewish texts in the original. Outside those communities that make some form of halakhah part of their commitment to Jewish living, there are few people whose children see their Jewishness as being as natural as their gender. Outside norm-oriented communities, the low-risk opportunities for involvement are simply not working well enough to guarantee the future of a Judaism sufficiently substantive that it will enrich people’s lives the way they want it to. While there is a continuum of success rates for various roads to Jewish involvement, it is norms—in contradiction to the autonomy and volunteerism implicit in American life—that seem to be the best guarantor of the continuity that most American Jews claim to want.

The Centrality of Law in Jewish Tradition. For most Jews, therefore, modernity has had a powerful eroding effect on the place of law in their religious self-definition. But why is this ultimately a problem? Why cannot modern Judaism simply create a new form of Jewish self-definition without law at its core? I have already alluded to a variety of reasons, but the most important is that any reading of Judaism’s classic sources and its rich tradition requires a confrontation with the issue of law. Judaism without law simply cannot be described as part of a continuum beginning with the Torah and continuing with the rabbinic tradition that became as close to “normative” as anything Jews have ever had.

Unlike the American tradition, in which the individual and absence of constraint are stressed, Jewish life places its emphasis on the notion of command. Whereas the American liberal polit-

ical tradition stresses rights, the Jewish political and ethical traditions stress obligations. If American life celebrates freedom, Jewish life focuses on mitzvot, or commandments. For Americans, life has long been about autonomy; for Jews, it had traditionally been about community built through norms.

The Torah is Judaism's central document. There is nothing subtle about the Torah's suggestion that norms are central to Judaism's conception of an ideal world order. Indeed, this emphasis on obligation (or, in classic Jewish terms, commandments, mitzvot) is apparent from the very outset of the Torah's description of the creation of the world. According to the Torah, as soon as God creates human beings, God seeks to give significance to their existence through the medium of commandment. The very first words that God utters to Adam and Eve are words of command:

And God created man in His image, in the image of God He created him; male and female He created them. God blessed them and God said to them: "Be fertile and increase, fill the earth and master it; and rule the fish of the sea, the birds of the sky and all the living things that creep on the earth."³²

The creation story's emphasis on command as the primary mode of interaction between God and human beings becomes even more clear in the second creation narrative in the following chapter.³³ There, God creates Adam (alone this time, for Eve is created later) and places him in the Garden of Eden. And once again, before God says anything else to Adam, the Torah relates that:

And the Lord God commanded the man, saying, "Of every tree of the garden you are free to eat; but as for the tree of knowledge of good and bad, you must not eat of it; for as soon as you eat of it, you shall die."³⁴

Thus the Torah effectively begins with a story about law. God commands Adam, setting the stage for more laws to come.

As the Torah continues its history of humankind with the story of Noah and the flood, the idea of command quickly evolves into a more classic notion of law. When Noah and his family leave the ark, God speaks to them and utters the verses that give rise to what Jewish tradition calls the “seven Noahide commandments.” While some modern legal analysts claim that these commandments are a Jewish version of natural law, others insist that they simply define the required behavior of non-Jews living under the jurisdiction of Jewish authorities.³⁵ Regardless of its philosophic implications, however, the Noah narrative introduces the notion of *covenant* as the crucial relationship between God and human beings.³⁶ And from the very outset, covenant implies limitations on human beings and their behavior. Furthermore, and perhaps even more importantly, the limitations on human behavior implied by the Noahide commandments are by no means simply regulations needed to form a primitive functioning society. In addition to prohibitions on bloodshed, theft, and sexual licentiousness as well as the injunction to establish a legal system, the Noahide laws also prohibit blasphemy and eating from a living animal.³⁷ Already at this early point in the Torah, a combination of ritual and ethical command as the uniquely *Jewish* means of establishing a relationship with God begins to emerge.

Norms as a central pillar of Jewish life emerge most clearly, however, after the Exodus from Egypt. While the Exodus may have served as the historical crucible that transformed a band of slaves into a people,³⁸ it was the revelation at Sinai that imbued the Jewish nation with a mission. The revelation at Sinai is fundamentally a moment of command. Though the idiom is a mistranslation, we call the best known part of that revelation the “Ten Commandments.”³⁹ The chapters immediately following the Ten Commandments continue the emphasis on law and provide instruction on such subjects as slavery, capital punishment, tort law, sexual regulations, lending money, prohibitions on blasphem-

my, standards for sacrifice, and many others. By this point in our reading of the Torah, it is clear that mitzvah represents more than an important component of the Torah's conception of the Jewish order of things; commanded norms of behavior are fundamental to our tradition's conception of what makes Judaism Jewish.

Though the Torah contains numerous other passages that highlight the centrality of law as a central Jewish idea, none is more clear than the beginning of the Holiness Code in Leviticus 19. The opening passage is highly instructive:

The Lord spoke to Moses, saying: Speak to the whole Israelite community and say to them: You shall be holy, for I, the Lord your God, am holy. You shall each revere his mother and father, and keep My Sabbaths: I the Lord am your God. Do not turn to idols or make molten gods for yourselves: I the Lord am your God.⁴⁰

What is important about this passage is its association of *behavior* with holiness. The Torah suggests here that what God wants from human beings is not abstract faith or theological commitment. Judaism's conception of how one lives a worthwhile life is based on norms, behavior, mitzvot. Nor does the passage distinguish between ritual and ethical commands. In the very same breath, the Torah commands reverence for parents (an ethical command, at least at first blush)⁴¹ and observance of the Sabbath (a ritual command). Throughout the ensuing chapter, no clear delineation is made between the worlds of the ritual and the ethical; both are of the very essence of participation in Jewish life.

As was the case in the Torah, the rabbinic period contributes much more to Judaism than the mere legalism attributed to it by early Christian critics. Just as the Torah contains not only law but narrative and poetry as well, the rabbinic corpus is also rich in midrashim and haggadot. Nonetheless, the sheer magnitude of the rabbinic period's legal corpus is overwhelming. The Mishnah, the halakhic midrashim, and the two Talmuds take

Jewish legal thinking to a level that the Torah text does not even seem to imagine. Whereas the Torah simply instructs the Jew not to perform work (*melakhab*) on the Shabbat,⁴² rabbinic Judaism develops thirty-nine categories of work and defines much more explicitly what can and cannot be done on Shabbat and what the punishment for violation is. While the Torah lists those animals that Jews should not eat, it is only in the rabbinic period that we learn about specific ways of slaughtering an animal, the explicit prohibition on the mixing of milk and meat, and a host of other regulations. The Jewish tradition of praying three times a day is rabbinic, without explicit antecedent in the Torah. The Torah gives no indication of what a Jewish wedding should be; that emerges in the rabbinic period. Conversion in the Torah is a nonissue; the regulations regarding conversion all begin to emerge during the rabbinic period. Dozens of other examples could be given.

Perhaps most telling is the rabbinic formulation of the traditional *berakhab*, or blessing, which is attached to hundreds of Jewish practices and rituals. Though even the well-known opening of the blessing, "Blessed are You, Lord our God, Ruler of the universe," is highly complicated and of unclear meaning,⁴³ it is the second phrase that is more crucial for our discussion. That phrase, which is commonly translated "who has sanctified us with *commandments* and *commanded* us to . . .," is further indication of the centrality of *command* in the rabbinic tradition. On each of the many occasions during which Jews recite this formula, they effectively recite traditional Judaism's "party line" that commandedness and obligation are fundamental mainstays of Jewish life.

During the medieval period, Judaism's preoccupation with command and its legal manifestations continued. Though the Jewish communities of the Middle Ages produced texts of many varieties, those with the greatest impact were legal. Maimonides' philosophic treatise, *The Guide for the Perplexed*, languished in

relative obscurity until its “rediscovery” as part of a Jewish “philosophic awakening” in the modern period. By contrast, however, his legal magnum opus, the *Mishneh Torah*, has been studied regularly ever since he wrote it. Though he was a mystic, Joseph Karo’s lasting contribution to Jewish life was the *Shulan Arukh*, the primary code of Jewish law to this very day.⁴⁴ And as one examines the hundreds of medieval commentaries on the Talmud, one notices rapidly that it is the legal sections of the Talmud that receive the most attention. Sections that are more philosophical or narrative in nature are often glossed over.

Finally, in this brief reprise of the centrality of law in Jewish religious and intellectual life, we must point to the split between Judaism and Christianity in the early decades of the common era. While there were undoubtedly a variety of factors that led to the termination of Christianity’s status as a sect among Jewish sects, one of the key issues was that of law. Jesus himself, according to some passages, endorsed the centrality of law in Jewish and Christian life. According to the Gospel of Matthew, he insisted:

Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfill. For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled. Whosoever therefore shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven: but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven.⁴⁵

However, by the time Jesus had died and Paul had assumed the role of the primary definer of Christian faith, a dramatic change in the place of law had unfolded. Again, the classic evidence comes from the Christian Bible, this time from Romans. There, Paul argues:

For when we were in the flesh, the motions of sins, which were by the law, did work in our members to bring forth

fruit unto death. But now we are delivered from the law, that being dead wherein we were held; that we should serve in newness of spirit, and not in the oldness of the letter. For I was alive without the law once: but when the commandment came, sin revived, and I died. And the commandment, which was ordained to life, I found to be unto death. . . . For we know that the law is spiritual: but I am carnal, sold under sin. . . . I thank God through Jesus Christ our Lord. So then with the mind I myself serve the law of God; but with the flesh the law of sin.⁴⁶

Though the language is difficult, the essential claim is simple. Paul asserts that Jesus' life and death had annulled the law of the Torah, and a new nonlegalistic covenant had now been put in place to replace the Jewish conception. •

Law, then, has not only defined Jewish civilization internally, it has also defined the boundaries between Judaism and other traditions. Within Jewish life, biblical tradition articulated the notion that law and commandment were the uniquely Jewish roads to righteous living⁴⁷ and that it was *command* that gave texture to the Jew's relationship with God. By the time Christianity emerged, rabbinic Judaism had developed the notion of law so broadly that Pauline antinomianism had no place within Jewish life. Though antinomian elements periodically appeared in Jewish life,⁴⁸ Jewish life from the Middle Ages until the dawn of modernity seemed to assume as a given that law, or *mitzvah*, was one of the fundamental pillars of Jewish life.

None of this is to suggest that a concentration on law tells the entire story of the Jewish people during any of these periods, or that the occasional preoccupation with law in Jewish communities was entirely positive. Throughout these periods, Jewish life was rich with poetic and aggadic traditions, and law was not the extent of Jewish creativity. And as modernity unfolded, Jews of all walks of life began to question the value of law and its central place in the Jewish psyche. Among them was Chaim Nachman Bialik (1873-1934), perhaps the greatest Hebrew poet of the

modern era. Bialik believed that the Jewish infatuation with law had produced an anemic, passive, and self-deprecating sense of self that precluded the possibility of Jews defending themselves against those who would destroy them. He believed that Jews had become so immersed in a world of words, images, and law that the reality of their lives and its horror was no longer apparent even to them.

In one scene of his classic and riveting poem "In the City of Slaughter," he describes a savage pogrom carried out against the helpless and defenseless Jewish inhabitants of an Eastern European town. In Bialik's description, as the malevolent and murderous attackers make their way through every Jewish home they can find, a group of Jewish women falls prey to the attackers. As the attackers proceed to brutally rape and humiliate these women, Bialik describes the men as hiding, cowering in fear, unable to muster up the courage or the strength to protect their mothers, their wives, or their daughters.

Descend then, to the cellars of the town,
There where the virginal daughters of thy folk were fouled,
Where seven heathen flung a woman down,
The daughter in the presence of her mother,
The mother in the presence of her daughter,
Before slaughter, during slaughter, and after slaughter!
Touch with thy hand the cushion stained; touch
The pillow incarnadined:
This is the place the wild ones of the wood, the beast of the
field
With bloody aces in their paws compelled thy daughters
yield:
Beasted and swined!

But in an even more powerful twist of the proverbial poetic knife, Bialik tells his readers that no sooner has the attack abated, than the men emerge from their concealment and step over the bloodied, broken, and humiliated bodies of their mothers, wives, and daughters and proceed directly to the rabbi to inquire whether

their wives were sexually permitted to them.

Note also do not fail to note,
In that dark corner, and behind that cask
Crouch husbands, bridegrooms, brothers, peering from the
 cracks,
Watching the sacred bodies struggling underneath
The bestial breath,
Stifled in filth, and swallowing their blood!
Watching from the darkness and its mesh
The lecherous rabble portioning for booty
Their kindred and their flesh!
Crushed in their shame, they saw it all;
They did not stir nor move;
They did not pluck their eyes out; they
Beat not their brains against the wall!
Perhaps, perhaps, each watcher had it in his heart to pray:
A miracle, O Lord,—and spare my skin this day!
Those who survived this foulness, who from their blood
 awoke,
Beheld their life polluted, the light of their world gone
 out—
How did their menfolk bear it, how did they bear this yoke?
They crawled forth from their holes, they fled to the house
 of the Lord,
They offered thanks to Him, the sweet benedictory word.
The Kohanim [priests] sallied forth, and to the Rabbi's
 house they flitted:
Tell me, O Rabbi, is my own wife permitted?
The matter ends; and nothing more.
And all is as it was before.⁴⁹

As far as Bialik is concerned, the Jewish world of ritual, command, and law was no longer an effective means of ensuring Jewish communal survival and coherence; rather, it had become a pernicious escape from life's reality that prevented Jewish men not only from protecting the people they loved, but from even feeling for them. Where, Bialik wants to know, were the embraces, the tender touches, the comforting words, and the

appropriate gestures of caring and love that their wives and daughters so desperately needed? What had happened to Jewish men—perhaps even all Jews—that made them retreat into a world of formalistic legal inquiry so that they would not have to feel?

Does modernity mean, Bialik seems to ask, that the ancient worlds of Jewish tradition and law have become not only irrelevant but even dangerous? Does Jewish survival in the modern world call for some radically new expression of Jewish life? American Jews have implicitly asked similar questions. Particularly for the immigrant generation, Jewish law often seemed little more than a lifeless, virtually choking approach to life in which only external manifestations of Jewishness mattered. And predictably, many American Jews abandoned that way of life. Some left Jewish life simply because they could. Many others left because they felt Jewish life could be Americanized and still retain its value and richness. Others consciously sought a more spiritually nurturing and meaningful alternative. But what they all shared was a sense that Judaism's emphasis on norms had to go.

Unwittingly, of course, they were following Bialik's call to freedom from the smothering effects of halakhah. What made Bialik's poetry so rich was his familiarity with and love for the tradition that so conflicted him. Yet few American Jews realized that they were wrong when they dreamed that whatever richness Jewish life had to offer, it could offer without norms. We now understand that dispensing with norms meant dispensing with the substance of Jewish life. Dispensing with norms meant digging a huge chasm between ourselves and the sacred texts of our tradition. Ignoring halakhah meant destroying the Jewish fabric of our daily lives. Freeing ourselves from law meant internalizing American autonomy and liberty to the point that, to many young Americans, Judaism seems vaguely quaint and ethnic, but not powerful and alluring.

The data are now undeniable: American Jews will not commit to the quaint and the ethnic. They will commit to Jewish life, if they do, only when it offers them something infinitely more powerful than a Yiddishized American ethnic liberalism. Can we recover that power of Jewish life? Can we recover the richness of 2,000 years of Jewish tradition? How?

We can, if we are willing to renew our commitment to Jewish norms. What we need now is a new plausibility structure, a new way of articulating our reasons for commitment to halakhah even in the face of modernity. Jewish life without some form of halakhah at its core cannot survive; our challenge is to portray halakhah in a light that will enable thoughtful, modern American Jews to confront it seriously once*again.

3. Reconstructing the Plausibility Structure

What we need, of course, is not a new plausibility structure, but a variety of arguments and reasonings that modern Jews can employ as they seek to maintain what they consider to be their intellectual integrity and, at the same time, encounter mitzvah seriously. How should such Jews proceed? What are the possibilities available to them? In the following sections, I outline only five of many possible arguments for halakhah in modernity.

Norms as the Foundation of Commitment. Many classic² Jewish theologies have insisted that behaving comes as a result of believing that God has commanded us to act in certain ways. Belief is thus an antecedent of behavior; Jews observe Jewish law purely and simply because God revealed the Torah. That theology, of course, has been profoundly undermined by modernity.

But that theology is not the only way to conceive of the importance of actions in Jewish life. Indeed, as we have seen, such an approach may actually prove destructive. In an age when many American Jews find it difficult to assert virtually any theo-

logical proposition wholeheartedly, basing behaving on believing has the potential to make a serious encounter with norms impossible. Now, perhaps more than ever before, we need to find another way of construing the relationships between behaving, believing, and belonging.

As we begin to “reconstruct” plausibility structures for halakhah, we need to recall that behavior has roles other than simply being the consequence of belief. Behavior is also the foundation of belonging.

It is ironic that though Jews deny this premise when it comes to Judaism, we recognize it as obvious in other realms of life. Those Americans who are passionate about certain political causes are not content to watch the political fracas from the sidelines. They want in; they feel a need to express their passion by participating in the process in an ongoing and substantive way. “Behaving” is part of their means of expressing a sense of “belonging” in the American political process. It is part of their means of expressing their sense of belonging in America. Without some concrete way of expressing their American rootedness and passion, the whole enterprise would seem meaningless to them.

Corporate America has long understood the link between behavior and belonging. Codes of dress, manners of addressing superiors, location of offices for senior executives, and a host of other details all combine to form a community in which a sense of shared enterprise and common purpose prevails. Despite the manifold personal differences among all the individuals who comprise the corporation, it is the commitment to a shared “ritual” that often succeeds in linking them as part of a common cause.

For many centuries, Judaism functioned in a similar way. Jewish communities were built by virtue of Jews’ acting in a certain way, even if their behavior was motivated by sometimes radically varying systems of belief. Jewish tradition mandated only

that Jews pray together, not that they all think about the same things at that moment of prayer or believe the same things as they worship together. Halakhah stipulated only that Shabbat be observed in a relatively communal fashion, not that the institution of Shabbat mean the same thing to all those involved. Jewish tradition has long seen behavior not only as an outgrowth of belief, but as a precursor to belonging. It sees a shared way of living as a necessary precondition to shared commitments. Though we moderns, committed as we are to individual autonomy, often disparage Judaism for this outlook, we see the same commitments in much of the society that surrounds us.

For those of us who take "citizenship" in the Jewish people seriously, our secular model of national citizenship is very instructive. There are a myriad of factors that influence and enrich our sense of being American. For those of us born in the United States (as is true for those of us born Jewish), American citizenship (and being Jewish) never required a formal rite of passage in order to belong.⁵⁰ But life in American society provides a virtually unending series of reminders of who we are as a means of perpetuating our sense of "belonging" to this group.

The presence of the American flag in government buildings, courts, polling places, synagogues, camps, offices, and the like serves this purpose. So does the singing of the national anthem not only at graduations and other serious gatherings, but at the beginning of baseball games as well. The image of the flag on many of our stamps, our airliners, space shuttles, uniforms of our Olympic teams, etc. all further this objective. So, too, does the use of language. Phrases such as "my fellow Americans," "I do solemnly swear," and "God bless the United States of America" figure so regularly in the lives of Americans that we almost fail to notice them. Acts as seemingly simple as submitting our income tax forms and voting, getting a Social Security number for a newborn child, buying an American savings bond—all add their small touches to this cause.

Obviously, the disappearance of one or two of these elements from the fabric of our American lives would not substantively affect the depth of our feelings as Americans. But with time, if most of these elements were to erode, the impact would be profound. The absence of American symbolism in our daily lives would eventually dissipate the intensity of our sense of being Americans, and the long-term implications of that for our nation would be profound.

We see the same pattern in Jewish life. All theological issues aside, it is the undeniable reality that it is primarily in the lives of observant Jews (defining that term as broadly as possible) that subtle suggestions of Jewish identification color the daily fabric of life. In nonobservant communities, for the most part, no matter how Jewishly committed parents may be, the lack of regular indications of that commitment in the household and in other elements of daily life erodes the sense of Jewish commitment for subsequent generations.

American Jewish life over the past three or four decades has proved this point beyond question. All of us know parents for whom Jewish commitment and connection are tremendously important, and who cannot begin to fathom why it is not important to their children. But what these parents fail to appreciate is that when *they* were growing up, the thick Jewish life of Jewish neighborhoods, immigrant ethnic cohesiveness, extended families, and even familiarity with a language such as Yiddish all contributed to a palpable daily sense of Jewishness even in the absence of rigorous religious observance. But today, our children do not have those advantages. Jewish neighborhoods are not what they once were. We American Jews have successfully shed the immigrant and ethnic status that we once believed blocked our broader participation in American life. American mobility has undermined the extended family and Yiddish has virtually disappeared. Suddenly, for many of our children, aside from the occasional holiday or life-cycle event, life does not seem very

Jewish. On a daily basis, there is little about our children's or grandchildren's lives that is palpably Jewish. And commitments expressed so intermittently seldom succeed in capturing our allegiance.

That is why norms are so important to today's American Jews. We will sense that we "belong" only if we "behave." Though we are accustomed to thinking of belonging and believing as necessary preconditions for behaving, we must recognize that precisely the opposite is the case. Jewish lives in which some form of dietary regulation makes the mere act of eating a Jewish act, in which Jewish books and journals are found throughout the home, in which Sabbath observance creates a Jewish rhythm for family life, in which holidays not only tap into community but bring to the fore issues of Jewish history and roots—these are the sorts of Jewish lives that have the capacity to draw another generation into passionate Jewish involvement. Surely, for those of us who take Jewish survival seriously, that realization must be as compelling as any theological argument might have been to generations of old.⁵¹

We may no longer make our decisions based exclusively or even largely on the basis of classic theology, but we *do* care about survival. And because behaving is central to belonging, behaving is also crucial for survival. That, alone, justifies our taking halakhah seriously. To invoke Berger's language, it affords us a new plausibility structure.

Norms as a Road to Faith. Yet if we ended our exploration of new plausibility structures for halakhah here, we would have to assume that our options lie exclusively at either extreme of a wide theological spectrum. Either, we would assert, our commitment to halakhah depends upon the centrality of God's literal command (as it did in the classic rabbinic theologies that most modern Jews find troubling) or it would have nothing at all to do with God and would stem, instead, from a citizenship model akin to

what I just described above. But these are not our only models. There are possible relationships between behaving and believing other than the classic theological claims of traditional Judaism. In this section, we explore one of those possibilities.

As we have noted, most Jewish theologies that take both God and behavior seriously posit that behavior is in some respect a response to God's command. Classic rabbinic theology certainly made that claim,⁵² and even liberal thinkers such as Abraham Joshua Heschel⁵³ and Neil Gillman⁵⁴ see halakhah as our *response* to God. But there is another possible theological approach, which, though not theological in the classic sense,⁵⁵ takes both God and behavior seriously (and as such *is* theological in some sense), yet does not see halakhah as a response to God's command or even our perception of God's command.

We are a nation of skeptics, schooled in a scientific tradition that urges us to predicate our life's commitments on that which can be demonstrated. This national skepticism touches virtually everything we think about, including our religious lives. Because we pride ourselves on being rationalists, we tend to wait for some sort of "proof" before taking the notion of God or a relationship with God seriously.

But that sort of waiting, of course, is bound to end in frustration. The types of demonstrations or proofs we have been taught to expect will not be forthcoming. Moderns have come to acknowledge that spiritual progress, if we can allow that such a phrase is not an oxymoron, may come experientially rather than cerebrally. Jews have begun to take seriously the move of Protestant theology and its focus on a personal, nonrational dimension of human life. Buber and Rosenzweig are our most notable examples, but the notion has spread to popular theological circles as well.⁵⁶ Many Jews, like many Protestants and others, now recognize that our role is not to wait for proof of God's existence, but to make ourselves receptive to feeling God's presence. It is no accident that the rabbis analogized our relationship with

God to the relationship of lovers,⁵⁷ for in the relationships of human beings who love each other it is faith and presence—and not the intellect—that is most central. The rabbis understood that, for Jews, the crucial religious issue is not rigorously defined belief but relationship. In that sense, Kaplan's trilogy is missing a crucial element, for none of the three extant elements—believing, behaving, belonging—fully captures this dimension of our religious lives.

That this new element has long been part of our religious tradition is evident even from biblical Hebrew. The word *emunah*, which translations usually render as “belief,” actually means faith.⁵⁸ When the Torah says of Abraham *ve-he'emin*,⁶⁰ it means not that Abraham had developed an intricate theological paradigm for belief in God, but that Abraham was willing to trust God, that he was ready to build a relationship. Jewish tradition advocates not the construction of intellectual paradigms, but opening ourselves to the possibility of a relationship with God.

But how are we to make ourselves open to such possibilities? What can we do to make it more likely (though surely not guaranteed) that we can feel God's presence? Jewish tradition claims—and here expresses the second of our “modern” plausibility structures—that ritualized moments, or moments of *mitzvah*, are the windows we open on that world of potential. Again, the rabbis' analogy of our religious faith to human love becomes important. Just as we are unlikely to fall in love without private moments together, Jews are unlikely to find comfort with the idea of God unless we create those moments in time in which God's presence might be best felt. We create those moments through the medium of Jewish law, of *halakhah*, of behavior.

Jewish tradition recognized long ago that one of the many advantages of making ritual a regular element of Jewish life was that the regularity would lead to familiarity. Familiarity in turn would lead to comfort, and comfort would bring about genuine spiritual intensity.

Because rituals can seem very artificial, even contrived, we often fail to appreciate their potential spiritual richness. For people new to the observance of Shabbat, much of the ritual seems highly contrived, complex, even confusing. With time, however, *Kiddush*, blessing children, singing at the table, and studying words of Torah all begin to seem more natural, and those moments become more ripe for sensing something transcendent. And because Jewish ritual is almost always accompanied by liturgy or other words of some sort, each and every ritual act brings mention of God into our lives and, with time, makes easier the possibility of entertaining seriously the presence of God.

It was Bruno Bettelheim who articulated the idea that fairy tales were important to children because the repetition of those tales, in which good always triumphs over evil, ultimately makes it easier for children to believe that good *can* triumph over evil.⁶⁰ Here, familiarity does not breed contempt but openness. Children who grow up in homes rich in Jewish behavior tend to grow up in homes rich in Jewish vocabulary. As a result, God talk tends to be easier for them.⁶¹ For children reared in environments rich in Jewish behavior, therefore, it is not only belonging that is promoted, but the possibility of faith as well. Not only can behaving lead to belonging; it can also facilitate believing.

For American Jews profoundly impacted by the forces of secularization in America, therefore, the centrality of the Jewish emphasis on behavior has value even beyond producing a sense of shared ethnicity. It has the capacity to fight the forces of secularization, to introduce God into the lives of Jews more regularly than anything else can, and in so doing to make faith more of a possibility than it would otherwise have been. In addition to whatever else it may be, Judaism is not Judaism if it is not also a religion; a return to "behavior" has the capacity to make that possible once again.

We can put the matter somewhat differently. I argued above that participation in regularized Jewish behavior has the capacity

to breed in us the sense that we are part of a people, a community of Jews throughout the world. To use a different vocabulary, I argued that halakhah has the capacity to create *horizontal* connectedness. In *this* section I argued that halakhah has the capacity to create *vertical* connectedness as well. The performance of ritual expresses a sense of binding ourselves to something beyond us, outside us. And while this notion is particularly important for children (who are also very open to it), it is not insignificant for adults. Much of religious life is about communicating our sense that we are not alone, that we do not exist by ourselves.⁶² At important moments in our lives, we all confront news or loss that threatens to tear asunder the very fabric our lives. And while no religious tradition can shield us from the pain of such moments or phases of our lives, it is not too much to ask that religion enable us to go on. Jewish life does that in part by communicating to us a sense—not a proof—that the world exists under the dominion of a benevolent God with whom we can develop a relationship.

But again, the key to developing that faith, that relationship, is halakhah. Without the regular moments of Jewish behavior that Jewish tradition mandates, our lives are simply not sufficiently God-filled for that sense of relationship to develop. And while there are surely different religious temperaments among Jews (some scholars use the term “spiritual types”) so that we react in different ways to different sorts of experiences, in general, halakhic life also leads to spiritual life. And nonhalakhic life, we have now begun to see, risks robbing us not only of spiritual experience, but even of spiritual vocabulary. American Jews have focused on social action and prevention of anti-Semitism for so long because nothing in their Jewish experience provided them with the tools for engaging in the more spiritual conversations that Judaism at its best seeks to engender.

This, then, affords us yet a second plausibility structure that is theologically somewhere between that of the rabbinic world-

view and the citizenship model mentioned above. Behaving need not stem from belief, but can facilitate, if not belief, then certainly faith, and moments of God's presence. In a world where Jews turn to Christianity, Zen, and other religious experiences to feel God's presence, we ought not underestimate this additional value of the halakhic way of life.

Behaving Derived from Believing: A New Sense of Commandedness.

I have thus far offered two possible new plausibility structures for halakhah. The first, which I described as affording a *horizontal* connection, sees norms as the links that tie Jews to their national life, their existence as a people. The second, which I characterized as *vertical*, portrayed Jewish law as a link between Jews and their potential for faith in God. In moving from the former to the latter, I also edged somewhat closer to classic Jewish theological arguments for halakhah, if for no other reason than that the latter see God as central. Nonetheless, the plausibility structure offered above is still rather nontraditional, for it sees a life of mitzvot, or commandments, as leading *toward* God, rather than stemming *from* God.

It would be both misleading and unwise to end the discussion of alternative arguments for halakhah here, however. It would be misleading, for although liberal conceptions of autonomy and biblical criticism have conspired to make traditional theological claims untenable for many modern Jews, several important modern Jewish thinkers have struggled to take the implications of modernity seriously while still maintaining a sense in which halakhah continues to be a response to God, not a quest *for* God. It would also be unwise, for many American Jews would like to be able to utter the phrase *asher kiddeshanu be-mitzvotav* (Who has sanctified us with His commandments) and mean what they are saying. There are examples of modern Jewish theology that have the capacity to make that possible, even in the face of modernity.

Abraham Joshua Heschel is one example of a modern theologian whose work fits this mold. For Heschel, whose work on the authority of Jewish law is highly ambiguous in many places, the legitimacy of halakhah seems to⁶³ stem from his claim that halakhah was the way that the Jewish people reacted to God's revelation of the divine presence. Heschel claims that as a report on the events at Sinai, Scripture is best taken as a midrash.⁶⁴ The rest, he intimates, may be *our* creation, but it is hallowed by the centuries of Jews who have seen halakhah as our uniquely Jewish way of responding to God's revelation. Halakhah, he seems to claim, is sanctified by virtue of its being *minhag kelal yisrael*, the ways committed Jews have acted for centuries. Heschel's system is brilliant, for while it is modern and in many ways even radical, it still enables the Jew observing a commandment to believe wholeheartedly that she or he is *responding* to the call of God.

Neil Gillman makes a claim similar to Heschel's. He, too, argues that halakhah—like all of Torah, for that matter—is essentially a midrash.⁶⁵ That is to say, God did not reveal “discreet words and letters” to Moses on Sinai. According to Gillman, the worlds we call Torah and halakhah are our human responses to whatever sense of God's presence the Jewish people did perceive, whether at Sinai or elsewhere.

Ironically, both Heschel and Gillman seem influenced by the work of Mordecai M. Kaplan, who argued that Jewish customs and traditions should be seen as “folkways,” hallowed not by any divine revelation but by centuries of Jews who expressed their cosmic yearnings through adherence to these guidelines.⁶⁷ Yet they differ in important ways from Kaplan's argument, because they take the possibility of a supernatural God seriously and because they still speak of Jewish law, not of “folkways.” Kaplan refuses to make a philosophical argument for the *authority* of these folkways.⁶⁸ Jews may *elect* to perform these rituals and folkways, he insists, but they cannot be said to be “wrong” (or, in theological language, “sinning”) if they choose not to.

But Heschel does not wish to give up as much ground. While his vast corpus is relatively silent on the precise locus of halakhic authority, he does seem to have believed that such authority prevailed. Gillman, too, for all that he is radical compared to many traditional rabbinic theologies, does not *seem* to want to go as far as Kaplan. While he does not argue for any particular substance of God's revelation, he seems intent (with the assistance of vocabulary borrowed from Tillich and others) upon preserving our ability to speak of mitzvot as a *response* to God.

Heschel, Gillman, and others, for all that they cannot speak to the precise *content* of revelation, afford us a paradigm of tremendous importance. Behaving, they argue, *can* stem from believing, even for moderns deeply impacted by modernity. For Jews who believe that God either did or must have communicated something to humanity in general and to Jews in particular, halakhah and the way of life it mandates *can* represent our response to that revelation. In so doing, this view ties us to tradition, bringing to life once again the traditional Jewish claim that Jewish life is in part a response to God's command.

Because this notion seems so nontraditional, it is particularly interesting that it is not only non-Orthodox thinkers who have worked in this direction. Gershom Scholem, in his work on kabbalah, cites a tradition in the name of Rabbi Mendel of Rymanov, who claimed that all that God revealed was the *alef* of *anokhi*, the first letter of the first word of the Ten Commandments, itself a silent consonant.⁶⁸

Other innovative, even radical approaches to the authority of halakhah have continued to emerge from Orthodox circles, even in our own day. In a much-discussed paper written more than a decade ago,⁶⁹ Rabbi Irving Greenberg argued that it was not modernity *per se* or even the documentary hypothesis that shattered the plausibility structure for halakhah, but the Nazi atrocities of the 1930s and 1940s. Though his argument is complex and subtle, Greenberg argues that the standard rabbinic the-

ology of halakhah is no longer tenable. He does not dismiss God, nor is he willing to abandon halakhic authority entirely. In this he appears similar to Heschel and Gillman. But Greenberg is not willing to call halakhah a midrash, either. He argues:

In the age of voluntary covenant, every person who steps forward to live as a Jew can be compared to a convert insofar as a convert, one who voluntarily opts to be a Jew, must make certain commitments and express certain beliefs. . . . While the covenant is now voluntary, birth into it remains an important statement. By being born a Jew, a person summons up all the associations and statements implicit in Jewish existence, including the Jewish testimony to a God who cares. One may opt out by refusing to live as a visible Jew, by trying to escape the fate of a Jew, by trying to deny. However, if one chooses to continue living as a Jew, one makes all the fundamental affirmations implicit in Jewish existence.⁷⁰

Greenberg, like his colleagues discussed in this section, throws his weight behind the claim that behaving *can* stem from believing, though he is speaking of a very different sort of belief. As dramatically different as his position is from either Heschel's and Gillman's on the one hand, or R. Mendel of Rymanov's on the other, he shares with them a sense that halakhah can be seen as a response to God, without having to endorse all of classic rabbinic theology. For modern Jews interested in a view of Jewish law that takes both modernity and revelation seriously, these thinkers provide yet another important approach, another plausibility structure that can afford Jews a means of maintaining their intellectual honesty while at the same time connecting them to the spiritual richness of Jewish life.

Behaving and Historical Belonging. Yet the suggestion that halakhah contributes to a sense of belonging and to making God part of Jewish experience does not suffice to describe the enduring importance of norms in Jewish experience. Halakhah is

important for another reason as well; it is key to accessing the historical pulse of the Jewish people.

Most people take their histories seriously. We treasure family memorabilia in ways that far exceed their monetary values, relish photographs of our parents and grandparents, and delight in telling our children about their ancestors, some of whom they know, and some of whom they never did. Why do we tell these stories? Why is it important to us that our children know where their ancestors came from, or what they looked like? For that matter, why do American schools persist in telling stories about George Washington confessing to having chopped down a cherry tree or Abraham Lincoln walking a great distance to return a penny? Families and nations tell these stories in order to engender in a new generation a sense that they are part of something important, something that has deep historical roots.

It has become very difficult for Jews in modernity to perpetuate a sense of identification with their own history. In many respects, history no longer speaks to moderns the way it once did. Whereas a century ago history was virtually sacred, we are much more circumspect about history today.⁷¹ Even historians are aware of this. Hans Meyerhoff, speaking not of *Jewish* history but of general historical consciousness, notes this paradox:

The barriers of the past have been pushed back as never before; our knowledge of the history of man and the universe has been enlarged on a scale and to a degree not dreamed of by previous generations. At the same time, the sense of identity and continuity with the past, whether our own or history's, has gradually and steadily declined. Previous generations *knew* much less about the past than we do, but perhaps *felt* a much greater sense of identity and continuity with it⁷²

And Yosef Yerushalmi, who quotes the above passage in his classic *Zakhor*, echoes a similar sentiment regarding the place of history in the sensibilities of modern Jews:

The collective memories of the Jewish people were a function of the shared faith, cohesiveness and will of the group itself, transmitting and recreating its past through an entire complex of interlocking social and religious institutions that functioned organically to achieve this. The decline of Jewish collective memory in modern times is only a symptom of th[e] unraveling of that common network of belief and praxis through whose mechanisms . . . the past was once made present. Therein lies the root of the malady. Ultimately Jewish memory cannot be "healed" or rejuvenated. *But for the wounds inflicted upon Jewish life by the disintegrative blows of the last two hundred years the historian seems at best a pathologist, hardly a physician.*⁷³

Yet while the historians may well be correct that history as an abstract discipline has lost its hold on many moderns, our era is no less interested than any other in its roots. Indeed, it is precisely a recovery of roots that animates much of the Jewish feminist movement, segments of the African-American movement, and others. Though Jews today are more conflicted about history than were their ancestors, most still want to retain a sense of history as a formidable part of their consciousness as Jews. Jews want to live in the shadow of history, accompanied by a sense that we are part of something important and majestic that has roots long before our own.⁷⁴

But how do we do that? How do Jews make history remain alive, relevant? What in Jewish life ties the past to the present? Once again, the answer is norms. The seder is perhaps the most obvious example of living history, for the Haggadah specifically commands us that "in each generation, every [Jew] is obligated to see him or herself as if she or he were redeemed from Egypt." But what enables the seder to make that ideal a reality is not the act of gathering together with family for a Passover meal, but the religious and halakhic experience of reading through the entire Haggadah with attention to the ritual details and observance of the command to discuss these issues until late in the evening. When it is only a meal, the seder is quaint, slightly ethnic. When

it is accompanied by attention to the myriad details and norms that govern its celebration, the seder becomes a transcendent experience, an opportunity for Jews to sense themselves as part of a historical chain, tied to a Presence far beyond them.

Purim, for all that we unfortunately tend to treat it exclusively as a children's holiday, is no less about collective memory, and (again) memory of redemption after near destruction. If Purim is only about groggers and costumes, it is fun, but little more. But the additional norms attached to the holiday—the fast the day before Purim, the fact that we are *commanded* (not encouraged) to hear every word of the Megillah, and the recitation of portions of *Parashat Ki Teiei*⁷⁵ that are read the preceding Shabbat and that remind us of our obligation to perpetuate the memory of what Amalek did to us as we left Egypt—transform Purim into a holiday about the complicated nature of memory, a day in which we confront the uses of history, and struggle with the perpetual tension between attachment to the past and belief in the possibility of a radically different future.

The more we look at the world of Jewish tradition and norms, the more obvious it becomes that one of the central purposes of Jewish ritual life is to foster our sense that we are part of a history. The Fast of Av, commemorating the destruction of the two temples and a variety of other calamities,⁷⁶ is an ancient example of a day devoted to this purpose, while Jerusalem Reunification Day and Israel Independence Day are modern ones. Indeed, the rabbis of tradition not only recognized but celebrated this fact. When asked why Jews should continue to observe the second day of Yom Tov that had been instituted before a mathematical formula for the calculation of Jewish holidays had developed (but which now seemed obsolete since such a formula was in place), the rabbis responded *minhag avoteihem beyadeihem*—we observe the custom of our ancestors.⁷⁷ The rabbis were saying, it seems, not that the tradition could never be modified once it had developed, but that there was value in living a

life that included conscious reminders that we are part of a larger historical continuum. The rabbis seem to have believed that although the *original* reasons for the celebration of the “extra” day of Yom Tov were no longer necessary, other values for the tradition had developed. Those values lay in the ability of the custom to elicit memories of a previous period of Jewish history and a sense of our ongoing partnership with them.

But it is not only the holiday cycle that suggests these associations. On Shabbat, as traditional Jews bless their children and sing to their spouses, they know that they are doing so using the same formulas that their great-great-grandparents used; they know this, even if they do not know the names of those ancestors. The world of prayer, by evoking the names of our ancestors and their merits and accomplishments, reminds us that we are a continuation of their lives and aspirations. Even certain elements of Jewish dress, such as *kippot* or *tzitzit*, suggest that we are not completely like everyone else, but rather part of a unique group that has worn these sorts of garments for century upon century.

A sense of our identification with our history is critical for Jewish continuity, and though we rarely think of halakhah in those terms, Jewish behavioral norms do play a crucial role in sustaining that identification. Those Jews who have opted for autonomy over norms have decreased their sense of pressure to conform, but they have also vitiated their sense of participating in the grandeur of a historical phenomenon. That is a profound and pervasive loss, and goes far to explain why *those* Jews have found it ever easier to walk away from Jewish life altogether. If we wish to sense that connection to our history—not quite vertical, not quite horizontal, but no less important than either of those—we know what we shall have to do. We need to rediscover our norms.

Behaving as a Guide to Behavior. For many Jews, however, Jewish life and participation in the life of the Jewish people has less to

do with connections to other Jews, their history, or God than it does with a commitment to moral living and Jewish ethics. Not everyone agrees, of course, that Jewish life can be legitimately portrayed as an enterprise devoted *exclusively* to ethical living.⁷⁸ Nonetheless, there are many Jews who insist—quite justifiably—that if ethical living is not *the* central pillar of Judaism, it is at least crucial to any fair conception of what Judaism is. What role, if any, do norms play in *this* element of Judaism? Is there a connection between Jewish norms and Jewish ethics?

As one might expect, the literature on the relationship between Jewish law and Jewish ethics is vast and complex. Much of what has been written has attempted to demonstrate the inherently moral nature of many classical Jewish behaviors such as Shabbat and kashrut, while other studies have explored how our tradition responds to seeming conflicts between Jewish norms and the apparent requirements of morality.⁷⁹ While this paper can certainly not do justice to even the rudiments of that ongoing conversation, one simple point as part of our amalgam of plausibility structures for halakhah needs to be made: without norms, there is no system of Jewish ethics. In the absence of the concept of mitzvah, there is no vocabulary for expressing a Jewish sense of right and wrong.

Although it is true that Judaism is passionately concerned with ethics, traditional Jewish sources rarely speak about right and wrong. Instead, they address issues of the permissible vs. the forbidden. The assumption of this vast literature, of course, is that actions that are immoral are prohibited, while those that are morally acceptable are permitted. But it is significant that the Jewish language of morality has always been, and in most Jewish circles continues to be, a language of legality, of permissibility, of commandment. Without that language, we simply have no uniquely Jewish ethical vocabulary.

Without commandment, in fact, we would be missing more than a Jewish ethical vocabulary; we would have no ethical litera-

ture. If we want to know something about the Jewish position on the ethics of abortion, for example, we need to investigate the halakhic sources that address abortion. We will turn to biblical, rabbinic, medieval, and modern sources, but in each case what we find are classically *legal* sources, not ethical ones. Similarly, if we wish to discuss the Jewish ethics of speech, the vast majority of the material we find addresses the ethical by way of the legal. The sources that address issues of abortion, speech, economic ethics, or any other ethical issue as a *purely* ethical concern are few and far between. For the most part, they do not exist.

And finally, one last point on the relationship of norms to Jewish ethics. To the limited extent that we *can* locate broad Jewish ethical comments on a variety of issues, those sources and viewpoints are so internally conflictual as to render the notion of a particular "Jewish ethic" virtually meaningless. We point here to one brief example.

There is a tension in Jewish life between memory and forgiveness. On the one hand, as we mentioned above,⁸⁰ our tradition commands us to perpetuate the memory of Amalek, obliging us to read the passage concerning the Amalekites' attack on Israel in the desert and exhorting us to obliterate Amalek wherever we find him. On the other hand, countless other Jewish sources encourage us to forgive and warn us not to hold a grudge. Even though, on a certain level, memory and forgiveness are intrinsically in tension, our tradition insists on both!

How do we resolve this tension? If there *is* precedent in our people's literature (and there certainly is) for not only destroying the Amalekites but also for conducting wars for the purpose of building the Jewish homeland and protecting the Jewish people, by virtue of what do we claim that Baruch Goldstein's murderous rampage in Hebron early in 1994 was beyond the pale of what Judaism condones? Are we forced to state simply that there are competing strains in our ethical tradition, and that, according to some of those strains, Goldstein acted legitimately?

No, we are not forced to make that acknowledgment, because the ambiguity of the *ethical* tradition (itself a compilation of many *legal* sources) is more than compensated for by the clarity of the legal tradition. For all that the Jewish tradition *does* say some very strong things about Amalek and obligatory wars, halakhah has clearly ruled that murder is forbidden, and no mainstream halakhic source could be found that describes what took place in Hebron as anything but murder. Careful reading of the Orthodox press in the aftermath of Hebron revealed something very interesting—while much of the community was split on the agenda of the militant settlers and their attitude to Arabs, there was virtually unanimous agreement that Goldstein had gone too far because . . . he had violated Jewish *law*.

We are thus led to a surprising but inescapable conclusion. Because Jewish ethical vocabulary is effectively a *legal* vocabulary, because Jewish ethical sources are located almost exclusively in our legal literature, and because the ambiguity of the ethical tradition that we *do* have is resolved primarily in the realm of law, even those Jews interested in Judaism as an ethical way of life need its world of norms.⁸¹ Though American Jewish schools have taken to them with passion, courses in “Jewish values” ultimately mean very little unless they are coupled with a sense of the centrality of norms in Jewish life. Without law, what makes any of those values distinctly Jewish?

The experience of the Reform movement is instructive here. Though early Reform found it tempting to envision a world in which Jews conformed their behavior to the overtly ethical components of the Jewish tradition while allowing ritual elements to go unobserved, that neat division did not work in reality. It failed because the line between the worlds of the ethical and the ritual in Jewish life is not a neat one. Judaism transmits ethics largely through law; to delete the latter is to undermine the former. Without ritual, much of Judaism’s ethical message is simply lost.

The radical distinction between ritual and ethics also failed for psychological reasons. Even Jews interested only in the ethical expressions of Jewish life know enough to recognize that in living their lives that way they consciously dismiss substantive elements of their tradition. Having done so, there is no reason for them not to dismiss those elements of the *ethical* tradition that do not please them. And when that happens, they need to admit that what drives their ethical decision-making is not Jewish tradition but some other system of values. For Jews who work *this* way, the “real” Torah is American liberalism or neoconservatism; their Talmud, or defining text, becomes whatever publication on the right or the left seems most in vogue, most insightful, or worse, most “politically correct.” Judaism thus becomes little more than their ethnic vocabulary for expressing values they have developed in some other setting. That hardly bodes well for the passionate commitments we know Jewish continuity will require.

The continuity of even the *ethical* Jewish tradition alone—assuming for the moment that such a tradition is viable—will require commitment to norms. It will require not a commitment to select subsets of norms, or willingness to take seriously those norms that seem most suitable. It will require commitment to the Jewish voice that commands and requires a suspension of portions of our autonomy.

4. Toward a Reconceived Definition of Jewish Pluralism

The five possible arguments for the continued importance of Jewish law in modernity that we have enumerated will not satisfy every modern Jew. Nor is religious life about choosing any one of these options, or a specific one among many others that could come to mind. The purpose of these paradigms is only to indicate that there are a variety of intellectually honest paths to halakhic seriousness that take modernity seriously. It is not the intent of this paper to argue for a particular way of getting back to a seri-

ousness about Jewish norms. My concern is not *how* we get there, but that we do. I have sought to argue that without such a return, the future of Jewish life, especially outside Israel, is very much in doubt.

What emerged in Section 3 was a realization that in Jewish life it is the tradition of commandments that ties us to everything a religious experience seeks to encounter. Norms tie us to other Jews, they tie us to God, to a sense of an infinite beyond the world in which we live, to our history and to a system of ethics that is uniquely and distinctly Jewish. They are the essence of our uniquely Jewish religious experience; without them, we may have something interesting, but it cannot be Judaism in the long run.

It might be countered that claiming that norms are important because without them we have nothing else is a weak argument. But it is not. Norms are no more or less central to Judaism than Jesus is to Christianity. I have demonstrated that theologically and suggested it sociologically. What would be wrong with the claim that the image/tradition of Jesus is an important part of Christian life because, without it, there is nothing to make that life Christian? Nothing! Of course, one would expect further articulation of what the image of Jesus affords Christianity—as we sought to do with norms and Judaism in Section 3 of this paper—but ultimately, an argument that Christianity needs Jesus to be Christian is obvious but not weak. The same is true about Judaism and commandedness. We know what we have to do.

A return to a seriousness about norms, of course, will require a radical rethinking of much that we take for granted in American Jewish life. It will probably mandate that we step back from the ever-popular American notion of inclusiveness. We will probably no longer be able to claim that everyone and every behavior (or more importantly, nonbehavior) is equally legitimate. Our standards for legitimacy, of course, will be amorphous, but they will ultimately be tested against the yardstick of which ways of life are most likely to produce a generation of Jews able

to guarantee the intensity, emotion, and educational substance of Jewish life that can lead to continuity. We will not agree on exactly what those behaviors should be, but we will probably end up agreeing that there will need to be some behaviors, and they will need to be regular, thoughtful, and tied to tradition. If the Jewish community wants Jews who are as attached to Judaism as the average member of the Sierra Club is to that organization's agenda, then a dues-paying mentality will suffice.⁸² If we want anything more, there are commitments we will have to make and sacrifices we will have to bear.

We will have to take the vocabulary of "ought," "should," "must," "expectation," and "command" seriously. We will have to recognize that as long as non-Orthodox movements fail to embark on the serious search for uniquely non-Orthodox patterns of behavior, the denominational spectrum in this country basically affords us Orthodoxy, and various forms of watered-down Orthodoxy. If we are serious about the project proposed in this monograph, pluralism will come to mean not respectfully acquiescing to all Jews' decisions to live or not live Jewishly, but validating other denominations' genuine search for ways of making commandments and norms a real and commanding component of their Jewish lives. A Jewish community predicated on such a shared search would have much more in common than it does today. It would build more effective educational institutions, it would demand more of its rabbis and synagogues, it would discover an interdenominational vocabulary, and it would suddenly find spiritual depth and vigor that it had imagined was a thing of the past.

At the conclusion of this monograph, I ought to address one final question that may occur to many readers: Is there really anyone listening to arguments such as these? Are American Jews open to this challenge? And if they are not, is there any value in making the case?

The evidence is clear that there are at least some American

Jews openly searching for a new plausibility structure in Jewish life. Our world is not completely divided between the commanded and the hostile. There are significant numbers of people between these extremes, struggling to make changes in their Jewish lives, and open to the possibility of taking behavior much more seriously. For some of them, there can be no doubt that exploring new arguments for Jewish norms has the potential to be very important. For some of them, arguments such as these must be made because the scales can still be tipped.

But even beyond those people, there are important reasons for making arguments such as these, which can be stated briefly by way of conclusion:

First, anticipated popularity or lack thereof has never, in thriving Jewish communities, been a determinant of when Jewish leadership should make given arguments. Indeed, the models of the prophets and courageous Jewish leadership since them suggest that there is a moral imperative to Jewish leadership. Individuals and organizations who believe that they have something important to say are morally bound to make the argument. When people genuinely believe that something in a community about which they care deeply is amiss, they must speak out. They do, simply because they must.

Second, if we do not raise these issues now, the absence of norms in American Jewish life will become a norm itself. Failure to suggest inadequacies in the status quo will ultimately suggest that the status quo is acceptable. Thus, not to make such arguments is to become party to the problem, complicit in the failure to raise the stakes of Jewish commitment and Jewish identity in what is still one of the world's most important Jewish communities.

And finally, there is value to these arguments if for no other reason than the knowledge that many people will object to them. Arthur Hertzberg is absolutely correct that one of the great failures of American Judaism is that we fail to give offense. When

people care deeply about something, they are usually willing to argue for their position, even if it makes others uncomfortable. There is obviously no value in seeking to make people uncomfortable, but giving offense is sometimes an indication of how important we feel an issue is. To the extent that American Jews have focused their energies on making no one uncomfortable, they have communicated an undeniable and dangerous message about the intensity of their commitment to Jewish ideas and causes. Judaism has always seen itself as a challenge; when we no longer give expression to that dimension of our tradition, we find ourselves with a tradition that no longer deserves expression.

There is, therefore, value in this argument even if most people will not be immediately convinced. But we ought not underestimate the degree to which a courageous generation of Jewish leaders could, if they wished, make a tremendous difference in the way that Jews see themselves and their tradition. Whether or not we will have the courage and the foresight to acknowledge the urgency of this new agenda is not clear. What is clear is that the handwriting is on the wall. We need to decide whether we will read it, and how we will respond.

Notes

I would like to express my profound gratitude to Dr. Steven Bayme of the American Jewish Committee for his many extremely helpful suggestions throughout the composition of this paper.

¹For a brief summary of the study's findings, cf. Barry A. Kosmin et al., *Highlights of the CJF 1990 National Jewish Population Survey* (New York: Council of Jewish Federations, 1991).

²Israeli society also faces a crisis in the erosion of Jewish identity,² but that situation is even more complicated than the North American challenge. Our focus in this paper is only on diaspora communities, and specifically on the American experience.

³There are many sociologists of the American Jewish community who argue that American Judaism is not about to disappear. I do not mean to dispute them. What may disappear is not necessarily American Judaism as a population, but a form of Judaism in America that has the richness, texture, and profundity that have always been the hallmark of classical Jewish expressions. Ethnic Judaism in America will no doubt be with us for the foreseeable future.

"This paper uses the term "modernity" in a broad sociohistorical sense, not in any rigorous philosophic sense. While such definitions are often useful, and are very au courant in philosophic circles, they would not add anything substantive to the discussion in this paper. We use the term "modern," therefore, in a relatively popular, not philosophically technical, sense. Readers interested in an analysis of the difference between "modernity" and "postmodernity," and the implications of that distinction for an appreciation of the contemporary Jewish condition, will profit immeasurably from Arnold M. Eisen, *Rethinking Jewish Modernity* (The University of Arizona Albert T. Bilgray Lecture, April 1992, published monograph), esp. pp. 2-9. Cf. also David Ellenson's discussion of Borowitz in "Eugene B. Borowitz: A Tribute," *Jewish Book Annual* 51 (1993-94): 132-135.

⁵I have discussed this argument at slightly greater length in "Honey from the Word: Yeshiva Learning for Liberal Jews?" *Jewish Spectator*, Spring 1994, pp. 6-11.

⁶One of the ironies of Kaplan's work may well have been that his own deeply traditional instincts prevented him from appreciating how antitraditional his writings would seem to those who did not know and love the traditional world from which he came.

⁷Simon Greenberg, *The Ordination of Women as Rabbis: Studies and Responsa* (New York: Jewish Theological Seminary, 1988).

⁸This observation is in no way meant as a blanket endorsement of Orthodoxy per se. The critique of non-Orthodox Judaism in this paper is just that—a critique of non-Orthodox Judaism. It is *not* an endorsement of Orthodoxy in all its manifestations.

⁹For examples of Berger's discussions of plausibility structures, see *The Sacred Canopy* (New York: Anchor Books, 1967) and *The Heretical Imperative* (New York: Doubleday, 1980).

¹⁰Berger, *Sacred Canopy*, p. 48. In this passage, as in others, Berger uses the term "world maintenance" as a rough equivalent for "plausibility structure."

¹¹I have discussed this tension in "Honey from the Word."

¹²Good teachers, of course, often overcome this tendency and manage to create strong attachments to Jewish life even in the face of the cognitive dissonance described here. The argument here is not that there are never instances in which dissonance can be overcome, only that the tension is real and for the most part has serious and damaging consequences for American Jewish life.

¹³Most notable among this group are Jewish feminists. Among the more interesting arguments made in this direction are those of Rachel Adler, the progression of whose thought can be seen by comparing "I've Had Nothing Yet So I Can't Take More," *Moment* 8 (September 1983): 22-26 and "Feminist Folktales of Justice: Robert Cover as a Resource for the Renewal of Halakhah," *Conservative Judaism* 45 (Spring 1993): 40-55.

¹⁴Cf. Neil Gillman, *Sacred Fragments: Recovering Theology for the Modern Jew* (Philadelphia and New York: Jewish Publication Society of America, 1990) and a very thoughtful review of Gillman by Steven Bayme, "Tradition or Modernity?" *Judaism: A Quarterly Journal of Jewish Life and Thought* 42 (Winter 1993), esp. pp. 110 ff.

¹⁵Cf. Paul Tillich's discussion of the difficulty of creating new myths in *Dynamics of Faith* (New York: Harper & Row, 1957), pp. 48-54.

¹⁶In fairness, we have not always known what we now know. A generation ago, for example, there was more reason to believe that afternoon schools could teach more than we now know they do. Implicit in this paper is not a critique of a former generation of Jewish leadership, but a challenge to this generation, which has as its data the results of what the previous generation tried.

¹⁷Cf. Avot 1:1.

¹⁸Quoted in Elliot Dorff, *Conservative Judaism: Our Ancestors to Our Descendants* (New York: United Synagogue of America, 1977), pp. 236-237.

¹⁹*Ibid.*; emphasis added.

²⁰Berger makes this point very nicely. He writes, "Secularization has posited an altogether novel situation for modern man. Probably for the first time in history, the religious legitimations of the world have lost their plausibility not only for a few intellectuals and other marginal individuals but for broad masses of entire societies" (*Sacred Canopy*, p. 124).

²¹I have explored the halakhic implications of this social change in "David evi Hoffmann on Civil Marriage: Evidence of a Traditional Community Under Siege," *Modern Judaism* 10 (February 1990): 85-104, and a doctoral dissertation entitled *Dialectics of Community, Continuity and Compassion: The Legal Writings of Rabbi David evi Hoffmann and Their Philosophic Foundations* (University of Southern California, School of Religion, 1992). Cf. also David Ellenson, *Rabbi Esriel Hildesheimer and the Creation of Modern Jewish Orthodoxy* (Alabama: University of Alabama Press, 1990) and *Tradition in Transition: Orthodoxy, Halakha and the Boundaries of Modern Jewish Identity* (Lanham: University Press of America, 1989).

²²Robert N. Bellah et al., *Habits of the Heart* (New York: Harper & Row, 1985), p. 142.

²³For two excellent discussions of this issue, see Moshe Silberg, "Laws and Morals in Jewish Jurisprudence," *Harvard Law Review* 75 (December 1961): 306-331 and Ben Zion Bergman, "Torah and Torts: A Reply to Professor Kader," in *Law and Religion in the First Year Curriculum: Papers Presented at a Loyola Law School Symposium*, ed. Edward McGlynn Gaffney Jr. (Los Angeles: Loyola Law School, 1986).

²⁴Cf. Eugene Borowitz, *Renewing the Covenant: A Theology for the Postmodern Jew* (Philadelphia: Jewish Publication Society, 1991). In some respects, this volume represents a backtracking from Borowitz's former and broader endorsement of autonomy. While Borowitz remains committed to the notion of autonomy as crucial for a modern Jewish weltanschauung even in this volume, he also recognizes that full autonomy is bankrupt. For an astute evaluation of Borowitz's use of autonomy even in light of the failure of secularism, cf. Ellenson, "Eugene B. Borowitz: A Tribute," esp. pp. 132-135.

²⁵Mordecai Kaplan defines "folkways" as "the social practices by which a people externalizes the reality of its collective being." Cf. *Judaism as a Civilization* (Philadelphia: Jewish Publication Society, 1981), p. 482.

²⁶Quoted in *Jewish Week*, May 13-19, 1994, "Vexing Sex Verdict."

²⁷It may be that the example of sexuality is too complicated to serve this argument well. In their studies of modern Orthodoxy, Samuel Heilman and Steven M. Cohen point to a wide range of sexual behavior, much of which is not fully in keeping with traditional Jewish law (Samuel C. Heilman and Steven M. Cohen, *Cosmopolitans and Parochials: Modern Orthodox Jews in America* [Chicago: University of Chicago Press, 1989], esp. pp. 173-181). When it comes to sexuality, even in some parts of the traditional community, autonomy has triumphed over norms. Is it possible that, especially here, Neil Gillman is correct: one must be either a fundamentalist or a "biblical critic," the latter claiming that some of the tradition speaks with wisdom and some of it does not? When they refuse to give up their autonomy in sexual matters, are some traditional Jews implicitly arguing that in the area of sex, the rabbis and the tradition have no greater wisdom than they do themselves? Even in communities in which norms are taken seriously, there is some evidence that sexuality is one of the enduring bastions of autonomy.

²⁸Ironically, even the famous story of the oven of Akhnai (Bava Meia 59b), which Conservative ideologues especially point to as an example of the democratic impulse in rabbinic Judaism, describes *God* as saying that, in all matters related to purity, the law follows Rabbi Eliezer. Other examples of such traditions abound.

²⁹The issue is, as one might expect, actually more complicated than space here allows. Some scholars have argued for a reading of tradition that supports a majoritarian procedure for rabbinic courts. A very compelling example of such an argument can be found in Gordon Tucker, "A Principled Defense of the Current Structure and Status of the Committee on Jewish Law and Standards" (an unpublished paper distributed to the Rabbinical Assembly Convention of March 1993, and on file with the author). It is important to note, however, that even an argument for majoritarian procedures for rabbinic courts is hardly equivalent to an argument for democracy in Jewish communal functioning.

³⁰European social-contract theory, especially as it develops in the work of Locke, Hobbes, and Rousseau, is at the root of much of American political philosophy. Space here, unfortunately, does not permit even a brief tracing of the development of those ideas.

³¹For an interesting discussion of this relationship, cf. Simon Greenberg, *The Ethical in the Jewish and American Heritage* (New York: Jewish Theological Seminary of America, 1977).

³²Genesis 1:27-28. Unless otherwise noted, all biblical translations are taken from *Tanakh: The New JPS Translation according to the Traditional Hebrew Text* (Philadelphia: Jewish Publication Society, 1988).

³³The profound differences between the two creation narratives have been recognized by many scholars, both modern and traditional. For a classic treatment of the creation stories and the implications of their varying formulations, see Joseph Soloveitchik, *The Lonely Man of Faith* (New York: Doubleday, 1992).

³⁴Genesis 2:16-17.

³⁵The Noahide tradition is complex and explained in a variety of fashions. A particularly interesting reading, which also addresses a variety of viewpoints, can be found in David Novak, *The Image of the Non-Jew in Judaism: An Historical and Constructive Study of the Noahide Laws* (New York: E. Mellen Press, 1983).

³⁶The word "covenant" appears for the first time in Genesis 6:18, toward the beginning of the Noah story. It appears next in Genesis 9:9, in the section from which the tradition derives the Noahide laws. While the precise legal implications of the covenant model are complex and sometimes obscure, there can be no doubt—either here or in other biblical sections—that the covenant is essentially a legal notion. Cf., e.g., Elliot Dorff, "The Covenant: The Transcendent Thrust in Jewish Law," *Jewish Law Annual* 7:68 ff.

³⁷Indeed, Tosefta Avodah Zarah 8:6 adds other prohibitions under the category of the Noahide commandments, including drinking the blood of a living animal, emasculation, sorcery, and magical practices enumerated in Deuteronomy 18:10-11. These certainly are not necessary for the safe and consistent conduct of a basic social order.

³⁸The historical picture is much more complicated, since some of the internal biblical narrative is contradictory, and some biblical claims are also at odds with a variety of archaeological evidence. Cf. John Bright, *A History of Israel* (Philadelphia: Westminster Press, 1959), pp. 110-120.

³⁹The Hebrew phrase used for this section is *asseret ha-dibrot*, or "ten utterances." Strictly speaking, not all of them are commandments. The Torah never speaks of this group as having special status. Our point, however, is that even in our popular conception, the central pillar of the revelation is commandment, or obligation to certain norms of behavior.

⁴⁰Leviticus 19:1-4.

⁴¹Much of tradition claims that the fifth commandment is actually part of the second series, though governing relationships between God and human beings, not between people. For a brief synopsis of the argument, cf. W. Gunther Plaut, *The Torah* (New York: Union of American Hebrew Congregations, 1981), p. 556.

⁴²In addition to a few other prohibitions such as cooking and the kindling of fires, for example.

⁴³For a fine discussion of the complexities of the meaning of *barukh atah*, see Bradley Artson Shavit, "Barukh ha-Shem: God Is Bountiful," *Conservative Judaism* 46 (Winter 1994): 32-43. Artson concludes that the most appropriate translation of the blessing would be "You are bountiful, God, who has sanctified"

⁴⁴For Karo's complicated commitments, cf. Raphael J. I. Werblowsky, *Joseph Karo, Lawyer and Mystic* (London: Oxford University Press, 1962).

⁴⁵Matthew 5:17-19.

⁴⁶Romans 7-8.

⁴⁷While it is true that much of the prophetic tradition denies the *sufficiency* of ritual as a means to ethical living, it is an exaggeration to suggest that the prophets opposed ritual. They did not, but offered a counterbalance to those who sought to focus only on ritual.

⁴⁸Among the most fascinating of such antinomian outbursts were the sectarian reactions to the collapse of the Shabbetai Tzvi messianic movement. The Doenmeh group and the Frankists were particularly noteworthy examples. For a brief discussion of these groups in their historical context, cf. Robert M. Seltzer, *Jewish People, Jewish Thought* (New York: Macmillan, 1980), pp. 471-472.

⁴⁹*Selected Poems of Hayyim Nahman Bialik*, trans. from the Hebrew by Israel Efros (New York: Bloch Publishing Co., 1965), pp. 118-119.

⁵⁰Many American Jews misconstrue a *brit milah* (bris) as the ritual that makes a child Jewish. That is not the case. The bris symbolizes the child's entry into the covenant, but a male child who did not (for whatever reason) have a bris is in every respect as Jewish as he would have been had he had one. Halakhah mandates that he have a bris later if his father or the community did not provide one, but even until he does, his Jewishness is unaffected.

⁵¹No part of this argument should be construed as a rejection of those classic theological arguments, however. Whether such arguments are philosophically, theologically, or morally sound is an entirely different subject, which this paper does not address. My agenda here is only to construct alternative arguments for halakhah for those to whom—for whatever reasons—the classic theological arguments do not speak.

⁵²This is suggested by the halakhic formulation that rabbis are to use when a person approaches them for conversion, and a variety of other rituals. But one of the most important discussions of this notion may be found in Abraham Joshua Heschel, *Torah min ha-Shamayim be-Aspeklariah shel ha-Dorot* [Hebrew] (New York: Soncino Press, 1964), esp. 2:3-31.

⁵³For a fuller discussion of this claim, see pp. 42-43 below.

⁵⁴Cf. reference to Gillman, n. 15 above.

⁵⁵For a brief, nontechnical discussion of the limits of theology in these areas, cf. my discussion with Bradley Artson Shavit, *Jewish Spectator*, Fall 1992.

⁵⁶For a very astute series of observations on this issue, cf. Eisen, *Rethinking Jewish Modernity*, esp. pp. 8-12. Rosenzweig is probably the best known exponent of the view that the "content" of revelation is relationship. Cf. his claims in the Buber-Rosenzweig correspondence, in N. N. Glatzer, *On Jewish Learning* (New York: Schocken Books, 1955), p. 118. Cf. also Neil Gillman's discussion of this notion in *Sacred Fragments*, pp. 21-25.

⁵⁷For a discussion of the of Song of Songs and the various meanings attributed to it, cf. Robert Gordis, *The Song of Songs and Lamentations* (New York: Ktav Publishing House, 1954), esp. pp. ix-xii.

⁵⁸Cf. Brown, Driver and Briggs, *A Hebrew and English Lexicon of the Old Testament* (Oxford: Clarendon Press, 1955), p. 53, s.v. emunah, § 3.

⁵⁹Genesis 15:6.

⁶⁰Bruno Bettelheim, *The Uses of Enchantment: The Meaning and Importance of Fairy Tales* (New York: Alfred A. Knopf, 1976). Despite disturbing questions raised recently about Bettelheim's treatment of people in his personal life, his insights on this issue remain extraordinarily important.

⁶¹That was not always the case. There were many American Jews raised in homes that were observant but wholly devoid of God talk. That is less likely

to be the case today, however, when God has become much more of a priority in most American Jewish communities.

⁶²The classic modern Jewish statement of this position is Abraham Joshua Heschel's *Man Is Not Alone: A Philosophy of Religion* (Philadelphia: Jewish Publication Society of America, 1951).

⁶³The phrase "seems to" is employed advisedly here. Heschel's theological work, while brilliant, is often unsystematic and difficult to pin down. His theology of halakhah is a classic example of that difficulty.

⁶⁴Abraham Joshua Heschel, *God in Search of Man* (Philadelphia: Jewish Publication Society of America, 1956), pp. 185, 257 ff.

⁶⁵Cf. Gillman, *Sacred Fragments*, esp. pp. 30-32.

⁶⁶Kaplan, *Judaism as a Civilization*.

⁶⁷The argument he refuses to make is for any classic notion of authority. That there is some ethnic or historical authority, he does not deny. But it is not authority that can lead one to say that the other is "wrong."

⁶⁸Gershom Scholem, *On the Kabbalah and Its Symbolism* (New York: Schocken Books, 1965), p. 30. In a footnote, Scholem notes that Ernst Simon had suggested that in this regard, R. Mendel was a forerunner of Rosenzweig's argument that revelation is relationship. One could argue, however, that R. Mendel foreshadows Heschel more directly, since even the alef connotes some content to the revelatory moment. I am grateful to Dr. Neil Gillman for leading me to the Scholem reference.

⁶⁹Irving Greenberg, *Voluntary Covenant* (New York: CLAL, 1982).

⁷⁰*Ibid.*, p. 38.

⁷¹I have explored this issue and its implications for the future of Conservative Judaism in much greater depth in "Positive-Historical Judaism Exhausted: Thoughts on the Future of a Movement," *Conservative Judaism*, Fall 1994.

⁷²Hans Meyerhoff, *Time in Literature*, cited in Yosef Hayim Yerushalmi, *Zakhor* (Philadelphia: Jewish Publication Society, 1982), p. 79.

⁷³Yerushalmi, *Zakhor*, p. 94; emphasis added.

⁷⁴Not everyone agrees with Yerushalmi's perspective. Amos Funkenstein, in *Perceptions of Jewish History* (Berkeley: University of California Press, 1993), disputes Yerushalmi's distinction between historical narrative and collective memory, and argues that while Judaism may not have consistently engaged in historiography, a sense of history always animated Jewish communities and contributed to their sense that they were part of something important and majestic. Ironically, even as he insists on the continuing importance of history and communal memory in the formation of Jewish identity, Funkenstein lends support to the underlying thesis of this monograph. He writes (p. 21): "The distance between secular Jews (or secular Israeli culture) and traditional Judaism was created not by lack of historical knowledge and symbols, but by their alienation from texts and textual messages, the *halakha* and the *midrash* [italics original]."

⁷⁵Deuteronomy 25:17-19.

⁷⁶Cf. Mishnah Ta'anit 4:6. The Mishnah lists the following events that took place on this date: (1) the decree that our forefathers should not enter the

land, (2) the destruction of the First Temple, (3) the destruction of the Second Temple, (4) the fall of Betar, and (5) the erection by Hadrian of a pagan temple on the Temple site.

⁷⁷B.T. Hullin 13b and many other locations.

⁷⁸The American Reform movement, which made arguments along this line in its earlier history, has clearly returned to a much more overtly religious and traditional vocabulary.

⁷⁹For a small sampling of the widely disparate methodologies employed in this discussion, cf. Eliezer Berkovitz, *Not in Heaven: The Nature and Function of Halakha* (New York: Ktav Publishing House, 1983); David Ellenson, "The Challenge of Halakhah," *Judaism: A Quarterly Journal* 38 (June 1989): 358-364; Robert Gordis, "A Dynamic Halakhah: Principles and Procedures of Jewish Law," *Judaism: A Quarterly Journal* 28 (March 1979): 263-282; and Gordon Tucker, "God, the Good and Halakhah," *Judaism: A Quarterly Journal* 38 (June 1989): 365-376.

⁸⁰Cf. p. 48, above.

⁸¹Ironically, even those modern Jews who have rejected the idea of norms seem to recognize this on some intuitive level. When it comes to issues such as abortion, they more commonly use language such as "Judaism forbids" or "Judaism permits" than they do in other areas of life. One might expect that because law in most Jewish communities now speaks with a vote, but not a veto, Judaism would have lost its language of command. That language is weakened, to be sure, but vestiges of it are still apparent whenever Jews discuss Jewish ethics.

⁸²My thanks to Dr. Steven Bayme for suggesting this instructive analogy.

Suggestions for Further Reading

Berkovits, Eliezer. *Not in Heaven: The Nature and Function of Halakhah*. New York: Ktav Publishing House, 1983.

Perhaps the finest liberal Orthodox discussion of halakhah, and one of the few Orthodox works to take seriously possible conflicts between Jewish law and morality.

Bleich, J. David. *Contemporary Halakhic Problems*. New York: Ktav Publishing House, 1983.

This volume, which was followed by two others in the series, will give readers a good sense of how the Orthodox world addresses halakhic issues that arise in modernity. Bleich is one of the most important Orthodox authorities alive, and is representative of much of mainstream Orthodoxy.

Borowitz, Eugene B. *Renewing the Covenant: A Theology for the Postmodern Jew*. Philadelphia: Jewish Publication Society, 1991.

The culminating statement (thus far, at least) from Reform's most important American thinker. Borowitz struggles to carve out a position between the autonomy that had once attracted him and the tradition that he realizes is necessary even in "postmodernity." Good summaries of many other Jewish thinkers.

Gillman, Neil. *Sacred Fragments: Recovering Theology for the Modern Jew*. Philadelphia and New York: Jewish Publication Society of America, 1990.

A superb introduction to the most important issues in Jewish theology. Good summaries of many Jewish thinkers, and a nice section in the first chapter on different modern approaches to halakhah.

Gordis, Robert. "A Dynamic Halakhah: Principles and Procedures of Jewish Law." *Judaism: A Quarterly Journal* 28 (March 1979): 263-282.

This paper has become a classic, and provoked a fascinating flurry of response in the following issue of the journal. Gordis was a Conservative rabbi, and his statement reflects the halakhic orientation of mainstream Conservative Judaism.

Greenberg, Irving. *The Third Great Cycle of Jewish History*. New York: National Jewish Center for Learning and Leadership, 1981.

Greenberg's notion of "voluntary covenant," discussed earlier, is found in this article. Though many libraries will not have it, it is well worth reading and can be obtained by contacting CLAL in New York City.

Hartman, David. *A Living Covenant*. New York: The Free Press, 1985.

A modern Orthodox rabbi, keenly aware of what modernity has done to arguments for Jewish tradition, searches for a new plausibility structure. An occasionally difficult, but profound and moving work.

Heschel, Abraham Joshua. *Man Is Not Alone: A Philosophy of Religion*. Philadelphia: Jewish Publication Society of America, 1951.

Heschel, the most inspiring Jewish thinker of the century, addresses many of the issues discussed in Section 3 of this paper in this book. A beautiful and inspiring work, it is also philosophically provocative. Also worth reading is Heschel's *God in Search of Man* (Philadelphia: Jewish Publication Society of America, 1956).

Kaplan, Mordecai M. *Judaism as a Civilization*. Philadelphia: Jewish Publication Society of America, 1981.

The classic statement of what is now called Reconstructionist Judaism by the thinker who inspired and created the movement.

Neusner, Jacob. *Ancient Israel after Destruction*. Charlottesville: University Press of Virginia, 1983.

Neusner, an important explicator of the rabbinic tradition, makes an interesting argument that much of rabbinic law is a response to the emotional setting in which early Jews found themselves. Readers interested in further thinking on plausibility structures will enjoy this very brief but provocative work.

Roth, Joel. *The Halakhic Process*. New York: Jewish Theological Seminary of America, 1986.

A technical and very difficult work, Roth's book is an excellent summary of how Jewish law works and how the legal system evolved. It has been criticized for its commitment to legal positivism, but is still an exceedingly valuable contribution to the field.



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