

95. According to the sociologist M. Herbert Danziger, *Returning to Tradition: The Contemporary Revival of Orthodox Judaism* (New Haven: Yale University Press, 1989), p. 167, modern Orthodox Jews see themselves as bound by the letter of Jewish law, not by the policies of rabbis whose spiritual agenda they do not share. Although no modern Orthodox thinker has formulated a theological apologia for this position, such an apologia would claim that a Jew must observe covenantal mandates, and that non-halakhic opinions of Orthodox rabbis are not binding, especially when there is dissent regarding those opinions.

96. See, however, Maimonides, *Hilkhot Tsitsit* 3:9 and *Hilkhot Lulav* 6:13. The *androgynous* and the *tumtum*, who are neither men nor women, are also forbidden to make a blessing on time-bound *mitzvot* from which they are exempt. See also Alan J. Yuter, "Nashim be-Talmud Torah: 'Iyyun halakhah tahbiri (Are women permitted to study Torah: a syntactic study of halakhic sources?)," *Ha-Darom* 61 (Elul 5752). According to talmudic law, one makes blessings on rabbinic enactments, but not rabbinic customs. Even if a custom were instituted by the prophets (*minhag nevi'im*), a blessing would not be recited. Only *yesod nevi'im*, practices legislated, or founded upon prophetic legislation, as in the case of the willow ritual of *Hoshanah Rabbah*, which is a custom attributed to the prophets, for which no blessing is mandated, and therefore permitted. See *Babylonian Talmud*, Sukkah 44b and Maimonides, *Hilkhot Lulav* 7:20.

97. "A Symposium on Divided and Distinguished Worlds," *Tradition* 26, no. 2 (Winter 1992): 36. Subsequent page references are listed in the body of the text.

98. See above, n. 58.

99. See Rabbi Avraham Weiss, *Women at Prayer: A Halakhic Analysis of Women's Prayer Groups* (Hoboken, N.J.: Ktav, 1990).

100. For Jacob Neusner (see above, n. 1), all religions, and for that matter, all Judaisms, are invented. But for Maimonides it is invented religion that is idolatrous. To consciously invent a ritual practice and claim divine approval for it is to make the lawgiver into a god (*Hilkhot Avodah Zarah* 1:1-3). According to Rabbi José Faur, "A fundamental aspect of Judaism is that the message that God gave Moses is not a set of philosophical platitudes or theological doctrines, but the law itself. It is the law that protects the sacred, and not the other way around" ("Monolingualism and Judaism," p. 1843).

101. Kelsen, *Pure Theory of Law*, pp. 15-17 and Maimonides, *Code*, Introduction.

102. Whereas the Liberal Judaisms, i.e., Conservative, Reconstructionist, and Reform, argue that changing times necessitate changes in religious law (Hartian "rules of obligation") (see Eugene B. Borowitz, *Liberal Judaism* [New York: Union of American Hebrew Congregations, 1984], p. 335, and Walter Jacob, ed., *American Reform Responsa* (New York: Central Conference of American Rabbis, 1983), pp. xiv-xviii), popular religion traditional *haredi* Orthodoxy claims that human beings are different in the condition of modernity, and the rules of recognition require change.

103. See Heilman and Cohen, *Cosmopolitans and Parochials*, pp. 60-61, 83-111, and 176, where modern Orthodox Jews are willing to suspend traditional sexual restraints. A similar observation is made, but without rigorous documentation, by Helmreich, *World of the Yeshiva*, pp. 53-55.

104. Samuel C. Heilman's discussion of this phenomenon in Israel corroborates the findings of this paper, even though his method is grounded in the social sciences, and this paper focuses upon the jurisprudential principles of Jewish law. For Heilman, "although renowned for superior erudition, many yeshiva heads often found that their charisma eclipsed the substance of their scholarship. In addition, a rosh yeshiva often held his position by virtue of family ties with other yeshiva heads, or other scholars. . . . As the reach of the Torah could in principle have no bounds since the Torah's claim was over all conduct, so the *ad-mor* (Master/teacher) possessing *da'as Torah*, a degree of divine guidance. . . . While seldom claiming to have spoken with God, he nevertheless claimed to be able to fathom His will through an understanding of His Torah" (*Defenders of the Faith*, p. 256).

AUTONOMY, COMMUNITY, AND COVENANT Liberal Judaism Confronts the Twenty-First Century

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Liberal Judaism, like the political philosophy from which its name is borrowed, has long made personal autonomy a central and fundamental axiom. The movement's rise in Germany in the nineteenth century was driven in large part by rebellion against halakhic prescriptions that had been enforced communally in the name of divine authority. Individual choice in other areas of life over subsequent decades—politics, marriage, occupation, place of residence—made coercion in the religious sphere seem not only unacceptable but anachronistic. Autonomy, in Kant's famous terms, was a prerequisite of moral responsibility, and could not be reconciled with the "heteronomy" of divine commands.¹ In our day too, according to Eugene Borowitz, the preeminent Reform thinker in America, liberal Judaism continues to be defined by its insistence upon free and individual decision-making.² Neither faith nor observance could legitimately be imposed. Both, like political authority, had to be voluntarily elected, self by self and year after year.

At century's end that position has for several reasons come to seem problematic. Postmodern challenges to Enlightenment presumptions regarding rationalism and universalism, of the sort one associates with thinkers such as Richard Rorty and Jean-François Lyotard, are legion.³ Selves more reluctant than ever to cede autonomy to political or religious authority are at the same time less than confident of their ability to choose wisely or live well. And, most important for our concern here, Jews in every Western society—possessed of the ability to opt out of involvement

in the Jewish community and its historical patterns of observance—have begun to disaffiliate in alarming numbers, most notably through intermarriage. Many Reform thinkers, as a result, have returned to the normative language of *commandment*, and in particular to the powerful communal and nonverbal language of *observance*.⁴ The movement's rabbis in 1979 published a guide to Jewish practice entitled *Gates of Mitzvah* as a complement to the more traditional (though still pluralistic and eclectic) liturgy of their new *siddur*, *Gates of Prayer* (1975).⁵ Borowitz, a principal exponent of this trend for many years, has in his most recent work (*Renewing the Covenant*) not only decried the degeneration of autonomy into "radical individualism, doing whatever seems worthwhile to you," but called for a new emphasis upon "the sociality of the individual self . . . bound in covenant with God" (p. 181).⁶ The book's preface bears witness to the conclusion, remarkable in a work of liberal Judaism, and confessedly long-resisted, that "my quest for Jewish authenticity could be achieved only by eliciting the Jewish aspect of my thought from the halakhah itself" (p. xi). A philosophy founded on autonomy thus finds its other foundation in the demands—and commands—of law.

The purpose of this essay is to probe the liberal turn in the direction of traditional authority, and what it might mean for American Judaism more generally, through a careful reading of Borowitz's "theology for the post-modern Jew." No American Jewish thinker has better articulated the tension between autonomy and commandment. None has more deftly explored the dilemmas involved in maintaining a particularist religious community in a highly individualist, secular, and antitraditional culture. Nor have many recent works of Jewish theology been as substantive, or as moving—in part because Borowitz's mature thought is as committed as ever to autonomy, yet more critical than ever of several crucial liberal assumptions underlying that commitment. The synthesis that he seeks, therefore, along with religious American Jews of other denominations who have embraced modernity but desire authentic continuity with the Jewish past, remains painfully elusive. If Borowitz's effort is any indication, it will likely remain so in the new century almost upon us. The tensions between individual freedom and collective covenant so evident in this one will require solutions as yet unimagined—and ultimately, perhaps, unattainable.

Self, Society, and God

Borowitz's "postmodern" critique of the liberal worldview and agenda centers on challenges to notions of self, society, and God which in his

estimation remain prevalent in contemporary America but have long since been discredited by history and thought alike. Modernization, he avers in the opening chapter, once seemed to many Jews and Gentiles a "secular messiah." The claim was not entirely unfounded, and has not entirely lacked realization. Bodies have become healthier and live longer. Minds have been educated, liberated, expanded. Souls have been nourished by both developments. It is now obvious, however, that despite these achievements, faith in modernity's power to usher in an era of human enlightenment, social justice, and global peace has, "like other aspirations to the Messiah's role, failed to live up to its promise" (p. 19). The very next chapter of the book is titled "Modernity: The Betrayer." Reason, Borowitz argues, is, despite immense achievements justifiably suspect after Marx, Freud, Einstein, and the Holocaust. Jews and Gentiles alike have been "badly shaken by the general collapse of our surrogate faith," and Jews in particular, "because of the agony of the Holocaust . . . regularly underestimate the extent to which modern Jewry shared the general trauma that gave rise to the post-modern ethos" (p. 27). As an era seems about to close along with a century, the community finds itself walking "through the shadowed valley" on this side of the Holocaust with a renewed commitment to its own particularity, a new openness to faith, and—perhaps—an emergent synthesis between "modernist thesis" and "conservative antithesis" that "learns from yet transcends them both." Borowitz's theological program, set forth in the remainder of the book, is meant to articulate and further "this new spiritual sensibility" (p. 48).

This program centers on a highly personal vision of self, society, and God that is (paradoxically) highly critical of the self's capacities. Human individuals, Borowitz avers, cannot achieve goodness, let alone fulfillment, in the absence of social and divine covenants and direction. The argument follows directly on Jewish thinkers such as Franz Rosenzweig and sociological theorists such as Peter Berger. No less important, it is explicitly structured in terms of classical rabbinic conceptions of God, Torah, and Israel. The rabbis, Borowitz explains, made "aggadah the junior partner of the halakhah." Legal decisions, which affected communal behavior and so required uniformity, received priority. In aggadic or non-legal matters of belief and interpretation, the rabbis were more flexible, allowing Jewish thought "to continue searching for ever better symbols," while Jewish practice all the while "remained faithful to the evolving law" (p. 57). Any proposed notion of God or Torah had (and in his view still should have) to pass more than intellectual muster. It had (and should have) to support patterns of Jewish duty, community, and piety already in

place, and—"the ultimate arbiter"—it had to pass the tests posed by Jews' experience of the world, "its truth in their lives over time" (p. 62).

Experience is crucial to Borowitz's theology. He seeks to overcome modern suspicion of traditional faith-claims—a suspicion which he of course shares—by persuading Jews to abandon the search for absolute truth and to rest content with a more modest confidence in a God who, though unprovable and inexplicable, nonetheless can be recognized to play a role in individual and collective life. One "reaches for transcendence," finds "sparks" of holiness in "the everyday," attends to "the rumor of angels." God's presence is sensed, once we "shuck off . . . secular training" and learn to be "sensitive to the Other who pervades our text, rites, and study halls" (p. 116). God's blessings are manifest to Jews in collective events like the rebirth of Israel, or in personal experiences such as Borowitz's discovery, in the hospital for repair of a torn kidney, that "urination was an extraordinary gift" (p. 112). The need for these blessings becomes all the more urgent when one owns up to the human capacity for evil which, Borowitz agrees with Heschel, "makes it impossible to return to our old self-reliant strategies of self-transformation. Sooner or later, our will-to-do-evil outwits us" (p. 167).

It is this recognition, as much as anything, which seems to move Borowitz firmly away from modern liberal confidence in human autonomy and toward rabbinic constraints and directives that respect autonomy but limit it through communal and divine covenant. And it is at this point in the book—after wrestling down the vexing problem of particular versus universal, and "tracking the benefits and the difficulties of [Jewish] chosenness"—that Borowitz gets to the heart of the matter, couched in a series of careful and highly personal formulations designed to specify what he calls "the group's rightful authority over autonomous selves" (p. 221). The care in argument and the use of first-person confession are both substantively as well as rhetorically essential. Borowitz must convince readers that he shares their experience of life in this century, and also their justified doubts concerning any surrender of autonomy or any commitment that goes beyond reason, if they are to credit the fact that he has nonetheless, despite rigorous confrontation with the intellectual standards of our culture, won and maintained a degree of faith. That faith allows and commands his commitment to Israel's covenant.

Charting a Way Back to Commandment

Such persuasion is a tall order, of course, and it goes without saying that Borowitz's effort is not entirely successful. At some points the indictment

of modernity, and particularly the dismissal of Enlightenment, seem far too quick. At other moments faith seems too easily wrested from doubt. It is not clear how Jews could or should apply the general covenantal principles that Borowitz calls "premises for Jewish duty" (pp. 288–295) to the performance of particular commandments, especially given his avowal that "our radically transformed social and intellectual situation elicits a corollary reinterpretation of Covenant obligation" (p. 292). How much continuity with past behavior, for example, is required in order to keep rather than break the "Covenant with prior Jewish generations"? For the most part, however, Borowitz meets the standard that he sets himself, as in the telling dilemma of whether to say *motzi* in McDonald's—a wonderful metaphor for modern Jewish life in late-twentieth-century America as a whole (p. 111). Consider, for example, the following crucial passages.

On evil: "I cannot any longer confidently assert that the origins of evil lie totally in the free operation of our conflicted will and not somehow also in the nature of creation itself," though Borowitz also "cannot explain that assertion without lapsing into either mythology or rhetoric." However, despite this post-Holocaust, and rather antimodern, conviction of evil's eternal and ineradicable character, a measure of optimism remains. It stems perhaps from "a fortunate personal life" and perhaps from "a lingering liberal optimism." Once again, the basis for Borowitz's ultimate position seems to be personal experience. He reports the "sense that I have occasionally been able to do an unblemished good" which "strengthens me in my efforts to do what is right and to overcome my will-to-do-evil." Personal *teshuvah* thus seems "an effective aspect of a transformation that ultimately depends on God's gracious responsiveness" (p. 168). (Note the modesty of these statements, the status as witness rather than proof or even claim.)

On the world-to-come, related in Borowitz's mind to the punishment of evil: Recent scientific and philosophical developments have challenged the view of "natural causality as a seamless web" that allows no room for divine action in nature. Yet there is still too much about traditional notions of retribution in a life after death "that we do not understand and ought not to accept." Borowitz confesses that he is not blessed with faith so overwhelming that it can overcome doubts about individual providence through "encompassing trust." Yet the "limited agnosticism which reason demands" also allows for a measure of "trust in God for life after death," and that trust "relieves me of the punishing burden of requiring

everything to be settled here" even if "it is not so secure that it eases my hurt at what the good God allows among us" (pp. 148–149).

Finally, on the experience of God's presence: "As an adult I have often become conscious of the Transcendent coming directly into my life. Sometimes its presence has been fairly clear and definite; mostly it has been rather general and unspecific; always, as I have reflected on it, it has been unspectacular and ordinary." (Note the impersonal formulations of divinity.) "Often my awareness has come as a result of study, observance, prayer, or interaction with people." (These are, of course, highly traditional categories of *mitzvah*.) "My direct, personal exposure to Divinity has helped me grasp the spiritual depth of these somewhat indirect experiences [and] . . . I early overcame my middle American skepticism about it and knew I was involved with an independent Other and not merely in a new intrapsychic activity" (p. 266). This formulation and avowal, at least since William James's *Varieties of Religious Experience* and Martin Buber's *I and Thou*, both published in the opening decades of the century, have been the crucial prerequisite of much modern religious belief and observance. Borowitz, like those thinkers and many others, finds a way past skepticism that leads to God, in part via experiences in other realms—ideas, music, mathematics—that defy explanation in the objective, scientific, empirically demonstrable terms that Buber called the realm of "I-It." God is part of the "I-Thou" realm of wholeness, commitment, and personal encounter. Like Buber and James, Borowitz is careful to note that he finds it "difficult to distinguish between what has been a moving emotional experience and what was genuine 'address,'" and so must remain more guarded about "what I learn from meeting God on this level than I am about encounters on the interpersonal level." Yet, "As my relationship with God has ripened over the years to a certain familiarity with God's presence—and thus with God's absence as well—I have found this intimacy to be the least problematic of all my a posteriori 'evidence' for the truth of my life and faith. It has become the standard for my judgement of my encounters with things, people, and forms" (p. 270).

One wishes that Borowitz had said more—how can we get past the skepticism? how can we distinguish true experience from illusion?—even as one recognizes that his readers would probably not give credence to more. Even this formulation will be too much for many, because it recounts an experience that they cannot share and may well suspect. One notes, moreover, that Borowitz, unlike Buber or James, moves ineluctably

from encounter with "God's presence" to a regimen of commandments founded in traditional Jewish law. Indeed, he takes pains to describe his encounters with God in covenantal terms binding a member of the Jewish people, rather than a "universal" human self, to the God of Israel, to whom Jewish sources have borne witness for millennia, rather than to a "universal" God of the philosophers.

This may well point the way toward the synthesis between autonomy and authority that Borowitz seeks. He builds, in the postmodern nineties, upon a tradition of social and religious thought that takes it as a given that individuals do not live, interact, and make promises to others or to God as abstract universals—"members of the human race"—but as bearers of particular identities who therefore carry unique sets of duties. Membership in a community, argues Michael Sandel, involves "allegiances [that] go beyond the obligations I voluntarily incur and the 'natural duties' I owe to human beings as such. . . . To some I owe more than justice requires or even permits . . . in virtue of those more or less enduring attachments and commitments which taken together partly define the person I am."⁷ Jews in this reading ordinarily undertake the "yoke of the covenant" from a position already somewhere *inside* the world of symbols and behaviors which the covenant defines. They are affected, despite themselves, by historical circumstances unique to the people of Israel and termed by the late Rabbi Joseph Soloveitchik, intellectual leader of modern Orthodoxy in America, the "covenant of fate." God is conceived in particular ways and not others, worshiped in certain modes, even if this unique range of thought and practice includes—as in Reform—emphasis upon universal ethical goals of social justice and individual virtue. These loom especially large in Borowitz's thought as in the thought of the modern thinkers to whom he seems most indebted: Buber and the great German-Jewish philosopher Hermann Cohen.

An individual's choice to undertake the covenant, then, while free and not determined by God or coerced by the community, is hardly free from unchosen determinants. Borowitz, writing at the end and not the beginning of the twentieth century, assumes that his readers accept and are comfortable with this blurring of the boundaries that have firmly separated autonomy and authority through much of the modern period.⁸ Indeed, the most "postmodern" aspect of his theology may well be the implicit relationship between author and reader, teacher and student of Torah, bearer of and audience to testimony, so crucial to Borowitz's capacity to move us. He cannot prove the truth of his view of God or the wisdom of his way of living in covenant with God, and he does not try.

The truth comes piecemeal, the way is suggested rather than defined—and, in keeping with the experiential emphasis of the whole, the way takes precedence over the teaching. “In the struggle between modernism and religion, behavior, not theology, has been the critical battleground” (p. 72). Borowitz is comfortable with this, suggesting that the synthesis between autonomy and community, universal and particular, will likewise be found through lived experience rather than abstract ratiocination.

Conclusion

No greater submission to traditional authority is likely to appeal to American Jews, and no lesser submission may be sufficient to guarantee either identity or community. *Halakhah* for Reform, Reconstructionist, Conservative, and indeed many Orthodox Jews, will not be a system directing their every act but a loose framework that sets the “boundaries of discourse” and offers a “dialectical method of decision-making” that moves back and forth among God, tradition, community, and self.⁹ In the famous terms defined by perhaps the most influential American Jewish thinker of our century, Mordecai Kaplan, *halakhah* and the individual will each exercise something more than a vote, and something less than a veto. Whether this unceasing negotiation of obligation indeed results in either substantive identity or authentic community remains to be seen. It probably depends on how many Jews can be persuaded to undertake the discipline of the covenant with something resembling Borowitz’s standards of honesty and learning.

1. This story has often been told. See, as a general and now classic introduction, Joseph Blau, *Modern Varieties of Judaism* (New York: Columbia University Press, 1966) and, for the most comprehensive history of Reform, Michael Meyer, *Response to Modernity* (New York: Oxford University Press, 1988).

2. Eugene Borowitz, “Autonomy Versus Tradition,” *CCAR Journal*, April 1968, p. 32. Issues of this journal and its successor, the *Journal of Reform Judaism*, have since the sixties been filled with articles concerning the movement’s relation to *mitzvah* and *halakhah*.

3. For a spirited and justly famous recent critique, see Jean-François Lyotard, *The Post-Modern Condition*, trans. Geoff Bennington and Brian Massumi (Minneapolis: University of Minnesota Press, 1989) and, for the labor involved in a sophisticated defense of the modern project, see Jürgen Habermas, *The Philosophical Discourse of Modernity*, trans. Frederick Lawrence (Cambridge, Mass.: MIT Press, 1991). I have surveyed the way this debate affects the theory and practice of modern Jewish history in “Rethinking Jewish Modernity,” *Jewish Social Studies*, n.s. 1, no. 1 (Fall 1994): 1–21.

4. This development may in part be a response to the sociological and intellectual currents already noted and/or a reaction to the new Jewish situation created by the horrors of the Holocaust and the rebirth of Israel.

5. I have discussed changing Reform attitudes to *mitzvah* and *halakhah* in “American Judaism: Changing Patterns in Denominational Self-Definition,” *Studies in Contemporary Jewry* 8 (1992): 21–49. See especially pp. 22–25 and the sources cited there.

6. This and all subsequent page numbers in the body of the text refer to Eugene Borowitz, *Renewing the Covenant: A Theology for the Postmodern Jew* (Philadelphia: Jewish Publication Society, 1991).

7. Michael J. Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982), p. 179. Sandel, a political theorist at Harvard, is a leading member of the school of social thought called communitarianism.

8. For a classic statement of this dichotomy, see Emil Fackenheim, “Abraham and the Kantians,” in *Encounters Between Judaism and Modern Philosophy* (New York: Basic Books, 1973), pp. 31–77.

9. I owe this fine formulation to David Ellenson, “*Halakhah* for Liberal Jews,” *Reconstructionist*, March 1988, pp. 30–31.