

with those of the Orthodox.

I cannot resist recording my impression that the charges which Orthodox leaders have leveled against Conservative Judaism for the last eighty years are (with some exceptions) true. The paradox is that they are only true in the last few decades and may, in fact, have been "self-fulfilling charges." The late Rabbi Israel Klavin once said (to me, in private, of course), that he believed the *Ribbono Shel Olam* (Master of the World) might hold the Orthodox rabbinate accountable for what had happened to Conservative Judaism. I'm not sure this would be fair but then again, I don't know if the *Ribbono Shel Olam* is much of a sociologist.

An Unresolvable Problem

There are a variety of answers to Singer's fourth question why modern Orthodox intellectuals who share Greenberg's perspective don't speak out. Some answers are personal to each individual. But I suspect an answer common to many is that they realize or sense that there is no universalizable answer to the problem. So they must adopt the same kind of *ad-hoc* solution I adopted. One accepts regnant Orthodox *psak* (legal rulings) as a reference point and makes private accommodations in terms of one's ethic, comfort, communal and familial pressure and circumstances without for an instant believing that the particular accommodation can or indeed should become a standard. (Orthodox feminists are, I am told, an exception in this respect). At most, I guess, the modern Orthodox intellectual shares his behavior pattern with friends of similar bent and treasures the notion that he is not alone. But "to speak out about the matter" is by definition to undermine community. If I may be forgiven an analogy, as a long time hypocrite I have learned that there is only one principle to which I must adhere; a public denial of my hypocrisy. ●

Change is not modern in Jewish law

Marvin Fox

David Singer's problems arise out of a number of unfounded assumptions, undefined or poorly defined terms, and factual claims which are simply wrong. Take just one factual claim, namely, that "modern Orthodox intellectuals... fail to speak out" about change and development in the

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halachah. He identifies Rabbi Rackman and myself as in no way "representative of mainstream Orthodoxy today." I have never claimed (or been authorized) to represent anyone but myself in these matters. Yet, it should be noted that if the criterion of "modern Orthodoxy" is recognition that the *halachah* has a history and that one can trace lines of internal development in that history, Rabbi Rackman and I are hardly alone in being "modern."

In the very symposium in *Judaism* to which Singer refers, each of the Orthodox participants openly acknowledges history and development in the *halachah*. Sir Immanuel Jakobovits considers denial of halachic development as a "canard," and goes on to invoke the responsa literature as bearing "monumental testimony to the dynamic character of Jewish law and its continued evolution." Rabbi David S. Shapiro speaks of *halachah* as "dynamic...flexible...responsive to the world and open to all human needs." Rabbi Walter S. Wurzbarger identifies as "commonplace" the thesis that "halakhic developments have been affected by socio-cultural transformations." Rabbi J. David Bleich, Singer's exaggerated paradigm of the rigid halachic fundamentalist, acknowledges that the *halachah* "has had to accommodate 'new external conditions—social, economic, political or cultural.'" Where then is the great conspiracy of silence? One would think that the British Chief Rabbi, a former president of (Orthodox) Rabbinical Council of America who is also a professor at Yeshiva University, another former president of the Rabbinical Council of America who is currently president of Bar-Ilan University, a leading Orthodox rabbinic scholar (Shapiro) who is universally respected and Rabbi Bleich (whose credentials Singer supplies) are about as impressive a group of "establishment" spokesmen as one could assemble. They, and many like them, regularly publish their views and express them in public lectures to highly diverse audiences. Silent they are not!

Change Is Not New

The debate is not at all, as Singer seems to think, about whether the *halachah* has a history which reflects change. That, as Rabbi Wurzbarger correctly notes, is commonplace. Until the daughters of Zelophad had raised the question of their right to inherit their father's property the *halachah* concerning the right of daughters to their fathers' estate was not known. Similarly, the first case of one who gathered sticks on the Sabbath required expanded knowledge of the *halachah*, "because it

had not been declared what should be done to him." Until the *halachah* of *prozbul* (payment of a loan during the Sabbatical year) was introduced it was not generally known; until technology produced its electronic marvels, they were not the subject of halachic investigation or decision. Changing economics, modes of government, agriculture, medicine, technology all evoke halachic responses. Does anyone seriously question the obvious? In this sense of "change" there is, of course, change in the *halachah*.

The Orthodox view, however diverse its modes of articulation, is only determined to reject the claim that this kind of "change" may occur outside of the halachic process. Even if the new morality considers adultery (and according to one view, also incest) good for one's mental health and spiritual growth, this can never induce the *halachah* to relax its unequivocal prohibition against such acts. Does anyone really believe that the *halachah* can change so as to permit the clearly and absolutely forbidden? Surely it cannot do so and still maintain its own integrity.

None of us who believe that the Torah (written and oral) is God's word would dare to make social convention or private predilection criteria of what is halachically correct. Our "modernism" is merely an expression of the conviction that every need or problem which arises in the lives of Jews in any era, including our own, demands consideration and resolution by our halachic authorities. Just as Moses was required to seek halachic answers to newly arising problems in his time, so must his successors, who are the teachers of Torah to later generations, do likewise. In our view what is required is not "change" in the sense of rejecting or distorting halachic norms in order to satisfy contemporary demands. We seek only the honest application of *halachah* to contemporary issues.

Seeking To Live Within The Law

Contrary to what David Singer seems to suggest, faithful Jews do not view the law as a burden

which needs to be lightened or cast off altogether. They relate to the law as a precious divine gift which gives form and meaning to their lives. Their only proper question is: how do we live our lives today in accordance with God's Torah? Being finite human beings we know that we shall not meet with perfection the infinite demand placed on us. Since our most revered teachers are also finite human beings, we know that they can teach us Torah only up to the limits of their own understanding. As individuals, we struggle within ourselves to resolve the tension between our untutored inclinations and the absolute requirements of the law. As a religious community we know that our teachers must struggle also to resolve for us the ambivalences and ambiguities which result from their diversely finite grasp of the law. Recognition of our limitations necessitates that we view all human decision as subject to a certain level of change and openness. However, when the halachic decision process is carried on with integrity and true learning it is never a process of deliberate change in conformity with shifts in taste or new social conventions. It is rather an ongoing effort to form and shape contemporary life in accordance with the timeless norms of the Torah. Mr. Singer would find no difficulty in understanding this as the stance of Orthodox Jews, modern or not, if he would only study the sources in their own terms and listen attentively to the words of true *talmidei hakhamim* (scholars) of this or any other age. These sources and teachers regularly affirm both the permanent authority of the norms of the Torah and the ongoing applicability of these norms to the ever-changing circumstances of human life. ●

We will continue this discussion in our next issue with articles by Nosson, Scherman, Louis Jacobs and David Novak.

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