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Autonomy, Ethics and Authority

Towards a Characterization of Modern Observant Jewry in Israel

A Survey of Periodical Literature, June 1967 to October 1973

Leah Benamy

Thesis submitted in partial fulfillment
of the requirements for Ordination

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Finally, I owe a great debt of gratitude to my parents Daniel and Roslyn, for believing in me, and always pushing me to do my best. Without their love to guide my efforts, none would have succeeded. I therefore dedicate this work to them, with much love and appreciation.

This study is an attempt to characterize an amorphous group of Jews, living and writing in Israel, who are bound together by their approach to problems which arise as a result of holding the values of modernity and halachic observance at one and the same time. Through a study of the historical background of Orthodoxy and Zionism, it will be shown that these Jews may very well not be Orthodox, as this has clear political implications. They are all certainly Zionists, and are very much tied to that country's fate, both as a national enterprise, and as a spiritual home for observant Jews. We will introduce a suggested term for this group: Modern Observant Jewry. This first section (chapter 1) will define this group as distinct from, and in contrast to, both mainstream Orthodoxy and Conservative Judaism. Their particular approach to both theoretical and practical issues in Judaism is shown as multi-faceted, taking into account factors such as ethics, autonomy, and feasibility in formulating their opinions on a given problem.

The body of the thesis consists of four sections and a summary conclusion. Each section considers a particular issue or aspect expressed in discussions conducted on the pages of Amudim, Deot, and Mahalachim. This group of intellectuals, academics and kibbutzniks addresses itself to politically generated problems (chapter 2); questions of theoretical and ideological halachic import (chapter 3); specific contentious halachic issues (chapter 4) and finally, the particularly troublesome question of whether or not there should be rabbis on the kibbutzim of HaKibbutz HaDati (chapter 5).

CONTENTS

CHAPTER ONE: DEFINING MODERN OBSERVANT JUDAISM

Within Israel there is a significant percentage of the population who identify as *dati*, that is, as religious Jews in the traditional sense, who order their lives according to *halacha*. But these Jews are divided into any number of subgroups, each of which can be characterized by the authority it recognizes, or by its techniques in reaching halachic decisions. This thesis is an attempt to identify one of these groups which is not otherwise distinguished by political or cultural features. Its members do not belong to any one organization or party, although many are academics by profession. Perhaps the only institution with a majority of members who would identify themselves with this subgroup is *HaKibbutz HaDati*, the religious kibbutz movement. What binds all of these disparate individuals together is their dissatisfaction with the Israeli religious establishment, in particular the Rabbinate.

The purpose of this thesis is to work towards a definition of this group, which by its approach to *halacha* can be termed both modern and observant, through an examination of selected contributions to three separate journals: *Amudim*, *Deot*, and *Mahalachim*. The first journal is published by *HaKibbutz HaDati*, the second by the Organization of Israeli Religious Academics, and the third by The Movement for Torah Judaism. While the first organization has political ties to the National Religious Party, none of these organizations are

primarily political in nature. Though the approach taken by this group towards halacha is modern, this does not mean it it has a radical, or even modernist tendency in thought or action. What its members call for is an informed, intelligent and up to date grappling with issues and problems pertinent to observant Jewish life in the State of Israel. A study of some of the actual struggles chronicled in these journals will be used to gain a better understanding of what it meant to be an observant, modern, Israeli Jew during the late 1960's and early 1970's.

In the group which we term modern observant Jewry in Israel we have seen attempts at self-definition. These come in the form of historical analyses, polemics from within and without, as well as in the personal opinions members express. It is not within the scope of this thesis to bring each of these for consideration, but rather to examine a selected, representative number of articles published between 1967-1973. Thus, we will begin by looking at the two part article by Dr. Moshe Samet, published in the first number of Mahalachim, March 1969 entitled "Religious Judaism in Modern Times". We will then contrast this with articles by Michael Rosenak and Ya'akov Falk with the goal of describing more clearly the character of this group within the dati camp in Israel.

It is to be expected that any new movement, group or organization would seek to define itself and its intentions at

the outset of its activities. "The Movement for Torah Judaism" does this in the first issue of its publication Mahalachim by devoting a number of pages to Moshe Samet's method in his doctoral dissertation, dealing with the development of religious Judaism in the last two hundred years. This tells us a number of things. First, that "The Movement for Torah Judaism" aims itself at intellectuals, at university-educated readers who would have the tools to appreciate and comprehend Samet's contribution. Second, by claiming Samet as one of its supporters, the movement can show that it is a serious endeavor, and not a passing fad. Third, by including such a detailed historical analysis of the roots of Orthodoxy pre-1948, this article sets the stage for discussion of the development of Orthodoxy, or better, of religious Judaism, within the State of Israel. These are all important considerations in approaching the subject of this article.

Samet begins with the general statement: "One of the most severe societal problems of the Jewish settlement in Israel is that of 'Religion and State'."[1] There has been to his mind a disappointing lack of reliable information published on this subject, and he writes partially to rectify this. Samet relies on his academic integrity to serve as witness for his objectivity in treating this subject. He does however, not

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[1] Moshe Samet, "Religious Judaism in Modern Times," Mahalachim 1 and 3 (March 1969 and March 1970): 29ff and 15ff.

attempt to deal with the entirety of the problem of religion and state. He sees the stumbling block to an understanding of this problems as being the unfamiliarity with its "broad historical background."[2] Samet is not a sociologist, he is an historian, and as such, is only too ready to frame the events which lead up to the present tensions.

Samet believes, and intends to prove, that Orthodoxy is not as one-dimensional as many perceive it to be. He states that:

> Orthodoxy is - as opposed to what is normally thought - a sector of striking distinctiveness, whether in comparison to non-Orthodox sectors in Jewish society, or as regards the traditional society of ... the Middle Ages. The essence of this distinctiveness comes from the fact that the flowering of Orthodoxy came only as a defense of traditional forms of the Ashkenazic Jewish society at the end of the 18th century in the face of societal changes which modernizing processes threatened to bring with them.[3]

He goes on to identify the two most crucially important of these processes as universalism and secularization. These, in part, led to a bifurcation of traditional Jewry into rabbinic Jewry and modern Jewry. This is further complicated by the admixture of politics into Judaism in the modern Jewish State. The author presupposes that an understanding of the gradual changes and pressures that traditional Judaism underwent, and is still confronting, will no doubt lead to a better understanding of the present reality. Furthermore, it will

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[2] Ibid.

[3] Ibid.

allow the variety and flexibility of the tradition to be clearly seen. Thus:

> That which is shared by both [rabbinic and modern Jewry] is that everyone ignores the innovation in the world of Jewish religion and in the world of its adherents in modern times.[4]

Inasmuch as Samet sees himself as the first to apply unbiased scientific historical methods to the study, he contributes greatly to an enlightened view of recent Jewish history.

Having shared the reasoning behind his study of the subject, Samet outlines three phases of his work as:

> (1) The formation of Orthodox currents in German and Austro-Hungarian Jewry; the resolution of the schism in this Judaism up until the 1870's.
> (2) "Import" and absorption of Orthodox ideology in Czarist Russian Jewry, from the 1870's on; the problem of Orthodoxy and the Nationalist movement.
> (3) The development of the religious factor in the Jewish yishuv and the problem of its foundational role in the State's societal structure.[5]

The crisis of modernization which faced traditional Jewish society is the focus of the work overall, and Samet begins with a descrition of the reaction of German Jewry at the end of the 18th century. The leaders of this community up until the 1800's, were the rabbinic elite. Their power was waning however, and the maskilim, the enlightened Jews in Germany took upon themselves the task of "bringing modernization to

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[4] Ibid., p. 31.

[5] Ibid.

Judaism."[6] These enlightened Jews perceived no inherent contradiction between the two elements of modernization and Judaism. Samet points out however, that insofar as not many of the previous rabbinic elite joined these enlightened Jews, the perception was created that "the activities of these maskilim were directed against the previous elite, the rabbinate."[7] This naturally generated suspicion of the maskilim on the part of the rabbinate. When the more radical wing of these maskilim, i.e. the Reformers built the Hamburg Temple in 1819, this suspicion turned into outright rejection of such innovation. Here, according to Samet, is where Orthodoxy truly began.

The author notes an interesting ironic point concerning the Reformers activities in this period. While the Reformers were certainly introducing innovations into the forms of Judaism, these did not yet stray very far from the tradition. Halachically, these were acceptable, if marginal activities. Despite this, the traditionalists refused to consider them as anything other than uprootings of the essence of the religion.

That same year, a voice was heard which echoes still in the Orthodox community. Rabbi Moses Sofer, the "Chatam Sofer" rejected modernization in its totality with his famous slogan "Hechadash Asur Min HaTorah" [innovation is toraitically prohibited]. By framing his objection so broadly, Rabbi Sofer

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[6] Ibid., p.32.

[7] Ibid.

became the archetype for all Orthodox Jews to come. These few words enabled that segment of traditionally observant Jews who felt their lifestyles were under attack to unite under one banner. This result then, is what Samet calls the true beginnings of Orthodoxy; Rabbi Sofer had drawn the dividing line between Orthodox and non-Orthodox Jews, empowering both to become ever more insulated from the other. What might have been a polemical war cry, as it were, became the ideological basis for that newly emerging segment of traditional Jews- the Orthodox.

Sofer was unwilling to ascribe value to anything which did not come directly from the Jewish tradition. This insulated traditional Judaism from the increasing secularization brought about by the Emancipation, but also had the effect of shielding it from all intellectual advances outside of Judaism. According to Samet, those phenomena which had previously been thought of as neutral now became unthinkable for the traditional Jewish community. Thus, modern enlightened systems of education were closed to the Orthodox, and Moses Mendelssohn was a shunned figure among them. Rabbi Sofer's fear of Emancipation was that the ambition for a civil identity to the exclusion of a religious identity would be a sign of dissatisfaction with the traditional Jewish community structure, and this was to be guarded against at all costs.

The logical next step away from civil identity was to support the existent national identity of Jews. Thus the

Chatam Sofer supported settlement in Palestine, and emphasized this also as a way of combatting the Reformers rejection of the theological concept of a personal Messiah. Again, as a way of internally strengthening the group, he reverted to the older mode of relating to Christians. Rather than accepting them as brethren, as did the Reformers, he calls them 'worshippers of the stars and constellations', as did the RaMBaM.

Samet details other areas of the Chatam Sofer's thinking, highlighting two aspects as especially important.

> 1). The sanctity of even the simplest custom. His slogans in this matter are illuminating, and require no further explanation. In one of them he determines (after the RaSHB"A): 'a thousand of their kind (the Reformers) shall perish, but one particle of one of Israel's customs shall not move from its place.' In another place he declares: 'anyone who picks at our manners and customs requires inspection.'
> 2). The obligation to determine halacha according to the Shulchan Aruch, or according to the oft-repeated saying of the Chatam Sofer: 'Kol Yisrael yotz'im b'yad RaM"A'(after Exodus 14:8) [all Israel go by Rabbi Moses Isserles {the author of the Ashkenazic supplement to the Shulchan Aruch}] This question is among those which caused a split in many of the Jewish congregations in Europe in the 19th century, after Orthodoxy refused to forego it. It is worthy to note that this matter took an important place in the splitting of Hungarian Jewry. Until the days of the Chatam Sofer only a few halachic decisors took upon themselves in practice, a subordination to the Shulchan Aruch; many of them, especially among the more distinguished of them, saw themselves as free to maneuver between its determinations and those of other sources, which were likely to be more fitting to the needs of the place, the community and the situation.

> Thus we have seen, that Orthodoxy objected to changes in the trends of halachic decision making which the modernizers demanded.[8]

Samet credits the Chatam Sofer with a virtual renaissance of rabbinic Judaism. Had it not been for such a steadfast champion of its cause, he doubts whether it would exist today. Furthermore, Sofer took seriously upon himself preaching, as well as communal guidance and teaching towards resolution of actual problems, albeit in the most conservative of traditionally Jewish ways. His institution of a yeshiva provided boys not well-heeled or well-connected with the opportunity to devote themselves to serious Talmudic study, an innovation of sorts in the rabbinic Jewish community. While he did not identify with the Chasidic movement, Moshe Sofer affected a rapprochement between it and Orthodoxy, partially, according to Samet in recognition of "the anti-modernizing potential hidden within the movement."[9]

Having seen the impact of such a reactionary personality as that of Moshe Sofer on the traditional Jewish community, Samet turns to consider another ideology, this time of Neo-Orthodoxy, Rabbi Shimshon Raphael Hirsch. While Hirsch was accepting of modernity, its forms and ideas in a way Sofer was not, he too reacted defensively to the radical modernizing activities of the Reformers. He had a great effect on

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[8] Ibid.

[9] Ibid., p. 35.

Germany's Orthodox community, according to Samet:

> At his initiative, religious institutions, educational systems, newspapers and literature in German, and various communal and supra-communal organizations were founded - all of them exemplarily Orthodox, but with modern frameworks and working principles. The success of Neo-Orthodoxy and its becoming a real social factor was made possible by convenient historical conditions.[10]

These conditions were certainly largely the presence of a large, vocal Reform community in Germany in general and Frankfurt am Main in specific, where Hirsch served a small Orthodox congregation.

By the second half of the 1800's Germany's Jewry was divided amongst the Orthodox, and the Reform, with the true assimilationists no longer affiliating with either. Samet sees the Orthodox wing, while certainly still very much traditional, as having exhibited de facto acceptance of much Enlightenment thinking. At the same time, Reform Judaism had begun to lose its original impetus, both by virtue of the loss of Jews who no longer considered themselves primarily Jewish, but rather German, as well as due to the distaste some Jews had for its radical nature. Hirsch thus was able to meld elements from both movements into a new branch of Judaism, one which Samet believes helped secure Orthodoxy's survival.

While Neo-Orthodoxy retained the dogmatism and reliance upon the Shulchan Aruch of Orthodoxy, it added the full integration of religion with modern society and state, as well

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[10] Ibid., p. 36.

as the education of women which Reform embraced. This was all summed up in Hirsch's slogan "Torah im derech eretz" [Traditional Jewish values along with modern forms of living]. Hirsch's ideological successor was Rabbi Azriel Hildesheimer, who introduced changes into the framework established by Hirsch, primarily in two areas:

> (1). The establishment of a Seminary for Rabbis (1873). By this he drew in both academics and those who used academic tools in Jewish studies (albeit with a limitation on freedom of research) to the Neo-Orthodox circle (Hirsch built his system primarily for non-intellectuals.)
> 2). Hildesheimer was more embedded in the old rabbinic Judaism, and his connection to general culture was more restrained than was Hirsch's. He was possessed of strong ties to East European Jewry, participated actively in the Chibat Tzion movement and helped in the building up of the land [i.e. Palestine].[11]

With the passage of a law in 1876 freeing Jews from the obligation of religious communal affiliation, Orthodox Jews were finally able to split off from the other trends, especially from the Reform leadership, which controlled the communal structure. Hirsch adopted a separatist stance, causing another, more pragmatically inclined group to develop under the leadership of Rabbi Zeligman Bamberger. While the majority of Jews did not in fact bring about his vision of "A German under the authority of Torah"[12], the movement nevertheless continued. Samet concludes:

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[11] Ibid., 37.

[12] Ibid., p. 38.

> In effect, Hirsch's system served as a path to modernization for all of orthodoxy; even those who did not accept the idea of Torah im derech eretz, as Hirsch understood it, but explained the concept derech eretz as permission for solely temporary legislation, i.e. to strengthen Jewish existence, absorbed certain of modernizations' concepts in the area of education, organization and so forth. This absorption made the maintenance of Orthodox existence easier on the whole.[13]

Having considered the developments within Orthodoxy, Samet briefly treats the ultra-Orthodox.

> This system professes extreme religious zealousness and the life style of maximal separatism from mundane settlement. It blossomed in places where the spread of hasidism was curbed by the opposing spread of the Enlightenment and Reform. As a result of this, such a fiercely anti-Enlightenment and anti-modernizing uncompromising strain was added to hasidism in these areas, that even the way of Orthodoxy was rendered unfit by it.[14]

Even the compromises accepted by the Chatam Sofer, such as shaving one's beard in order to make a living, were shunned by the ultra-Orthodox - they refused to subordinate the value of Torah, as they understood it, to any worldly idea. Included in the ultra-orthodox are the Mitnagdim, who succeeded in totally splitting Hungarian Jewry to a degree unseen in any other European country. These Jews emigrated to Palestine in their attempt to realize their ideal of purely religious existence. This of course left an indelible mark on the old yishuv, which subsequently formulated the idea of the

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[13] Ibid.

[14] Ibid.

religious elite, living within "the four cubits of study and prayer."[15] Interestingly enough, not only did the ultra-Orthodox community come to rely economically on the neo-Orthodox, they also shared an emphasis on extreme punctiliousness in observance, as well as a tendency towards separatism.

Samet concludes this first of two parts by noting that: "Within a short time period, Orthodoxy had turned from a movement into a sect."[16] He cites the causes of this as the breakdown of the family structure, emigration and world wars. Without the traditional family unit to ensure transmission of the Orthodox way of life, continuity was at peril. There were those who turned their backs on the Orthodox lifestyle and never returned. Of course there were also Ba'alei T'shuvah [newly observant Jews]. Orthodoxy could thus justify itself as not being a totally closed sect. It acted towards non-Orthodox Jews as towards sinners who were potentially likely to return to the true form of Judaism.

Orthodoxy, in light of Samet's analysis, has a totally authoritarian aspect, defending itself against any outside claim to legitimate Jewish leadership. This severely limited its ability to make the full transition into modernity.

In comparing Polish and Czarist Russian Jewry with their Western fellows, Samet notes that the Easterners faced

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[15] Ibid., p.39.

[16] Ibid.

problems of a completely different sort.

> In contrast to the process of modernization, which began to crumble the traditional society in Eastern and Central Europe during the Enlightenment period, the fundamentalist movements blossomed in Eastern Europe - the Chasidim and Mitnagdim -, which crystallized the traditional society, and bound it with strong religious-ethical ties.[17]

In Samet's opinion historians not perceived the breadth of differences between the situations in Eastern and Western Europe. He thus attempts to detail the processes which shaped Jewry in Eastern Europe.

With the division of Poland at the end of the 1700's, the situation of its Jews worsened. Not only did they come under the rule of Czarist Russia and thereby suffer economic difficulties, they were also subjected to anti-semitic programs on the part of the Czars themselves. Their restriction to the Pale of Settlement, as well as mandatory army service and the removal of religious communal autonomy were suffered rather than resisted. As a result however, a portion of the Jewish community were forced into finding places to live which were illegal under Russian law. This in turn gave rise to informers who preyed upon such circumlocutions of the law. The situation worsened and the tendency towards fundamentalism increased. In the second half of the 1800's the fundamentalists, the Chasidim and the Mitnagdim, had each defined their territory and more or less

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[17] Ibid.

settled down. Samet describes their role as follows:

> The shared aspect between them is that they form an essential factor in the preservation of Judaism, despite enormous difficulties (and perhaps thanks to them) which circumvented its way externally, and which turned the Jewish society from the material tendency to the spiritual tendency, and from the tendency which encourages accommodation to external factors to the tendency which contracts, at least for a while, dependency upon these factors.[18]

Enlightenment was not yet a factor in Poland and Czarist Russia of the time, both due to the language barrier and the inability of Russian society to accept its ideas, thus the maskilim turned to the government. This then made the supporter of enlightenment thinking suspect, just as the government was suspect. This was only reinforced by the fact that some of these maskilim had renounced their Judaism. Samet sees this as the reason that the maskilim turned towards bargaining with the Mitnagdim by various methods. What they met with is described by him as follows:

> In their struggle against Chasidut, the Mitnagdim turned the study of Torah into an exclusive socio-religious ideal, and made it a mystical concept parallel to the concept of d'veikut, which the Chasidim renewed. It was therefore difficult for a person to include enlightenment matters in his agenda, a matter which would certainly have involved a neglect of the Torah, and thus a sin too heavy to bear. Furthermore, the spreading of Torah study, thanks to Mitnagdim ideology, not only reinstated the status quo, but also created new standards of scholarship, the like of

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[18] Ibid., p.16.

worldliness."[21] The fundamentalist movements were strong in this debate, but even so the tendency was not to provoke an open split in the Jewish community. Rabbi Yitzchak Elchanan Spector, a defender of the conservatives, "refused to participate in attempts at substantive Orthodox organization."[22] Rabbi Naftali Tzvi Berlin, head of the Volozhin yeshiva,

> ... termed the Orthodox approach 'distortion for the sake of Heaven'. Many of the generation's best rabbis also invalidated all of Orthodoxy's actions, as in the publishing of a newspaper and the like, due to their causing neglect of the Torah.[23]

Samet now turns to a consideration of the problem of Orthodoxy and the Nationalist movement. This has greatest relevance for the study of modern observant Israeli Jewry, as it leads to the party affiliation of different sectors of Jews within Israel, once the State is founded.

In the very early stages of Chibat Tzion there was a drawing together of the entire Jewish community of Czarist Russian. The ultra-orthodox were very much encouraged to see the commandment of settling in the land to be so well-observed by the nationalists. From the look of things, cooperation in support of the national endeavor was the best response to assimilationism. Samet believes that what the ultra-orthodox

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[21] Ibid.

[22] Ibid.

[23] Ibid., p. 19.

really wanted to do was to use the nationalists as their servants. If they cooperated and supported the national enterprise, they could expect to build it in their own image, albeit with some non-observant Jews available for the needs of foreign contacts. The modernizers, of course, had other ideas and turned to the nationalists with their own agenda, while realizing it would be necessary to cooperate with the rabbis in order to gain success. Samet describes the situation:

> Despite the fact that the names, the symbols and the experiences of the young movement drew sustenance from the tradition, and synagogues and schools served as places of meeting and organization, the hegemony slowly passed to the non-observant minority. Within this were prominent some of the radical writers ...[from] men who were under the rabbis <u>cherem</u> (Moshe Leib Lilienblum and others) to defenders of Orthodoxy's cause, who began ... leave the movement, and some of whom even set themselves up afterwards in the battle against it...[24]

Even those rabbis who, for whatever reason, wished to support <u>Chibat Tzion</u> had a difficult time doing so. Not only did they not give it exclusive support, upholding Jewish causes in Russia and elsewhere, they also were not generally recognized as being in positions of communal leadership, so their influence was limited. Thus the leadership of <u>Chibat Tzion</u> turned to the modernizers and their systems. Having been disappointed in their attempt to assimilate into Russian culture they turned to an aspect of their own. Nationalism thus met their need to identify much more so than did the

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[24] Ibid., p. 20.

Jewish tradition. The situation then became such that:

> The maskil, a breaker of the yoke of tradition, turned into the leader of a movement, the majority of whose members were traditionally Jewish householders.[25]

With the legalization of the nationalist Jewish movement, Chibat Tzion no longer had to accommodate itself to the needs of the traditional Jewish community, and began to lose its sense of consideration for their needs. The difference in attitude between the old yishuv and the new grew ever greater, especially after the founding of a secular school in Yaffo in 1893. The religious supporters of nationalism could no longer tolerate the attitude of the movement overall towards tradition. Herzl's program brought hope to the traditionalists, who after all preferred the Zionist solution to any other way of handling the community's crisis. There was also the hope that perhaps finally in the land of Israel, the traditional Jews would come into their own. Herzl, while allowing no compromise in his position that Zionism was not a religious movement, nevertheless welcomed the traditionalists. His program failed however, resulting in the alienation of those whose primary nationalist motivation was traditional.

Here finally, is where Samet sees the birth of political Russian Orthodoxy: "It is possible to say, that the actual Orthodox organizing began in the war against Zionism."[26]

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[25] Ibid., p. 21.

[26] Ibid., p. 22.

Evidently, the threat to the community of social and religious disintegration was not enough to bring about the form of religious Judaism known as Orthodoxy. It took the Zionist cause to turn Russia's traditional Jews into a politicized group.

> Thus we find, that the Enlightenment and the buds of the demands for a reform of religion were not sufficient to create a real Orthodoxy in the 70's. Moreover, the nationalist movement had succeeded in doing so from the 90's on. It is not superfluous to note here, that in Zionist historiography, they ignored the Orthodox factor, and described the tradition as a whole as opposing the nationalist movement, for theological reasons, as it were. An inspection of the facts at their foundation, proves that it was not so. In truth, there was no principled contradiction between the tradition and nationalism. The contradiction was born and nurtured by the Orthodox, which was formed as a direct response to the un-traditional, and in small part to the non-traditional tendencies on the nationalist movement.[27]

Samet goes on to a consideration of the two religious movements within Zionism, HaMizrachi and Agudat Yisrael, and the differences between them. These are certainly worthy of study, but for the purposes of delineating the group of modern observant Jews, it will be sufficient to recognize only the Mizrachi movement as directly influential in its development.

It was Herzl who called for the founding of a religious Zionist party at the fifth Zionist congress in 1901. Samet typifies the approach of Mizrachi as follows:

> In every instance they put Israel before the

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[27] Ibid.

> Torah, in the assumption that without Jews there is not Judaism. In short, they formed a pre-Orthodox foundation, which rejected the Orthodox solution to the social crisis and preferred the nationalist idea over it, which was liable to unify rather than fragment.[28]

Samet sees this as the healthiest Jewish reaction to the situation, being neither too rejectionist of modernity, nor too assimilationist. Unfortunately, this did not serve to make Mizrachi a mass movement:

> Despite this, the "Mizrachi" in actuality turned into, both in the Jewish street, and in the Zionist Confederation, a relatively small party with insignificant influence.[29]

We find the same to be true in general of the modern observant Jews within Israel, except that they have no clear organizational or party affiliation. Both the aims and the methods of Mizrachi are consonant with modern observant Jewry, which occupies more than one unified point of the spectrum of Israeli Jewry. And just as Mizrachi eventually split, and gave birth to Agudat Yisrael, so too do we see, just outside the borders of modern observant Jewry those who define themselves as either too modern or too observant to successfully combine the two.

We move now to a consideration of another article, this one published in Deot: Journal of Religious Academics in Israel. Michael Rosenak writes on "Some Thoughts Before Dialogue with

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[28] Ibid., p.23.

[29] Ibid.

the Conservative Movement"[30]. He is concerned with two issues as regards the Conservatives. First, is "Conservative" really just another name for modern orthodox? Second, if not, are we for or against the Conservative movement? The question may be asked, who exactly is the "we" in the second question? While making no claim that all religious academics in Israel are perforce also modern observant, it would seem apparent that simply by dealing with the existence of a modern movement in Judaism, these academics are not exactly rejecting a modern approach. They are in fact searching for a yardstick by which to measure both themselves and the Conservative movement. If Samet is correct in his assessment that Orthodoxy has as one of its characteristics a totally inflexible dogmatism, it would seem that religious Jews who consider approaches to halacha other than that taken by the Shulchan Aruch may indeed not be Orthodox. Let us then examine what the writer of this article sees as Conservative Judaism's stand on dat on the one hand and modernity on the other.

Rosenak speaks not only for himself, but also in the name of:

> ...those Jews, observant of commandments, who maintain 'torah im derech eretz' in its broadest sense, and who profess a true synthesis between our Torah and our modern world.[31]

His question on their behalf might be paraphrased as: 'Are

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[30] Michael Rosenak, "Thoughts Before Dialogue With the Conservative Movement" Deot 34 (Summer 1967): 249-261.

[31] Ibid., p. 249.

His question on their behalf might be paraphrased as: 'Are Conservative Jews to be considered part of this camp?' It is significant to us that Rosenak refers to the group of which he is part, as Orthodox, and not merely as dati. He also couches his question negatively:

> Or are we perhaps obliged, as Orthodox Jews, to see this Conservative Movement as hostile, as one of the factors of our time which destroys the spiritual and religious perfection of the modern Jew.[32]

While we might think that this is a purely theoretical question, Rosenak would contend that there are very practical implications inasmuch as Conservative Judaism, while not yet widespread in Israel may yet become so. Thus:

> ... the question is whether to invite them [Conservative olim] as religious partners, who have the ability to contribute to the improvement of the spiritual situation, or whether to see them as "infants who have been taken captive among the nations", who we must educate and bring closer to Torah.[33]

As a foward thinking person, he does not hesitate to state his agenda as being the prevention of a split with Judaism which would produce:

> Israelis of the Hebrew Canaanite 'religion' on the one hand, and Americans (or English, etc.) of the religion of Moses in a distorted and Protestant form on the other.[34]

Only real discussion can prevent such a situation from

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[32] Ibid.

[33] Ibid.

[34] Ibid.

becoming more exacerbated than it is already.

He is open to those forms of Judaism which do not stray from, "the language of tradition, and are permeated with historical Jewish ideals."[35] On the practical level, Rosenak is concerned if, as a result of Israeli invitation to settle in Israel, Conservative Jews ask to set up a school. What system will such a school come under, the dati or the klali? Will a Conservative synagogue be helpful or hurtful? These are all questions which deserve study and investigation on the part of that camp within Orthodoxy with which he identifies.

Rosenak call his group "liberal, Orthodox Jews"[36] and sees them as faced with the dilemma of how to approach the Conservative Movement. The parameters of this dilemma are described as follows:

> It is no secret that we, as "liberal" orthodox Jews, confront a religious, and even ideological dilemma in our search for a correct approach to this Movement. On one hand, as orthodox Jews we look with suspicion, and even enmity on 'progressive' religious movements - in that we see them as maintaining an unacceptable tendency to compromise towards non-Jewish societies and cultures, a tendency whose end is assimilation or distortion of the essence of Judaism. Thus we are opposed almost in an instinctual manner to the founding of Conservative synagogues. On the other hand, we cannot ignore the fact that different Conservative spokesmen, in writing or orally, express views which are similar to our views, and enlighten the problems of religious life in a way which not only is consonant with our stance (the 'orthodox') but

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[35] Ibid.

[36] Ibid.

spokesmen.[37]

The question goes beyond mere agreement between the two. Rosenak asks an even more startling question when he speculates on what an investigation of Conservative Judaism might yield:

> ... perhaps Torah goes out **from there**; perhaps we will get courage and reinforcement **from there** for the continuance of our search for halachic Judaism which is intertwined with modern thought; perhaps our place is **within them** and together with them (as long as we convince them to emigrate to Israel!) we will change the deficient religious reality in our society and in our official community?
> And yet, no![38]

Why does Michael Rosenak reject the even theoretically possible contribution of right wing Conservative Judaism to 'liberal orthodoxy' in Israel? Because instinctively, in their guts, his group feels 'we are we - Orthodox, and they are they - Conservative!' That this prevents interchange between the two is lamentable to Rosenak, but it is a by-product of the societal process on religious Jews in the two centers - America and Israel.

He outlines three groups, two of which he rejects totally. First he describes the majority of Jews today as no longer accepting the old view of Judaism:

> ...the approach that was acceptable in its time, that religion and life were bound up in each other is seen by this majority as a matter not of this world, and as an ideal that

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[37] Ibid., p. 149-50.

[38] Ibid.

> each other is seen by this majority as a matter not of this world, and as an ideal that is not worthy of serious study.[39]

Rosenak goes on to point out a subgroup within general Jewish society:

> Within a smaller group, which includes a number of intellectuals, and also a not insignificant number of "amcha", a number of attempts have been made to find new religious forms, which put the emphasis on religious conscience, and on the significance of the religious quality, but reject the command of the halacha.[40]

Let us note that the author states their rejection, not of the halacha, but of that essential character of it, i.e. its authority over them.

Finally, he points to a renewal, a revival of an Orthodoxy he thought had died at Auschwitz. This group has paid a dear price however, for conforming to normative Judaism, in that it chose leaders who had never faced the positive challenges of modernity and who rather rejected it all, positive and negative aspects alike.

Rosenak here agress with Samet's description of what has been a trying problem for Orthodoxy - in choosing its political leadership it has cemented its stance and lost its ability to adapt and change. Thus what amounts to a politically-necessitated petrifaction froze the face of Israeli orthodoxy and has only become more and more deeply

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[39] Ibid.

[40] Ibid.

imbedded in normative Orthodox Jewry's thinking.

> The leaders of this old/new orthodoxy demand, either consciously or unconsciously, the return to the Jewish philosophical framework of pre-Emancipation Eastern European Jewry, and set up solid barriers between them (the datiim) and those who do not accept their leadership - 'the non-datiim'.[41]

Rosenak thus faces a real challenge in trying to describe right wing conservative Jewry as actually agreeing with much of Orthodoxy, because the Orthodox have become too entrenched in their rejectionist attitude towards any Judaism which does not call itself Orthodox. This is a personal fight for him as well, inasmuch as he is part of this suspect group within Orthodoxy:

> The problem which troubles us - who are called 'enlightened religious' or 'modern' - is that the first two approaches surveyed above do not agree with our conception of the correct Jewish lifestyle, while the third does violence in part to our conception of Jewish thought. In short, we are neither devotees of the Reformation nor of the Counter-reformation.[42]

He continues to define even more precisely his/their view of man:

> We believe ... that man is defined by his relationship to his Creator, that only his relationship to the Holy One Blessed be He turns homo sapiens into a human being. Concerning us, a man is, as a fact of his very definition, a religious man. Just as we are unable to imagine a world without love and responsibility, so too we are unable to imagine a person without love of God and His

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[41] Ibid.

[42] Ibid.

service.[43]

His judgment as to the acceptability of the Conservative movement thus lies in their adherence to this view. As he frames this problem:

> A serious division is created between us and a religious, but non-halachic person... as sons of Jewish tradition we stand in respectful fear before God, Creator of Heaven and Earth (understanding and human conscience), but we worship the Giver of the Torah. We cannot escape moreover, from the feeling that any religious system or approach which sees in sentiments or in man's subjectivity the sole true standard for the worship of God forms in fact the cult of man (humanism?).... Concerning us, the conception that religion can be composed of ethical faith "and reactions to situations" alone seems as absurd as anarchy being a form of government. And inasmuch as we are unable to accept the alternative of secularity or of Judaism without halacha, we are obliged to accept the present situation of Orthodoxy as our spiritual citadel, and thus we are uncomfortable [with the present leadership].[44]

Left with no better option than identifying with the existent orthodox leadership, he feels compelled to explain this paradox:

> ... we are here orthodox Jews, I think, in consonance with the classic tradition (the non-ideological)... We declare, together with all our commandment observing brothers: "do not read halichot but rather halachot... we aspire to a faith, that our lives are signposts on a path that leads from the events at Mount Sinai to the days of the Messiah.[45]

Being a Jew in the traditional manner however, sometimes

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[43] Ibid.

[44] Ibid.

[45] Ibid.

conflicts with the political, and thus ideological reality of affiliation. Rosenak feels no need to justify his faith in modern philosophical terms, yet he feels that "scientific innovations and historical discoveries"[46] can **add** to this faith, and indeed should.

> We maintain that all of society (even the secular society) is the arena for legitimate struggle for religious life, and we reject the ideology of isolation from this society. Our religious institutions adopt the axiom that absoltue truth is bound together with literal belief in Scripture... and we think that perhaps the plane of religious truth is not identical with the scientific plane which deals with prosaic facts. We find ourselves in need of relevant new formulations of our faith and our halachic obligations.... it is hard for us to understand the version often heard in our camp, that relevancies of thought and deed are not dependent on historical changes and trials that a person is tested with. We hope for a day when halacha- through the sages of Torah, will come to grips with the new situation that exists at present, which is substantially different from the previous situation, in every area. Our political leaders ... too often pass over problems which require halachic study and decision making.[47]

Rosenak laments the closed-mindedness of Orthodox institutions in a very personal way, decrying their inablity to accept his teaching his son secular subjects, as his father had taught him. He is certainly deterred from following his father's custom for fear of being labelled an 'apostate', something which seems to have plagued this entire

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[46] Ibid.

[47] Ibid.

modern observant camp. This is the case in Israel, at least, except in the case of Deot, according to the author, whereas Rosenak points to examples of this type of thinking by men held in high esteem in America. Here we reach the crux of the matter, succinctly stated by Charles Liebman:

> The line between the left (or church) wing of Orthodoxy and the right wing of the Conservative movement is a very thin one. In fact, it is institutional loyalty far more than ideology which separates the two groups practically, though there are other, subtle distinctions, as well.[48]

Rosenak analyzes the issue of insitutional loyalty at length, reaching the conclusion that 'leftist' Orthodoxy simply cannot allow itself to break away and become a sect of Orthodoxy, because this would be too much of a rejection of tradition. They are thought of as Orthodox by the secularists, as suspected apostates by offical Orthodoxy and are ambivalent concerning themselves. Caught in this bind, again, they have no choice but to reluctantly align themselves with official orthodoxy and keep their consciences quiet. By looking at the developments in American Orthodoxy however, Rosenak again brings into consideration the question of Conservative Judaism as either a potential partner in the as yet unjoined battle against official orthodoxy, or at least as 'unorthodox' as himself.

The author dicusses Israeli Orthodoxy's rejection of

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[48] Charles Liebman, "Orthodoxy in American Jewish Life", in the American Jewish Yearbook, (1965): 45.

Conservative Jews on the basis that Conservative Jews don't accept the doctrine of torah min ha'shamayim. He quotes Robert Gordis: "... we accept the principle of torah min hashamayim **as a necessary basic principle of the Jewish religion...**"[49] to show that not all Conservative Jews reject the divine source of the commandments. He also finds support from Orthodox rabbis, such as Emmanuel Rackman, who is quoted to the effect that halacha is a result of what the Jewish people wants, rather than merely codices of laws frozen out of context[50]. Rackman concludes that sociological considerations are as much a part of Torah as are the written texts themselves.

What Rosenak is then led to conclude is that he is once again caught in a hypocritical situation. While he outwardly supports the Orthodox instituions, he and his group yet

> cast doubt on the fact that every paragraph of what is called 'normative halachic decision making' as it is **formulated and clarified at the moment**, is obligating halacha.[51]

He asks the pointed rhetorical question:

> How many of my readers, with all of their declarations in academic classrooms and lecturers platforms, truly see every paragraph of the Mishnah Brurah, our official standard for halachic behavior, as personally

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[49] Robert Gordis in Tradition and Change: The Development of the Conservative Movement, (1958): 377.

[50] Emmanuel Rackman, The Shabbat and Holidays In the Modern Period,: 8-9.

[51] Rosenak, p. 255.

obligating them?[52]

What then is the outcome to be, other than hypocritical behavior? Rosenak summarizes, not only the situation, but also the underlying reasons for it:

> We all share his concerns, which are a function of our institutional loyalty to anti-reformationist principles, which we do not accept. This is caused by the unreadiness of our rabbis to harmonize halacha and our inability to find God-fearing and learned rabbis who will teach us what to do and what to believe in, in the framework of our modern existence. The result is that we are forced at times, against all of our inner belief, to take the determination of the law into our hands. **And this is certainly not the way of halacha.**[53]

What is the solution then? Not to change our orthodox affiliation certainly, despite the Israeli environment which suppresses any urge towards original halachic thinking. Liberal religious groups are unacceptable to Rosenak, because they don't act truly orthodox. And what of the Conservatives after all? Here he again considers the possibility of Conservative affiliation as an option for 'liberal Orthodox' Jews like himself. Having already outlined his reasons for his remaining orthodox, i.e. institutional loyalty, he now proceeds to examine the political components of Conservative Judaism.

He begins with the recognition that:

> Between right wing Conservative Jews and

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[52] Ibid.

[53] Ibid.

> myself there are many shared assumptions. Both of us have a belief in the fact that traditional Jewish halacha and modern thought, not only do not necessarily conflict with each other, but rather that of late there is spiritual value and relevance, in the framework of the Jewish world, towards the fundamental problems which confront us. They, like I, uphold the traditional principles of faith, and we share the ambition to grant these a meaning which will fit our time and situation....[54]

They have a high degree of congruence also in the methodologies they accept to reach these ends. Despite all that is shared between them however, Rosenak concludes that:

> ...before I can allow myself to let a new institutional approach replace the present one, I must examine more closely the Conservative Movement as an institution. And in so doing I arrive, not without a sorrowful sigh, at the conclusion that my place is not in their ranks.[55]

Rosenak sees Conservative Judaism as being made up of three groups, from the least observant and unattached to faith, to the most observant and intensely religious. His characterization of the first group, the laity, is put into the form of a remark by a hypothetical Conservative Jew: "And so, I am not 100% orthodox, but I am certainly not Reform, I am somewhere in the middle."[56] He cites a Conservative youth who sees a place for religion in his life, but only up to the Conservative level and no further, thus seemingly resolving

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[54] Ibid., p. 256.

[55] Ibid.

[56] Ibid., p. 257.

any difficulty we might have in understanding why then he does homework on Shabbat.[57] Using such characterizations as his point of departure, it is no surprise that Rosenak cannot bring himself to accept this movement as his spiritual refuge! Before he gives up on this branch of Judaism however, he proceeds to the next subgroup: Conservative Rabbis.

His view of Conservative rabbis may be summed up in one adjective: compromised. They are hired by congregations who chose them: "out of an explicit goal of denying the principle of rabbinical authority."[58] They are thus fighting a losing battle against their congregants who do not want to increase either their commitment or their observance. This again is not attractive to Rosenak.

Finally we arrive at the most right wing element in Conservative Judaism - the majority of the scholars at JTS. These are men who realize that even nothing short of total compromise will satisfy the laity, so that, as Charles Liebman quotes a JTS professor with saying: "The rabbis debate whether it is permitted to ride to the synagogue on the Sabbath and the laymen ride."[59] It is not surprising that Rosenak finds it

> ... somehow difficult to respect the decisions of the Conservative law [<u>halacha</u>] committee,

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[57] Marshall Sklare, <u>Conservative Judaism: An American Religious Movement</u>, Free Press, Glencoe, Illinois, (1972).

[58] Rosenak, p. 257.

[59] Ibid.

> when the religious institutions of the Conservative Movement are often prisoners of the apathy of the laity in matters of religion. [60]

He is very sympathetic to their plight, particularly inasmuch as a percentage have given up on America and chosen to live in Israel, as he has. Sympathy however, does not imply identification with their cause, even thought they would supposedly offer 'liberal orthodoxy' their support.

All the above reasons lead Rosenak to state flatly that: "there are fundamental approaches and moods in the Conservative Movement with which we will be unable to agree."[61] Only through an honest examination will the two camps ever be able to join forces. "We agree, as do they, with the idea that religious Jews have no right to use the doubtful security of bitter sectarianism."[62] While two are better than one, the two must yet agree on crucial matters of religious import. What these matters are can be distilled from Prof. Eliezer Berkowitz's remarks[63]. This respected orthodox thinker holds that as long as there is agreement on three ideological principles of Judaism, i.e. on the existence of God; on <u>torah min hashamayim</u>, and on the oral Torah, then there is no need to define a group of Jews as a sect, no

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[60] Ibid.

[61] Ibid.

[62] Ibid.

[63] Ibid., p. 258.

matter how they interpret or apply these principle. Because Rosenak sees no agreement on these principles from the Conservative Movement, he feels justified in disassociating himself from it. He analyzes several facets of Conservativism to prove his point.

First, while his 'liberal orthodox' group sees no need to identify modernism with frivolity, they detect cynicism and skepticism towards Jewish tradition in writings of some Conservative scholars. This "invites self-hatred"[64] and is therefore not attractive to Rosenak. Second, while

> the strong romantic tendency in Conservative Judaism which continues from the days of the founder of the positive-historical school, Zachariah Frankel, had served originally as a weapon of tradition against the rationalism of the Reform Movement[,][65]

it is now rather an element of simplisticism, imparting a culturally Jewish patina to what are really secular matters.

Third, Rosenak rails against the open and accepting stance of his Conservative colleagues towards Jewish philosophies which are, in his opinion, apostasy.

> It seems to us, that even the most liberal Jew who moves along the path of <u>halacha</u>, cannot join himself to a Movement together with the Reconstructionist of Mordecai Kaplan (and again, with all due respect to his honesty and forthrightness). Institutional tolerance such as this seems to us as distorting the principle of freedom of expression and as widening it beyond the borders which yet allow an honest faith in basic Jewish teaching or

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[64] Ibid.

[65] Ibid.

the halacha's fundamental demands.[66]

Finally, Rosenak attacks the Conservative Movement for the same kind of arrogance to which it objects in Orthodoxy. Not only is this immodest, it is also a sign of "extreme clericalism"[67]; while trying to be accepting of differences within Judaism, it yet claims sole true leadership of all 'Judaisms' for itself. It is not clear if this is a criticism which can honestly be leveled against the entire movement, or if Jacob Neusner is the sole source of such inflammatory remarks on page 259 as have raised Rosenak's ire. Whatever the source, these objections to Conservative Judaism all appear as solid reasons to the author, thus justifying his rejection of the movement for himself and those he calls 'liberal orthodox'.

Our own nomenclature for this group is that of 'modern observant', which would possibly include right wing Conservative Jews. Rosenak admits that he shares a very basic component of his identity with these as well: "... he and I live in the same Jewish-halachic community."[68] Both accept modernity as requiring a response from this community as well, and no universally acceptable solutions have been submitted by either. The labels 'orthodox' and 'conservative' do not necessarily denote full observance of all the commandments, or

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[66] Ibid.

[67] Ibid., p. 259.

[68] Ibid.

so Rosenak would claim for American Jewry. Not for this reason alone he rejects extremes to the right in orthodoxy and to the left in conservativism, preferring what he sees as his left-wing 'ambivalent' orthodoxy over either. Here Rosenak disagrees with Samet in that he does not call Orthodoxy an ideology:

> In other words, the term 'orthodox' doesn't give me an ideology, but rather points to a rejection of ideologies. A man is Orthodox because he does not agree with Reform, with conservative or with the secular approaches. thus, the Satmer Rebbe is not a member of my **movement**; Mordecai Kaplan is a member of the Conservative movement.[69]

He concludes with a restatement of his reasons why he and those who would ally themselves to his way of thinking oppose:

> ... the founding of a Conservative synagogue in Israel, like the one founded in Ashkelon a year ago, even though I have nothing but sympathy and cooperativeness towards the rabbi of that congregation.[70]

His objection is an institutional one then, not a philosophical one. He again voices the commonality between them

> ... that all of us - insofar as we are bound to halachic Judaism, we are all members of the same philosophic community, offspring of the same type of Judaism...[71]

What both face however, is the challenge to change the face of Israel's religious community which may well be best

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[69] Ibid., p. 259-60.

[70] Ibid.

[71] Ibid.

accomplished through parallel action. Seeing Conservative Jews as the enemy in this struggle is not helpful; they are after all **halachic**, whereas the majority of Jews aren't. When we drive them away we weaken our chances of attaining our shared goal. If we welcome Conservative aliyah we strengthen both Israel and the Jewish centrist religious community.

Thus Rosenak proposes encouraging **observant** Conservative aliyah, even though:

> We, the liberal Orthodox, and they, the right wing Conservatives, can find the partnership as annoying to each other, but this is a matter where the rabbinic expression 'the air of the Land of Israel makes people wise' is especially fitting, for the halachic dilettantism of a portion of Conservative olim in large measure the result of almost absurd American sociology, in which 'religiosity' of a certain type is a function of assimilation.[72]

Living in Israel will make traditional observance natural for them, and the alliance they form naturally with the orthodox will strengthen both.

In sum, Rosenak advocates welcoming modern observant Jewish aliyah as such, that is, de-emphasizing the unfortunate labels which society has placed on observant Jews, so that observance, tradition and religion may attain their right place in Israel.

> Let us dedicate ourselves - under the leadership of Torah sages, who understand that truth is not given to division, and who know sufficiently the facts which we may not hide from today in order to prevent partial

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[72] Ibid.

> solutions - to a life of Torah and commandments, which will be a fitting interpretation in the name of true Jewish life, and which will be, we hope, a source of light to our confused brothers in all their inhabitations.[73]

We turn now from a rejection of Conservative Judaism, as an institution, by at least one member of the modern observant camp, to a critique of an element of that same camp. Ya'akov Yeduhah Falk, an orthodox Jew and brother of Dr. Ze'ev Falk, member of the Movement for Torah Judaism, is very far from being an adherent of the Movement himself. He sees it as doing violence to what he calls historical Judaism.

Falk speaks of the Movement as counting among its members, "some men of science, from among the best of the religious intelligentsia" and as "seriously considering the religious situation in the State, which continues to grow more serious."[74] He objects, however to suggestions for change made by the Movement out of a desire to mend the present ills of the Israeli religious community. His disagreement with their conclusions is based on his opposition both to the methods and ideology behind them. Clarity is required to determine what steps should be taken, in Falk's words:

> It is probable that if we clarify honestly and straight-forwardly these differences [in approach held by different groups with the general religious camp] - we will prevent ourselves from mutually casting blame, and it

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[73] Ibid.

[74] Ya'akov Yehudah Falk, "Judaism of Torah or Judaism of Progress?" Deot 35, (Winter 1968): 323.

> will become clear to us that some of the actions and oversights of certain individuals or groups are done, not out of a desire to be evasive, or out of habit, but because those who do them are forced to by their consciences'.[75]

From the outset then, we can typify Falk as a self-proclaimed defender of the true faith of Israel. He quotes Ephraim Elimelech Urbach's address to the first convention of the Movement for Torah Judaism (which he was instrumental in founding) as calling for "revival and renewal of the halacha."[76] Urbach hearkens back to the days of halachic risk-takers such as Rabban Yochanan ben Zakkai, Akiva and Yehuda HaNasi, we assume as reminders of their profound progressive influence on masses of Jews, something which Urbach has not met with success in attempting. The speaker agrees with Maimonides' opinion that temporary radical change must sometimes be made in Judaism if it is to survive.

Falk, on the other hand, sees no need for such renewal or revival of the halacha; he sees it as living since Sinai, continued through those who express it truthfully. Thus he is not to be counted among those to whom the Movement addresses itself - those who believe in development of halacha. Such people hold that creation of halacha has stopped in our generation. One of these, Professor Yeshaiyahu Leibowitz, is quoted here to the effect that while a new approach is

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[75] Ibid.

[76] Ibid.

certainly called for, it must necessarily lead away from the accepted religious practice of generations. True, these were generations without political autonomy or responsibility for the state's actions on part of the citizenry, "nevertheless, this will be the law according to Torah. [din torah]"[77]

Falk rejects this, disassociating himself from those who were educated in Conservative and Reform frameworks, and defining his view of Torah as both wholly divine and immutable. What separates Falk from the fundamentalist approach is that he believes that the framework of halacha is flexible, but only as much as the greatest Torah sages of the day choose to make it. Falk goes through the various solutions for exercising this flexibility, beginning with the example of takkanot.

First, he notes that when these have been instituted, they have come, not against the law according to Torah, but as a fence around it, serving to make transgression even more improbable. Falk is very distrustful of people like Urbach, whose takkanot he feels certain, would contravene the law according to Torah. In addition, Urbach would not be a personality of sufficient religious and Jewish scholastic stature to frame takkanot. Where does Falk get his ideas for what takkanot should and should not be, as well as for who should or should not legislate them? From the Chazon Ish, who lets truly religious Jews ignore with impunity any takkanot

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[77] Ibid., p. 324.

legislated by humanists, or non-religious Jews. This same halachic authority would only accept temporary halachic legislation in any event. "Judgment is the Lord's", and no human power should attempt to add to or subtract from what has been laid down as law by past sages. Not even the Chazon Ish thought himself fit for the task of issuing takannot, how then can we accept the proposed changes suggested by men much less learned and pious than he?

Falk holds forth on the pre-eminence of Torah law over human morality and conscience. To his way of thinking, those who would try to change the strict law concerning saving a non-Jewish life on Shabbat or performing autopsies, is bringing foreign values to bear on halacha. Either one is totally within the system and its values or one is not. Using the nuances in the halacha to reach already foregone conclusions which assuage one's conscience is a distortion of Judaism to him.

Yet there are avenues available to an observant person who wishes to investigate the possibility of changes in, for example, the laws of personal status. He brings, as an example of what **not** to do, his brother Ze'ev:

> To begin with, we must note, that despite the writer's good intentions, his method is decidedly defective. In such a delicate matter he should have turned to Torah Sages, in order to suggest his doubts to them. If indeed he had done so, and did not merit their response, even then, if he wrote honestly, that he did not want to instruct halachically (God forbid) before those authorized for this - he would have no other

> choice but to conclude from this, that their opinions were not comfortable with his proposal, rather than publishing it on all sorts of platforms ...[78]

What motivates such activity? Certainly not the desire to encourage observance of the halacha! And yet, that is what the Movement for Torah Judaism would have the public believe:

> This tendency, of not making it hard on the non-observant public in the matter of "simple" prohibitions in order to prevent by this [transgressions of] more severe prohibitions, is astonishing. Perhaps Professor Urbach and Dr. Ze'ev Falk will suggest that the Chief Rabbinate give certification of kashrut to those restaurants which serve chicken in milk, if there is a chance that by doing so, the citizens will forego animal flesh that has been cooked in milk, which has a Toraitic prohibition against it?[79]

What then is the fundamental conflict between Ya'akov and Ze'ev Falk's respective modes of thinking? Both live in Israel, both suppor the observance of religion, both wish to influence their modern, autonomous society. According to Ya'akov the difference is that for the latter, "... if Religion and State, Religion and Reality oppose each other - Religion must be the one to retreat."[80] He sees sacrifice on the part of the State for the sake of preserving Judaism as essential, even if it is not absolutely realistic:

> Even if they do prove to us that it is truly impossible to maintain a modern state, with all its security and economic service intact,

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[78] Ibid., p. 324.

[79] Ibid.

[80] Ibid., p. 329.

> with the observance of all the laws of the Torah, even then it would never occur to us to turn from that same 'custom and manner of religious living which has been sanctified with the sanctity of generations.' For we believe with a perfect faith, that this Torah, whether written or oral, will never be replaced.[81]

In attempting then to define who this group is, we can see that it is a product of the historical processes which gave rise to Orthodoxy in the 18th century, albeit an unforeseen product. It is not what either the Chatam Sofer or the Chazon Ish would call true Judaism, yet neither is it fundamentally akin to either Frankel's positive-historical Conservative Judaism or Mordecai Kaplan's Reconstructionism. It is modern, without espousing the belief that newer is better. It is halachically observant, while yet sympathizing with those who are not. Finally, it is small and politicially unempowered, consisting mostly of intellectuals and theoreticians of Judaism.

These Jews, who had no voice to speak with, no party to represent them in Israel's government, and no agreed-upon leadership, yet had a high degree of congruence in the ways they reason. What unified them as a group is their passionate concern for the continuity of the halacha; the last thing they wish to witness is its death at the hands of the political machine known as the Israeli orthodox establishment. The articles they composed were as varied as their authors, yet

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[81] Ibid., p. 330.

each shared two components: a positive approach to halacha, which sought to preserve its spirit, and an awareness of the immense change which life in Israel posed to the forms of normative Judaism. The fact that the members of this modern observant camp did not succeeded in crystallizing a concrete program for transmitting their views to a broad spectrum of observant Jews is unfortunate. That they attempted to define themselves is at least a start for others who may someday pick up their thread.

What we have studied in this chapter is but one face of 'modern observant' Judaism in Israel during the years 1967 to 1973. There are specific issues, urgent problems which those who identified with this way of living and thinking struggled with. On both university campuses and HaKibbutz HaDati we can see the process of accomodating democratic change within the halachic framework unfold. We move on now to a consideration of some of the great variety of ways members of this modern observant group within religious Jewry expressed their thoughts and opinions.

CHAPTER TWO: PRACTICAL ISSUES IN DAT U'MEDINA

Itzchak Englard, in 1969 a senior lecturer in the Law of Obligations at Hebrew University, addressed the thorny problem of how the secular Jewish State of Israel determines one's Jewishness, for political ends. In the second volume of Mahalachim, August 1969, he writes an article on the issue of Israeli Jewish identity - "V'Shuv Mi Hu Yehudi?", analyzing in part both the Shalit and the Rufeisen cases. Englard approaches the problem from the medina end of dat u'medina, concluding that "there are no legal tools for a solution of the question."[1] His analysis of the cases is very helpful however, in understanding the dynamics of religion in the Israeli political arena. Before considering the larger generalities, let us acquaint ourselves with the facts of the Shalit case.[2]

Benjamin Shalit, an officer in the Israeli Navy had attended the University of Edinburgh in Scotland, and there met and married Anne Geddes, a non-Jew. She eventually became a naturalized Israeli, possessed of an identity card showing her as British under "Leom" and as professing no faith under "Religion." They had a boy and girl, who were "brought up like all Israeli Jewish children". We can assume that this

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[1] Itzchak Englard, "V'shuv Mi Hu Yehudi?" Mahalachim 5, (1969): 25ff.

[2] The following details are from S. Zalman Abramov, Perpetual Dilemma: The Question of Jewish Religion in the Jewish State, (Cranbury, NJ; Associated University Press, 1976): 298ff.

means the children had a nationalistic Jewish identity, but not a religious Jewish identity. The children's identity cards were marked, "under the heading of "Religion" the words "No registration," and under the heading "Leom" the words "Jewish father and non-Jewish mother." The matter came before the Supreme Court in 1968 at Shalit's request of that body to direct the Minster of the Interior and the registry officer to prove their side in denying the children being registered as Jews in terms of national affinity, and as persons without a religion. It was a popular case; the plaintiff pleaded his cause himself. He was perhaps the first to enter into a legal fight for a secular meaning of the term "Jew":

> In a sovereign Jewish state, the equation of nationhood and religion was inadmissible. One's identity was a matter for one's own determination, and could not be imposed contrary to conviction...

But the Orthodox were prepared to fight as well. Mafdal, the National Religious Party, threatened to resign should the 1960 directive be overturned.[3] The Supreme Court came under a great deal of pressure to maintain the status quo from Orthodox rabbis within Israel and abroad. The Attorney General prepared a comprehensive brief, concluding in it that religious and national identity were indivisible, and that in fact, it was the religious element which determined one's national identity. This meant that the only way to either give up or gain a Jewish identity was

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[3] This directive provided that only one whose mother was Jewish could be registered as a Jew under both the "religion" and "leom" headings on one's identity card.

through conversion.

The nine Justices of the Israeli Supreme Court felt more than only religious pressures. 1969 was an election year, and the outcome of the case would so clearly affect the composition of the coalition government, that the Court postponed its decision until 1970. Earlier they had tried to dissuade the government from including the item of "leom" as part of a citizen's registration, which would render the issue null and void, but were unsuccessful. According to Abramov's analysis, there were three groups of opinions expressed in the written decision, which amounted to more than 200 pages.

Four out of five justices were in favor of upholding the 1960 directives. Of these, Justices M. Silberg and J. Kister voiced opinions which would dismiss the petition altogether. The former came out firmly on the side of religion being the determining factor in determining one's Jewishness, while the latter held that "... [t]he court could not bring into the Jewish fold persons who up till that point had not been recognized as Jews." The second group identified by Abramov is the most interesting for our purposes however, insofar as Englard would agree most closely with it.

Both Chief Justice S. Agranat and Justice M. Landau felt the question was not of a character suitable to adjudication by the court. Ideology is not part of the judicial branch's role in government but rather belongs to the legislature, which should enact laws to reflect the government's ideology. Both these

Justices preferred not to express opinions in the matter, as they are permitted to do.

The majority of Justices not only expressed an opinion, but determined that the previous directives should be invalidated as they were unenforceable. Justice H. Cohen pointed out that while the rabbinical courts were bound to determine one's identity according to the halacha, this did not imply that all other government branches must do so as well. What a person's identity card represents then is not necessarily acceptable evidence for the rabbinical courts, but rather an administrative record of the citizen's declared identity. The majority decision thus resulted in the Shalit children being registered as their father had requested, as belonging to no religion, yet having the entry of Jewish under the heading leom.

The Shalit case followed the "Brother Daniel" affair, which was very different from it for two reasons. First, the Rufeisen case dealt with a person who could be considered halachically Jewish, and second, it hinged on the wording of the Law of Return, rather than on the more ambiguous wording of the Population Registry Law. The events of the case are well known, but it would be fitting to examine the specifics of the Law of Return, as given here by Abramov:

> The Law of Return, enacted in 1950, provides that every Jew has the right to come to Israel as an Oleh (Hebrew, one who ascends)... Every Jew who expresses his desire to settle in Israel is granted an immigration visa as of right, unless the Minister of the Interior has reason to believe that the applicant is acting against the

> Jewish people, or is likely to endanger public health or the security of the state. The law was intended to give legal expression to the raison d'etre of the Jewish state, which is the Ingathering of the Exiles and was based on the principle that a Jew, wherever he might be, was a potential citizen of the Jewish state. By expressing a desire to settle in Israel, he would acquire the legal right to obtain the visa of an Oleh. A Jew who is already in Israel on a visitor's visa, and subsequently expresses his desire to settle in the country, is entitled to change his status to that of an Oleh.[4]

The psychological and emotional components of such legislation are very telling. The brother Daniel case showed only the tip of the iceberg as far as the problem of Jewish identity in the Jewish state is concerned. What Englard and others write are their attempts at understanding, if not solving this very difficult problem.

Englard perceived the real difficulty the Supreme Court faced in being forced essentially to decide on these issues. It was unable to defend itself from criticism levelled against it, unlike the legislative and enforcement arms of the government. What a court, and most certainly the Supreme Court, should be doing is deciding, not the ideology of an issue, but on which side of the argument justice is to be found. In the Shalit case, it is doubtful that there was any answer which could be clearly defended as an absolutely just one.

The circumstances of the Shalit case are complex. It was a

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[4] Abramov, p. 285.

tense time for the country, both in terms of the military losses being sustained near Suez, and in that elections were approaching, including those for the Chief Rabbis. The Supreme Court was being asked to determine a question which Englard sees as an ideological one; in his opinion the law courts are wholly unfit for this purpose. Thus they are forced to go to unprecedented lengths in order to resolve the difficulty. The first time this happened, in the Rufeisen case, Englard characterizes the court's thinking as follows:

> The word "Jew" appears in the Law of Return, and thus the Court saw the essential problem as one of interpretation of that concept. Here the intertwining of the definition of a Jew according to halachic determinations with the legal result of the Law of Return would have brought the opinion of the court to the granting of citizenship.
> [...] the law court ... split the concept "Jew" into two different meanings: the one- according to the criteria of the halacha; the other - according to secular nationalist criteria.[5]

He is openly skeptical of such rationalizations: "We have the gravest of doubts concerning the correctness of such a division from a legal perspective."[6]

Skepticism has its place, and the author voices a scholarly legal opinion, yet he is cognizant of the practical exigencies under which the Supreme Court operated. While Englard would agree with Justices Agranat and Landau that the nature of the question "Who is a Jew?" disqualifies it for adjudication by

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[5] Englard, p. 24.

[6] Ibid.

the courts, he is sympathetic to their unenviable position of having to adjudicate it under duress. Englard is after all, an academic, and has the luxury of being right on paper, while the Justices of the Supreme Court are held responsible for that body's decisions. Englard includes in his brief contribution on this subject a telling comment on the interpretation of such forced legal decisions:

> The Court no doubt saw in its proposal a sort of pragmatic solution, which had the ability to prevent a frontal collision between differing opinions. But this rationalist approach was not understood thusly, but rather as a blow to the ideological principle itself. It stands to reason that the plaintiff does not see in the recording [of the children's particulars] a goal unto itself; we must assume that he sees in the change of the concept "Jew" a first stage towards a change of the "status quo" in matters of dat and medina.[7]

Finally, Englard concludes with some thoughts which give us some clue as to where he finds himself on the spectrum of Israeli orthodoxy. He describes the modern concept of nationality as being made up of two kinds of foundational elements: substantive and psychological. Insofar as the substantive elements of Judaism, such as language, race and territory, change over time, he can conclude that Judaism, **as a nationalistically defined concept**, has no critical need for religion in its composition. It goes without saying that the author would feel a great loss if Judaism were to cease being both a religion and a nationality. As a legal scholar

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[7] Ibid.

however, he can understand that others feel differently than he, and are entitled to defend their beliefs under the law.

In the same volume Mahalachim published a selection of several distinguished Jews' responses to David Ben-Gurion's request for their thoughts on the "Who is a Jew?" issue[8]. In 1959, the then prime minister had asked "chachmei Yisrael" to provide him with their opinions, which were later published, but never in the complete original Hebrew. Mahalachim's editorship sought fit to reprint some of them in an edited form, ten years later in the wake of the Shalit case, or in their words, because:

> Today, when the problem has again arisen, we have seen fit to bring before our readers a typical selection of parts of these answers...[9]

Not only does this give evidence of the Movement for Torah Judaism's concern for historical accuracy, it also gives it a chance to display its readiness to survey opinions other than its own. This pluralistic approach may be intentional, both as an example to its critics and as a way to create the impression that the Movement is larger than it is in actuality, with many sympathizers. For the purposes of this work, we will examine only those Israelis included in this group, beginning with the Movement for Torah Judaism's founder

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[8] U'v'chein Mi Hu Yehudi?, Mahalachim 2, (August 1969): 27ff.

[9] Ibid., p. 27.

arranged alphabetically according to Hebrew surname.]

Urbach would agree with Englard, Agranat and Landau in preferring that the issue of registering one's religion and leom not be one with which the Supreme Court deals, but for very different reasons. He says:

> The determination of a citizen's dat can only be a matter for churches, institutions and organizations for whom religious affiliation is determinative, and in a free state the authority to determine who belongs to these and who doesn't is in their hands, and only in their hands.[10]

The specifics of the Shalit case are different however, and Urbach classifies it thusly: "The matter of registration is nothing other than hora'at sha'ah in a time of emergency and amounts to being a cruel necessity."[11] What is most troubling to him then, are the implications of such a precedent.

Urbach points to some potential problematic situations both within Israel and abroad. Within the state a person who is not halachically Jewish, but is registered as a Jew at his parents instigation, may well be refused permission to marry a Jew by Israeli marriage registrants. Non-Jewish offspring of mixed marriages abroad might be considered Jews by their country's fellow Jews, but as non-Jews by the Jewish State. The author's general klal Yisrael sympathies are apparent in his reply, yet he is zealous not to cheapen the worth of his faith. "Judaism is not acquired by words, and 'what you get

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[10] Ibid.

[11] Ibid.

for nothing is worth nothing'."[12] In mixed marriages where the mother is not only a non-Jew but is actively so, the declaration that the children are Jewish is not supported by the facts of the family's life style. Thus Judaism suffers more than it has gained. In other words, Urbach predicts that the legal precedent may be cause for more, rather than less divisiveness among Jews. The author concludes his response succinctly:

> It appears to me that the registration of children, who were born of a mixed marriage, on the basis of their parents' expressed desire and declaration that the child is not a member of another faith, has a clear loss and a suspect gain. This takkanah, which is justified as being needed ad hoc legislation and for an emergency situation, has bound up in it a disgrace for generations.[13]

Taking another tack is the next contributor, Shmuel Hugo Bergman, at the time Emeritus Professor of Philosophy of the Hebrew University. He states at the very beginning of the excerpted section that "... I believe in the particular sanctity of Israel as 'a holy nation', in which nationality and religion are identical."[14] He agrees with Franz Rosenzweig that in Judaism, natal identity has replaced faith identity, that is, that being born a Jew has done away with the necessity to act or believe as a Jew. Nonetheless, he understands the particular historic context which gave rise to

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[12] Ibid., p. 28.

[13] Ibid.

[14] Ibid.

understands the particular historic context which gave rise to the situation under discussion. It is important to note here that not only the Shalit case, but also the decision to accept a person's whole-hearted declaration of his/her Jewishness as sufficient evidence of his/her faith, are being discussed here. Thus:

> ... the concept "Jew" was hereby created which does not in any way fit the concept "Jew" according to the halacha. In the language of logical reasoning: here are created two concepts of "Jew", both of which bear the same name of double-meaning (equivocation). If we want not to delude ourselves, we must differentiate between the two concepts of "Jew-according-to-halacha", and "Jew according-to-one's-declaration". These two concepts are not congruent with each other.[15]

Bergman's fear then, is not only that of the immediate impact and problems created by such equivocation, but is more deeply rooted. He is very much distressed at the aspect of a people, an Israel devoid of its particularity. Rather than cover this up with gracious phrasing, he prefers to state the problem blatantly: either the Jewish people will maintain a recognizably Jewish (i.e. halachic) identity, or it will jeopardize its very survival. Having expressed himself on the generalities of the issues, he then goes on to make practical suggestions. He sees two possibilities for the registration of children of mixed marriages as Jews. We cite here the second of these:

> It is possible to forego registration of

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[15] Ibid.

> this, that the nationality of every citizen should be registered, but I do not find any convincing argument for registration of religion. Thus the best solution seems to me to be the foregoing of regsitration of religion.[16]

Bergman does not lose hope that the situation will simply change so that the concept of "Jew", both from the religious as well as the secular viewpoint. will be congruent once again. Perhaps this is solely due to his being a teacher of philosophy, perhaps not. One's vocation is much more determinative of one's stance on this issue when one is the Chief Rabbi of the Israel Defence Forces.

We turn now to a consideration of Rabbi Shlomo Goren's response. Goren asserts the univocality of the halacha in considering the status of a child to derive from that of its mother, "me'az u'me'tamid"[17]. Conversion has always been an acceptable option for those who want to benefit from their father's status. Conversion of minor children by a rabbinical court with parental approval is a possible option, even if the parents do not convert. But even in this case, the minor has the right to renounce the conversion upon attaining majority. Insofar as Goren sees the halachic possibility for a solution, he rejects out of hand any other type offered:

> No representative body, government or regime, has the legal and moral right and justification to destroy a tradition of thousands of years, and to set a secular

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[16] Ibid.

[17] Ibid.

> policy for accepting converts which is not in accordance with the halacha, even if only for the registration of their nationality.[18]

For Goren then, the fear is not that the Shalit decision will change the face of Judaism, which is certain, but rather that religious conversion to Judaism will be replaced by this nationlistic conversion to the Jewish people.

Goren also notes the discrepancy created by the Shalit decision of a person registered as a Jew who is yet not halachically Jewish. He also objects to the decision to register as Jews those adults who declare themselves to be Jewish wholeheartedly, as this could lead to a great number of non-Jews within the Jewish people. What he offers as a solution to the problem of non-halachic criteria for registration of an Israeli citizen as Jewish is a compromise:

> We must create a special status of "a person on the way to conversion" in the population register ... this status will include all those minors requiring conversion where there is no possibility for immersion, but they are in the process of converting according to the agreement of their parents.[19]

That this suggestion has not been adopted by the Israeli government is not surprising. That Rabbi Shlomo Goren tried to find an innovative halachic solution to a modern problem is.

Haim Cohen, at the time of the writing a legal advisor to the governemnt, and a former Supreme Court Justice who sat on

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[18] Ibid.

[19] Ibid.

the Shalit case addressed the issue of the Law as such:

> ... the religious authorities in the state are not the ones appointed to implement the Law of return, the Law of citizenship, or the order for inhabitants' registry, but rather, the Minister of the Interior is appointed for their implementation; and one should not imagine, that in placing the implementation of such laws upon the Minister of the Interior, the Knesset meant to authorize him to determine the Jewishness of a man according to the laws of religion.[20]

Cohen sees relevancy in a person's Jewishness only when it is questioned in regard to Israeli law determined by halacha, i.e. the laws of marriage and divorce. The entire question of Jewishness as regards one's citizenship then, is irrelevant, as Jewish law has nothing to say about one becoming a citizen of a modern Jewish state. He makes a clear distinction between relgious and nationalist identities, and states that, "in the matter of registering a person in the population registry, this does not require specifically an halachic solution."[21] Just because one of the state's laws requires registration of a person's religious status does not mean that the registration clerk is the one responsible for determining a registrant's halachic status. The clerk is responsible only for recording what the registrant says, and despite his suspicions, the clerk has no authority to accept or reject the registrant's declaration. Only the religious courts are

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[20] Ibid., p. 32.

[21] Ibid.

authorized to deal with such matters.

Cohen is not only a legal scholar, he is also a person very much in touch with Jewish tradition and custom, although non-observant in practice. Like Englard, he would prefer to see everything in its correct place under the law, yet understands the blurring that often occurs. He is sensitive to the changing circumstances of the Jewish people, noting that as far as converts are concerned, modern Israel no longer functions the way ancient Israelite society did. We today do not assume that any convert is a righteous convert. This is to our detriment, as Cohen reminds us that the Midrash says that God loves converts. We seem to have forgotten this aspect of our tradition, preferring instead to emphasize the negative side of this issue: "kashe gerim leYisrael k'sapachat" (Kiddushin 70b). While the official "religous" Jewish position was shaped by such thinking according to Cohen, this is not the true spirit of Israel. He cites the RaMBaM and Tosafot in their attempts to make this idiom more palatable, and defends the viability of such thinking in the modern context. Cohen quotes the Beit Yosef of Caro concerning bastards [mamzerim] in this world who will be kosher Jews in the world to come. He offers a practical, everyday solution rather than either a civilly or halachically legal one:

> ... that is to say, that one who knows a woman who is p'sulah [defective in her Jewish status], is not obliged to reveal the matter, but rather he should let her be assumed to be

> kosher, and in the world to come, despite the facts being known, she will be kosher.[22]

Cohen's reluctance to offer either a compromise, as did Gøren, or a total rejection of converts is evidence of his pragmatism. Life goes on in Israel no matter who is registered as Jewish, and the less tension that is produced as a result, the better for everyone involved.

Finally, Shmuel Yosef Agnon responds to David Ben-Gurion's request, in an inimitably poetic manner:

> With your permission I will add something of which I was not asked. Religion and state at the present moment are like two neighbors who are not comfortable with one another. And it is worthwhile that you, upon whom the peace and welfare of the nation depend, withdraw your hand from considering the matter of religion, whether for good or bad, in order that your mind be free for the matters of state.[23]

What Agnon says to Ben-Gurion is perhaps really what every one of the respondents would have preferred to say. The complexity of enacting and enforcing laws in the Jewish state which are in even potential conflict with the halacha is vast. That people are committed to continuing a fruitful wrestling with the problem, is to our mind much to their credit, although fraught with dangers.

Overall, most of those whose opinions were presented here fear that a radical change in the definition of Jewishness will bring about the dissolution of that identity. Whether it

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[22] Ibid.

[23] Ibid.

is Shmuel Hugo Bergman, who would rather that one's nationality, but not religion, be registered or Shlomo Goren, who would invent a new halachic category of "in the process of converting", the motivation is to keep intact that which has survived millenia. It is paradoxical that the attempt to define legally who a Jew is seems to have almost torn asunder the one state in the world where the majority of the inhabitants are Jews!

We move now from the responses of many to the response of a single individual. In the April 1968 issue of Amudim, the journal of HaKibbutz HaDati, we find kibbutznik Eliezer Goldman's critique of Menahem Elon's book Chakikah Datit[24]. Goldman deals with the reality of implementation of legislation, rather than its original intented effect. Thus:

> The manner in which the law is put into action depends, in the first place, on the courts authorized to interpret it....
> The ability of a law to direct reality is limited by the prevalent views and stances...
> For a variety of different reasons, the Israeli legislature [the Knesset] has agreed to give validity in its legislation to a number of norms which have their historical origin in the halacha.[25]

Goldman describes with great clarity how Elon analyzes the different bases for Israeli law as versus halacha. The former is based on the essential legislative principle of the

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[24] Menahem Elon, Chakikah Datit b'Chukei Medinat Yisrael u'v'Shfitah shel Batei Mishpat u'Vatei HaDin HaRabaniim, HaKibbutz HaDati, (1968).

[25] Eliezer Goldman, "The Halacha in the Law of the State", Amudim 266, (March 1968): 192-4.

authority of the Knesset, while the latter is based on the authority of the Torah.

> When a judge is authorized by the law of the state to judge a certain matter according to din Torah, a paradoxical situation is created. This same judge continues to see himself, and with good reason, as deriving his authority from din Torah. Be that as it may, from the viewpoint of the law of the state, his authority derives from the legislation of the Knesset. This says that the authority of the judge, in this same judgment, is in one manner held by the halacha, which is the law by which the judge judges, and in a different manner, by the law of the state, which grants him authority to judge in the legal structure of the state.[24]

Another, perhaps even more complex example, is the Chief Rabbinate's authority to rule on matters of kashrut. Because the Rabbinate, like any other body that the Knesset grants authority to, is subject to the Supreme Court's rulings, a tangled web is woven. The Rabbinate sees itself as the sole representative and interpreter of halacha in matters of kashrut, and thus **not** at all subject to the Supreme Court's authority. Thus, despite the fact that the Rabbinate would never have had the power to rule on matters of kashrut had not the Knesset granted it such power, it does not see itself as bound to obey the Supreme Court's authority.

Goldman goes on to expand his previous point. If halachic norms do indeed make their way into the legal system of Israel, they do not retain their purely halachic nature. This is because inevitably over time, the civil judges who are

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[24] Ibid.

authorized to interpret these laws will do so out of their non-halachic perspectives, and thus substantively change the nature of such legislation. We see this clearly in the matter of marriage and divorce, which comes under civilian law when there is question as to the personal status of the parties involved. In such cases, both the civil and the religious courts may decide on the same case, using the same law, and reach different conclusions, one being based on an halachic interpretation, the other on a secular one.

Goldman now turns to consideration of a point Elon makes through numerous citations, i.e. that a judge is more than simply a legal computer, s/he is an interpreter of the law who must perforce filter that interpretation through his/her values, ideology, etc. As he writes:

> The reader is in the author's debt for the great interest which is to be found in the cited examples of the judges as to how much the destiny of an act of legislation is dependent upon the personal ideology of the judges interpreting it.[27]

Lest we think that this is purely a modern phenomenon, Goldman adds that the same is true of religious legislators, of posqim. No matter what kind of law we are dealing with, the treatment of it by the judge is equally subjective.

Goldman continues by describing how Elon interprets the problem of y'duah b'tzibur. Inasmuch as the legislation regarding a woman who cohabits with a man came out of a world

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[27] Ibid.

view which sees value in granting social rights to partners, whether married or not, one can already see where the clash with the values expressed by halacha occurs. Goldman makes the case for the necessity of such legislation because, despite the fact that in all probability, most Israelis **want** to be married Jewishly, not all the aspects of halachic marriage appeal to them, and the societal pressure would be too much for the law to handle. Thus legislation is created which exactly bears out Elon's hypothesis, that the interpretation of legislation is, in the final analysis, much more powerful in its effect than is the original intention of that legislator who framed it.

Not only do we agree with Goldman's analysis of what is involved in the making of laws, we are also aware that he speaks for a positive interweaving of halacha into modern secular Israeli society. He notes that Israelis **do** want a Jewish wedding, and we know that many of them also willingly incorporate other aspects of halacha into their daily lives. When it comes to the thornier problems of Jewish identity, we face the problems seen in the previous articles, i.e. that one's values, while essentially deriving from the halacha, do not permit one to see the fixing of law on the basis of halacha alone.

Two years later, in the April 1970 issue of Amudim, we see again a treatment of Professor Elon's book, this time by kibbutznik Simcha Raz. Raz asks a question very much on the minds of many Israelis at the time, i.e., "... will the State of

Israel be a state of law or a state of halacha?"[28] In the first case, individuals would be elected to determine the legislative process fitting for the society, whereas in the second, those individuals responsible for legislation would have only as much authority as the halacha grants them. Whether the two are mutually exclusive is as yet unclear. There have not yet been laws passed which directly oppose the halacha, yet there are those which contradict its spirit. In this category Raz includes the "Who is a Jew?" leigislation, which he feels cannot be understood properly unless:

> ... we devote ourselves to understanding the legislative structure in Israel, as it is determined by the laws of Israel and its civil and religious judges.[29]

Menahem Elon's book can aid us in our struggle to gain such an understanding, as he makes us aware of the scope of religious legislation, noting that the halacha deals with such mundane matters as legislation concerning water. Furthermore, laws which are not usually thought of as religious in nature are also covered by the halacha.

What is important to bear in mind in considering Raz's treatment of this very important work by Elon is that Raz is searching for those tools which will enable him to better fit the halacha into the modern Israeli context. The motivation behind a critique of the book must be of a partially practical nature,

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[28] Simcha Raz, "'Religious Legislation': on Professor Elon's book", Amudim 292 (April 1970): 302.

[29] Ibid.

otherwise why should a kibbutznik take the time to examine it. While HaKibbutz HaDati published the volume, it is not incumbent upon its members to consider what is written there, yet at least two of them do, and felt a need to publish what they found. What Raz has to say about the book is mostly descriptive, identifying what subjects the chapters deal with. In his critique of the last section however, Raz shares with his readers what he feels Elon's contribution to modern observant Israelis is. His analysis sees Elon as calling for specific changes in how we approach halacha:

> From a study of this chapter, it becomes clear that the halacha itself requires legislation of takannot and laws which suit life's needs and development, whether by finding a new halachic solution by interpretation of the existing law ... or through legislation whereby the halacha solves a new social and legal reality.[30]

Working within the framework of the traditional Jewish legal structure then, as indeed HaKibbutz HaDati has striven to do, is a viable option for Israeli society. The fact that Elon devotes hundreds of pages to descriptions of how the halacha has been modified over the centuries to fit the changing times and circumstances only attests to the determination of observant Jews to somehow find halachic solutions to life's problems.

Having considered a variety of stands on the issue of determining a person's Jewish identity, we now turn to a discussion of some of the problems peculiar to the modern

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[30] Ibid.

Jewish State. In Mahalachim, vol 5, Rabbi Menahem HaCohen writes an article on "Separation of Religion from State: halacha l'ma'aseh".[31] This is prefaced by what amounts to a disclaimer from the editor that the views expressed in the article are the author's personal opinions. HaCohen deals with that question often behind much of the literature in this work: How should religious observance be upheld in the state? He is not a legal scholar, and thus is not interested in the sources of Jewish law and their impact on modern Israel legislation. HaCohen asks simply, "To what degree will the Torah of Israel and its commandments be observed in the sovereign, **democratic** framework of the state?"[32] (emphasis his) He offers a solution other than that heretofore used in Israel. The author is scornful of the methods of some of the political parties, i.e. to get legislation on the books which coerces religious observance. HaCohen sees this as a selling of religious values on the secular political market.

An alternative view is held by Jews who are just as religious as the first group, but who see it as shortsighted. These are people, like HaCohen, who suggest a total separation of religion from state. They see the result of coercive legislation to produce halachic observance as twofold. First, the secular public comes to resent and even hate those who

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[31] Rabbi Menahem HaCohen, "Separation of Religion from State - halacha l'ma'aseh", Mahalachim 5 (September 1971): 59-67.

[32] Ibid.

insist on coercing observance, who they label dati. Even those dati Jews who do not support such methods come under attack by the secularists. A further polarization of relations between chiloniim and datiim is not desirable to the author.

The second result is simple inefficiency! Even though there is legislation on the books banning the sale of pork in Israel, it is yet possible to eat it everyday, if one takes the trouble to look hard enough. Even that jewel in the crown of the religious coercives, the laws of marriage and divorce, can, have and will continue to be circumvented by marriages outside the borders of the state, or even by mail! It may not be easy, but there are ways to circumvent all those laws which were promulgated to promote religious observance.

The heads of the religious parties themselves will admit that this situation is a necessary result of the compromising of their demands in order to make the political process work at all in their favor. Thus, while such laws may have some sort of propagandist value, they really don't help the cause of promoting religious observance in the state.

Before we discuss the practical implications of such separation, however, let us examine the philosophical and historical background for the present situation:

> Here we would do well to understand that the crisis between religion and state was foreseeable, inasmuch as those who founded the State of Israel not only did not lay the groundwork for the interweaving of the laws of Torah in the laws of the State, but rather

> actually worked under the opposite assumption. The general principle here is: the State of Israel was established on absolutely secular foundations without any tie whatsoever to the vision of the Jewish State as believers have envisioned it in all generations.[33]

HaCohen notes that even when there were those religious Zionists who wanted the state to reflect their values, they had no influence to speak of. The early Zionists, those who really had the most influence in the shaping of the state, such as Herzl, had little use for religion, as we see in this quote from The Jewish State:

> ... while faith is the bond that unifies us, we are nevertheless free ... and thus we will circumvent all the tricks of our priests, if they are spoken in order to rule over us.[34]

Having made clear how much the fledgling Zionist enterprise opposed Jewish religion play a decisive role in the character of the state-to-be, HaCohen then cites Benjamin Disraeli, a moderating voice in the clash:

> ... we must also consider the religion of Moses in the demands of the new era. Thus we must separate the religious basis from the state, in order to prevent the deprivation of its rights by religion.[35]

Disraeli calls for the addition of religious values to the State, while warning against the founding of any sort of obligating religious body. He looks forward to a state which will send forth, not Torah from Zion but, "a teaching of

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[33] Ibid.

[34] Ibid.

[35] Ibid.

unlimited freedom of thought and conscience."[36]

HaCohen calls all of this the theoretical basis for the secular state we have, but doesn't see the practical implementation of any of it. In other words, Israel is much more observant, much more religiously Jewish than Herzl envisioned. This began when the religious Zionists in Palestine during the mandate refused to bow to secular demands that the educational system be secular, and proceeded to set up their own, separate religious educational system. Consequently, when those children who survived the Holocaust arrived in Israel the debate began over what kind of education they should receive. By the time the state became a sovereign entity, the lines were already drawn. The very first actual religion vs. state conflict came about with the framing of the Declaration of Independence:

> At this exalted event of the declaration of the establishment of the State of Israel was also created the basis for that same '<u>shatnezic</u>' phenomenon of the clothing of religious concepts in secular dress, and the introduction of religious life and Torah laws into the Procrustean bed of compromises and mutual concessions.... and from then until now, all contact in the areas of religion and state has been wrapped in a hazy formulation, out of concessions of values.[37]

The incident being alluded to here is the heated argument over the inclusion of any reference whatsoever to God in the Declaration. It was eventually agreed to use the words "<u>Tzur</u>

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[36] Ibid.

[37] Ibid.

Yisrael", [The Rock of Israel] a phrase which the secularists could interpret as they wished, but which had a strong enough tradition in religious literature as an epithet for God to satisfy the Agudat Yisrael party.

Having some background is helpful, but only makes it more painful to admit that, even with the passage of twenty years, no real progress has been made towards a resolution of the problem.

There have only been attempts at practical answers to the symptoms of the problem, but no actual discussion of the crux of the matter, i.e. "what place will religion have in the State of Israel?"[38] HaCohen suggests therefore that a new approach is needed, even though the concept of separation of religion and state is hard for many religious people to accept. He came to the conclusion (along with several others, including Shulamit Aloni and Mordecai Namir) that the only way to protect both the values of the democratic state and those of Judaism was to separate one from the other. He gives his motivation here:

> For it is no secret, that the nearly permanent conflict between the majority of segments of the population (including segments of the religious population, like HaKibbutz HaDati, the Movement for Torah Judaism, etc.) and the official religious establishment, has caused the appearance of religion to become twisted, and its ideas, means and values to be illegitimized.[39]

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[38] Ibid., p. 63.

[39] Ibid.

HaCohen demands that religion be separated from the state both for the sake of ending the conflict between the "religious" and the "secularists" and in order to restore the original character of the religion. Only then will it serve as an attraction to those in Israel who are searching for personal meaning in their Jewish identity and heritage.

Were we to actually discuss the foundations of the problem, and agree to a separation of religion from state, religion would perforce return to its original form and intention. This form and intention are such as would attract people and enrich their experience of being Jewish, rather than drive them away, as happens at present. After all, don't we already have, in essence, the practical separation of religion from state, with the exception of the laws of marriage and divorce? "The situation in Israel is, that the identification of religion with state is in word only."[40] The state could certainly sustain Jewish religious institutions without being subject to coalitional compromises, because it does so for non-Jewish institutions. This ridiculous situation allows the religious parties to maintain that they are protecting the Jewish nature of the Jewish state, while the secularists are freed from the responsibility of making the state Jewish in any sort of truly Torah observant fashion. The essence of HaCohen's article is this: both religious and secularists are missing the point of the idea of a Jewish state, as we see in

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[40] Ibid.

this comment:

> It is also possible to assume, that were the secularist public able "to fix" those laws in the Jewish religion which sometimes cause it discomfort, the existent situation in Israel would be "ideal" for public secularist existence, for the fictitious identification of state and religion would not impose upon it obligations and Torah commandments, but would have enough in it to quiet its conscience.[41]

What the author of this article is saying then, is that while it is impossible to separate out one's Jewish identity from one's nationality, it is possible, and even more so, strongly advisable, to separate the Jewish identity of the state from its political, sovereign identity.

Opponents of this proposal are afraid of the consequences of civil marriages in Israel, which they see as potentially dividing the Jewish people. HaCohen attempts to refute such a claim by showing that even the child of a civil marriage is considered a kosher Jew, whether or not the state of marriage can exist between the parents halachically. "There exist in the halacha, important halachic opinions which can serve as a solution to our particular circumstances."[42] Thus a woman who was both married and divorced civilly can marry a cohen, because according to halacha she had never been married, and certainly not divorced. He cites the RiDBaZ as to the status of both the wife and the children of civil marriages, who declares both the wife as unmarried and the children as

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[41] Ibid.

[42] Ibid.

kosher, because, "...the status of the children is not dependent on the act of kiddushin at all."[43] Rabbis Uziel and Kook were also of the opinion that anyone who marries civilly is shrugging off the yoke of Torah by so doing and should not be considered married according to the halacha. Thus such a 'wife' would be permitted to marry a cohen. By demonstrating so exhaustively the breadth of opinion regarding civil marriage and the acceptability of the offspring of these, HaCohen authoritatively refutes the claim of those who see civil marriage as potentially dividing the Jewish people.

There is, of course, an halachic problem where religious marriage results in civil divorce is concerned, but again, the author offers a solution. He suggests that two separate authorities be established, one for the purpose of conducting religious marriage and divorce, and one for the purpose of conducting civil marriage and divorce, with no switching back and forth - if one marries through one authority, the divorce must be granted by that same authority. This proposal would not only alleviate pressure on the rabbinate to 'fix' those laws which the secular public perceives as infringing on personal freedom, it would also lessen the incidence of bastardy in Israel and would head off dispute and divisiveness in a practical manner. HaCohen states flatly that such a system is preferable to what happens now, and is certainly preferable to recognizing others types of religious marriage,

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[43] Ibid.

supposedly non-Orthodox in nature.

All in all, HaCohen proposes some radical changes in the framework of the state, but not in a rash or unreasoned manner. He is anxious that the values held by religious Jews not be bartered on the political stage, for everyone's sake. His concern for the observance of Torah is clear; just as clear is his desire that <u>not</u> only those who would observe the commandments in any case be given the freedom to live as they choose.

CHAPTER THREE: ON THE THEORY AND IDEOLOGY OF THE HALACHA

We turn now to a consideration of the various views held by a selection of contributors to the journals being studied as to the nature of halacha and who should interpret it. Our treatment of these will include examining questions such as the place of ethics and of science in Judaism. The difficulties of living an halachic, but not necessarily politically orthodox lifestyle in Israel will be touched on. The articles by Shlomo Goldfarb, "Halacha and Life's Problems" and Ephraim Urbach, "The Authority of the Halacha Today" are exemplary of this type of writing. Just as it could be said that problems of dat u'medina are pervasive in this literature, so too could the topics dealt with in this section be said to be generally applicable to the entire modern observant camp as such. How they see these problems of Jewish living according to Jewish law in the secular state is not only interesting in and of itself, it also points to the great need for self-validification. By voicing their discomfort with the present situation, these Jews invite others to respond, and possibly to join their struggle. And a struggle it is, as we see in an analysis of David Flusser's thoughts on "Religious Authority Today."

One of the most painful, and in the long run fatal, symptoms of belonging to the "modern observant" circle of Jews in Israel, is that they feel disenfranchised from "official" observant Jews. They perceive a lack of representative

leadership, of rabbis who, while cherishing halacha in every aspect of life, yet admit the possibility of change within it. Flusser would welcome a figure of this type who might serve as a rallying point for modern observant Jews, much as the Chatam Sofer did for the burgeoning Orthodox Jewry of the last century. Israel has not yet produced any of these, and there are yet many adherents of the Chatam Sofer. Deot even published such an article, which we treated above, by Ya'akov Yehudah Falk. Falk ended his article with an excerpt of Moses Sofer's will: "Do not say that the times have changed, for we have an aged father [blessed be God's name] and he has not changed, nor will he change."[1] Flusser begins his article with a refutation of this sentiment:

> Despite the words of the Chatam Sofer, which end the previous article in this journal, Torat Yisrael is presently experiencing a serious crisis, perhaps the largest that has ever come upon it.[2]

The tone of David Flusser's article is pained, the language poetic and the message not an encouraging one for the most part. He is very much aware of what we might call the sin of 'closing one's eyes to the problem' insofar as the historical development and current situation of observant Judaism is concerned. Flusser classifies himself as a dati Jew who keeps his private halachic opinions to himself so as not to endanger

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[1] Ya'akov Yehudah Falk, "A Judaism of Torah or a Judaism of Progress?", Deot 40 (Winter 1970/71): 331.

[2] David Flusser, "Religious Authority Today", Deot 35, (Winter 1967/8): 332.

the edifice of religious Judaism as a whole. He is yet not happy doing so, which is in large part why he writes in Deot. In this journal he finds himself in the company of people who, like himself, live within an halachic framework, but see the necessity for adaptations of this framework in order to ensure its continued healthy existence. While Flusser, unlike many of the others who publish here, does not explicitly state what problems he has personally with the present situation, he implies a great deal obliquely.

His assessment of the state of crisis Torat Yisrael finds itself in, in not being able to adapt to changing circumstance, gives way to a reassurance that religious Judaism has always weathered crises, and if we (i.e. observant Jews, including himself) were only wise enough, we would be able to weather this one as well. Thus:

> The easy side of the problems is this: that Judaism, which today occupies, as it were, rightly, the seat of Moshe Rabbeinu, seriously refuses to admit that it is gravely ill, and is not willing to listen to advice.[3]

The problem then, is not truly an halachic one, but rather one of political power, or position. It is thus the rabbinate which will not initiate any change within the halacha, and it is the observant community which supports this.

> ... within itself, within the Judaism that's called dati, a person who has different views has no opportunity to say anything. If you want to live according to Torah and mitzvot, you can, of course, express your views freely

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[3] Ibid.

> in the company of your friends, but you cannot -so it seems to me- express them either publically or in writing, for fear that you will be found guilty of various sins and will be forced to get entangled in polemics, which from an intellectual vantage point will be of such a low level that you will find yourself unable to lower yourself to it, in order to answer your accusers' accusations.[4]

What's worse than this even, is that his observant friends, without prior consultation, agree with his views on most halachic matters, which actually seem rather reasonable to all of them. But even these Flusser won't publish, because other dati Jews will reject them, without even trying to understand the basis for them. Even if there are those willing to even investigate, this examination might lead to "a collapse of their world view."[5] Given the magnitude of the problem that evolution is giving those people, there could be no possible benefit from raising other issues.

There are, then, two sides to the problem. First, that no one other than those in the Israeli rabbinate can express themselves and be heard in the religious community. Second, that there are people who, while living their lives according to halacha, agree that it should be changed, and precisely because they are halachic, do not see themselves as adequate to express such views. Thus:

> Additionally, all these who hold such 'daring' views are not at all certain, because of their lack of stature, that when they publish their

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[4] Ibid.

[5] Ibid.

> views publically, they will also be able to generate religious values worthy of their name, which would replace the accepted values that had become invalid by virtue of reality.[6]

While these people feel valid and authentic, they recognize that they are not even close to the level of Traditional Torah Sages, up until recently, and they don't dare speak out for fear of aggravating the crisis. Mostly they accept present rabbinical leadership and keep quiet out of a belief they will be misunderstood and are as a consequence, pained. Flusser keeps silent, but insists there is a difference between him and the others, in that:

> I feel more keenly than the others the tragedy of the situation, and the negative results which cause this exceptional silence ... that many of those in the dati camp keep quiet, precisely when they hear the noisy ones, who make widely known their opinions, concerning Torah and Scripture; the structure of halacha and an understanding of it; the history of Torat Yisrael and its meaning today.[7]

While the intellectuals disagree with these views they don't say so "in order not to damage the chain of tradition, which is very dear to them."[8]

What is the essential difference between the rabbinate and a definitive segment of a religious intelligentsia? The latter has a different approach to problems of dat, in that they see Jewish texts in a new way, as a result of a modern

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[6] Ibid.

[7] Ibid.

[8] Ibid.

understanding of reality.

> These achievements are not in any way some passing fashion or sort of ideology, like atheism, some aspects of psychoanalysis, free love, the Wellhausen method of biblical criticism, nationalism, intellectualism, and the like [they] can certainly produce mistakes - indeed, one of the revolutionary conclusions of this approach is precisely this, that even g'dolei haTorah in the past could make mistakes and did, not only because they were just people, but also due to circumstances of the time...[9]

By applying the achievements so far gained in the arts, science and our understanding of nature this group believes it can strengthen the faith which is the center of Judaism.

Why does Flusser and the rest of this group feel so pained? Because they see no contradiction between upholding science and all it implies and their new perception of Torat Yisrael, and are frustrated in communicating this effectively to a large number of people who they feel would benefit greatly from such a view, in the long term. In summary, both Flusser's perception of the problem as well as the difficulties in resolving it are accurate. The implications for modern observant Jews in Israel then, are not good; they are trapped in their observance of a system which excludes them from freely expressing their desire to change it. Their only hope would seem to be the sudden appearance of leaders sympathetic to their way of thinking which, unfortunately, was not forthcoming.

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[9] Ibid.

Another description of the problem from a different vantage point is given by Meir Roston in his article "Ambition for a False Synthesis Between Religion and Science"[10] Roston writes about the problems posed by science to those who are consciously both modern and observant Jews. He attempts to demonstrate that there are new situations brought about by science which must affect one's religious conscience. On an even more basic level, however, what Roston calls for is a reassessment of religious identity, seeing it as an existential struggle. Should we fail to engage in this struggle we run the risk of not perceiving the true preciousness of halacha, its ability to turn us to God. Rather than a political analysis of the problems of being Orthodox, but not a supporter of the rabbinate, Roston chooses to bring out the philosophical trials facing such Jews.

Roston points out that there has always been the danger in apologetics that precisely that culture which one is trying to guard Judaism from being contaminated with is nonetheless the one whose values Judaism absorbs. He subjects Judaism to a rigorous critique, which Israeli Orthodox leadership winds up bearing the brunt of. Judging from the responses in later volumes of Deot[11], there are many observant Israelis who were disturbed by what Roston writes.

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[10] Meir Roston, "Ambition for a False Synthesis Between Religion and Science", Deot 36 (Winter 1968-69): 31-3.

[11] see below pp. 87 - 96.

His first example of the impact surrounding culture has on Judaism is that of Philo:

> Philo Graecified Judaism at a time when he wanted to prove its preferentiability over Greek thinking, and the RaMBaM z"l, himself dared to fit traditional Judaism into the philosophical framework of his time, and even supplied it with what was current in medieval theological systems.[12]

Problems arise when lesser personalities attempt the same thing. Israeli Orthodox leadership, in trying to interweave Judaism with the philosophy of the new science, has chosen apologetics as its vehicle. What it did, according to Roston, was rationally try to defend Judaism from the assault of rationalism.

Roston writes in support of an honest estimation of the relationship between science and religion. Rather than trying for a synthesis, the 'how' with the 'what', as it were, let's admit that they are already organically related, albeit often in opposition one to another. This obviates the creation of an artificial relationship between the two. In light of this suggestion, Roston then considers the case of a murder committed by someone with a brain tumor [Charlie Whitman]. How do we apply the legal concept derived from the verse "Whoever sheds the blood of man, By man shall his blood be shed..."[13]? Or what of the implications in the case of brain transplants between dogs, which will no doubt be viable

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[12] Ibid., p. 31.

[13] Genesis 9:6.

between homo sapiens in the future; whose soul is it, the body's or the mind's? Let us realize, Roston reminds us, that the superiority of Judaism owes much to:

> ... its being a faith which arises out of confusion, out of anguished struggle of the soul, out of an internal struggle that almost reaches despair - and only then cries out the believer: 'and I knew that my Redeemer lives and the last in the dust shall arise.'[14]

Roston proceeds to enter into a consideration of Existential Philosophy and how it has been a constant thread in the development of Jewish personalities, starting with Abraham. Abraham didn't try for a theological synthesis between ideal righteousness and practical righteousness, but challenged God outright: "Will You sweep away the innocent along with the guilty?"[15] We now face the existential choice humanity has always had before it; the choice is between

> a world given over to righteous (read: Divine) supervision or an arbitrary (literally coincidental) world lacking in goals, which turns man into a creature of equal worth to crustaceans and animals.[16]

But the one who chooses faith does so not out of a coldly reason intellectual approach, but rather by an instinctive leap -"from an emotional, stubborn faith in the importance of man despite the factual evidence before him."[17]

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[14] Roston, p. 31.

[15] Genesis 18:25.

[16] Roston, p. 31.

[17] Ibid.

Not only is Abraham a role model for moderns, he is also the archetypal sufferer. Roston posits that the enlightened person makes the same transcendental choice Job did - to believe despite the facts. His answer comes after the storm which rages in his soul, not after debate. In light of this, Roston believes that we need to enlarge our inner vision "without which observance of halacha will become merely a dry framework"[18] rather than fight for dat with the instruments of madda. The challenge for the young intellectual is to break his/her idols of science, clinging instead to his/her faith, perhaps an act of greater courage than Abraham's smashing of the idols.

Roston sees a pendulum of culture which inevitably swings back. Whereas each generation believes its discovery of 'truth' will endure forever, history proves otherwise. Enlightenment, with all its rational thinking, gave way to Romanticism, with its emphasis on emotional subjectivity. In Judaism, the exact same values are found in the shift from ways of Pilpul to Hasidut.

> There is yet a large difference between the situation at the time of the BeSHT and the crisis of the religious Jews of our day. Then, the feeling of spiritual failure was part of a simple Jew's lot, and came out of a lack of intellectual skill, but today, it devolves precisely on the enlightened Jew, and this is due to a surplus of intellectual skill, for his training in the art of scientific analysis is that which suppresses

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[18] Ibid.

the push of his emotions.[19]

Moreover, Roston is absolutely convinced that this particular pendulum has to swing back if Judaism is going to regain its vibrancy:

> If there is to be a revival in contemporary Orthodox Judaism, it will come, in my estimation, only when the intellectual will stop reining in his subjective non-empirical aspirations, without feeling treacherous towards his academic obligations. The complaint of the young dati person is principally directed against the Rabbinate for its refusal, as it were, to coordinate the halacha with modern conditions, by means of innovations within the halachic framework, but perhaps this is really just a superficial symbol of a deeper problem.[20]

How many formerly Orthodox students would come back, realistically, if it were really just a matter of resolving the issue of agunah, or kohen and g'rusha. Is it really a matter of creating pseudo-scientific solutions like a Procrustean bed? Roston here is hammering home his demand for a re-evaluation of how good Enlightenment has been for Judaism. In doing so however, he may not be presenting a fair picture of what most Orthodox Jewish students do want.

Roston is unequivocal as to what he wants however, and he uses the first person plural to express it. "WE" don't want a whitewash. Let's get back to good old soul struggle, which comes when a person's intelligence realizes the absurdity and cruelty of the phenomenological world, while his heart hangs

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[19] Ibid.

[20] Ibid.

on to the notion of his purposefulness and importance in the eyes of God. The struggle of Israeli Orthodox Judaism then, is more than adapting the halacha to modern circumstance, it is to regain the meaning of religious struggle on an existential level. What this will bring about, we can only assume, is indeed an adaptation of the halacha, more than has been seen at the rabbinate's initiative.

Abraham Korman, in his response to Professor Meir Roston's article, begins by pointing out that the empirical philosophy of the new science flatly contradicts dat, and that one cannot deny empirical science.[21] He is, of course, saying that he cannot deny empirical science, which is exactly what Roston wants him to do. Knowing this, he proceeds to set up straw men and knock them down. Korman bases his straw men on two philosophers, Tertulian and Santayana, the first of whom wrote: "I believe because it is absurd"[22] and "This is certain because it is impossible"[23], while the second called faith "a brilliant mistake"[24], yet "he believes despite the fact that he knows that it [faith] lies"[25]. On the basis of these absurdist philosophers Korman concludes: "Professor Roston's

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[21] Abraham Korman, "In the Margins of Professor Roston's Article" Deot 38, (Fall 1969): 200-1.

[22] Ibid.

[23] Ibid.

[24] Ibid.

[25] Ibid.

opinion fits their two approaches very well."[26] Korman labels Roston as a materialist/mechanist who essentially sees humans as robots, and free will an illusion, thus Torah is given to mechanistic robots. He elaborates his disdain for mechanistic/ deterministic philosophy at length. In Korman's understanding of Roston's view, this is a real distortion of what Torah means, and is thus not a legitimate interpretation.

Korman represents himself as spokesman for Judaism, although he might better be described as a puppeteer who makes his puppet Judaism declare: "the doctrine of free will to be one of its essential principles."[27] Having established this as a basis to work from, he challenges his opponent:

> I would like, then, to ask Professor Roston, the determinist, what is his practical suggestion? To perform cranial surgery on every attacker and murderer before he comes to trial, in order to prove that there is no sure physiological basis 'which caused aggressiveness in his personality'? Or perhaps, in his opinion, one should simply not judge another for his deeds?[28]

This is cruel, in our opinion, and certainly disrespectful of a fellow academic, but more importantly, it trivializes the argument. Korman takes a paragraph to further undercut Roston, with the mention of the over 2,000 year old nullification of the precept "whosoever sheds a man's blood, his blood shall surely be shed". He further evidences

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[26] Ibid.

[27] Ibid.

[28] Ibid.

skepticism as to the reliability of such fledgling research as Roston cites. This is perhaps his strongest point.

Having set up and knocked down his straw men, Korman does not proceed to build up what he considers a solid argument for the approach he takes. He leaves it up to the reader to understand that he thinks his words speak for themselves. His clearest formulation of his opinion is that statement which evidently identifies him as an adherent of that Judaism which "believes because things are true."[29] Our doubts concern his understanding of Roston as a believing Jew with serious problems in the area of reconciling empirical science and religious faith. Evidently Korman has no such problem, but this may be enough indeed to take him outside the grouping of modern observant. If he does not go through the process of struggle which Roston addresses, he may very well not agree with a modern approach to Judaism.

Meir Roston replies to Abraham Korman's letter in the next volume of Deot.[30] His response is short and to the point. He opens with an analysis of Korman's straw man methodology and then says simply that:

> ... it is difficult to reconcile this definition [of me as deterministic] with my original words. My article emphasized the need to return to the vital struggle which

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[29] Ibid.

[30] Meir Roston, "Concerning a False Synthesis", Deot 39, (Spring 1970): 257.

Abraham and Job demonstrated.[31]

Roston refutes Korman's claim that he discards the value of the human soul by citing himself on the existential crisis that occurs when one realizes the absurdity of the phenomenological world while at the same time asserting one's worth as a creation of God. He throws Korman's assertion of his rejection of the doctrine of free will back at its author here:

> There is a very simple question - if I were not to have accepted the doctrine of free will how could I have spoken at all about the C O N F L I C T that is created by means of the mechanistic nature of the empirical world?[32]

There is no doubt that Roston is overly optimistic concerning the future achievements of modern medical science, in entertaining the notion that brain transplants are a soon to be realized possibility. Nevertheless, his reasoning is consistent -who **would** have believed twenty years prior that a man would walk on the moon?

Roston closes his response to Korman with a statement as to who he had in mind as an audience. If Korman is not among those who recognize certain contradictions within a religious existence in the modern world, then he is not among those at whom the article is directed. The fact that Deot saw fit to publish not only the opinion most of its readership agrees with, but also the opposing one, is another clue in

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[31] Ibid.

[32] Ibid.

determining exactly who modern observant Jews are.

Even the author of the original article does not have the last word on this subject, however. Amos Chacham bravely attempts to clarify and define more clearly the terms which Roston and Korman use in their descriptions of life, Judaism and one another.[33] He prefaces his remarks with an admonition to disclaim emotionalist rhetoric, and bases his correction of Roston concerning the use of the phrase "k'dushta shel han'shama" on this, and clarifies its contextual meaning according to the Sages as 'purity of the soul'.[34] Chacam begins the body of the article with the issue of potential head transplants. Do we not in fact pray every morning "My God, the soul which you have given me is pure ... and You will take it from me one day and restore it to me..."[35], thereby admitting that it is in God's power to transport souls, he asks. In the case of a head transplant, we can expect the same thing to happen. The implications of such transplants are not faith-related so much as they are practical, relating to halacha and justice. When such questions arise, the halachic decisors [posqim] will deal with them. As a matter of fact, some have been dealt with already aggadically.

On a less fanciful level, Chacham deals with the idea of

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[33] Amos Chacham, "Yet More on the Synthesis Between Judaism and Science", Deot 40, (Winter 1970/71): 313-5.

[34] Ibid.

[35] author's translation.

soul, both in general and Jewish religious thinking and from a psychological viewpoint. The upshot of the comparision with what we think of as a religious conception of the soul and the medical possibilities is that there is not that much discrepancy. In other words, if we believe that our souls live forever, what is there to prevent them from living physically, side by side, two souls in one body? While Chacham does not favor such a simple formulation, this yet seems to be his implication.

The author takes the same approach with the question of free will and responsibility for one's actions. The problems are of a practical, legal nature, which is easily seen from the example Roston first gave of a murderer who used a brain tumor to successfully defend his actions. Chacham asserts, innovatively, that the concept of coercion could be expanded to include internal coercion. Another possibility would be to expand the concept of 'hardening the heart of Pharoah' so as to apply to physiological reasons for behavior. Moreover, according to the author: "... truthfully, 'free will' is not so dear a value in Judaism as we are inclined to think."[36] We pray many prayers that in essence ask God to take over our actions, e.g. "Unify our hearts to love and revere your name."[37]

Chacham even goes so far as to say:

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[36] Chacham, p. 314.

[37] author's tranlation.

> according to [the Sages], the ideal ambition is actually reaching a state where 'free will' will no longer exist, but rather all creatures will be obligated to do the good and the right.[38]

Within Judaism, we are neither obligated nor forbidden from imagining the world as deterministic, according to Chacham. (Hasdai Crescas was a determinist) His point is that the world of science which we live in does not compel us to accept the deterministic argument, and even if we choose this way of thinking, we can still remain Jewish. One's philosophical viewpoint does not, of necessity, destroy one's faith. Judaism has enough flexibility and strength to accomodate in fact, various philosophies, and has nothing to fear from these.

The author's strongest point, in our opinion, is his response to Roston's comment that the Rabbinate does not implement decisions required by new discoveries in the scientific realm. Chacham states simply:

> It happens, that in the wake of scientific innovations doubt arises, that perhaps these damage the foundations of faith. It always turns out, however, that the matter is not so. These very innovations only helped us to examine and find within Judasim the hints of the ideas whose development would have led to something parallel to these innovations, hints that we had previously tended to ignore, inasmuch as the needs of science had not been clear to us.[39]

His example of such a scientific discovery which surprisingly

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[38] Chacham, p. 314.

[39] Ibid.

benefitted religious faith is not only apt, but clever as well. He discusses changes in the concept of the physical location of the Garden of Eden, which was once thought to occupy a physical place on earth. With the development of cartography, humanity had to admit that there was no physical location on earth for the Garden of Eden, but rather that it was located somewhere in the heavens. With our expanding knowledge of space, it appears that we will soon be unable to reconcile ourselves with the concept of **any** physical location for the Garden of Eden. This is precisely what religious faith believes - the essence is belief in a Divine system of reward and punishment, regardless of the location these are meted out in.

Finally, Chacham takes issue with Roston's suggestion for a resolution to the problem of dat and madda. Roston believes soulful struggle is the resolution. Chacham sees this as a means towards the end of individual resolutions. Only through constant struggle will we attain our own personal religious resolution. The point is not simply to struggle, but to struggle towards a goal of peaceful harmony between faith and fact.

The importance of conscience in determining one's place in the spectrum of Israeli religious Jews has been brought out by this series of articles and respective reactions to them. A similiar concern is expressed in the forum of HaKibbutz HaDati

by Dr. M. Z. Sola.[40] Ethics are determined by the individual in a practical fashion, but where do they find their origin within Judaism? Is it possible to separate out ethics from Judaism without losing the meaning of ethical behavior? These are the kinds of questions behind Dr. Sola's contribution, and are certainly to be considered important queries for many of Israel's modern observant Jews.

Dr. Sola starts from the assumption that Judaism itself is an indivisible concept, in and of itself, and it is only our human limitation of language which forces us to describe it **as if** it were made up of many concepts all strung together. Thus:

> ...when we speak of Jewish religion, or of Jewish nationality, or of Jewish faith, or of Torah and mitzvot and such things as are related to them, we express only different revelations of the same essence of Judaism, and the linguistic expressions and concepts do nothing but make them intelligible.[41]

If one were to look for the unity of the religious and the ethical in the commandments, one could find much support in the appearance of the words "I am Adonai" after many of the ethical commandments in Torah, for example, 'love your neighbor as yourself'[42]. This indivisibility also applies to the concepts of nationality and religion, or commandments between fellow people and those between people and God. This he describes again as "a linguistic division only, and not an

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[40] Dr. M. Z. Sola, "Ethical Values in Judaism", Amudim 278 (March 1969): 197-200.

[41] Ibid.

[42] Leviticus 19:18.

essential one."[43] What makes all these things congruous? The supreme authority vested in the words "I am Adonai."

Sola draws on the history of Israel's existence as a weak, unempowered nation in shaping its sense of ethics. Since we know how much the rights of the underdog are abused, we have sought to protect them in formulating our laws, is what he seems to be saying. This is exactly what Nietzsche said, and he was partially correct. Above all these rational explanations stands the fact that JUSTICE is the criteria for determining an ethical act in Judaism. Torah puts the commandment for justice above that of protecting the rights of the weak, for the latter is only a result of the former. "The sense behind the idea of justice is the societal balance of oppositions within the social strata of the people."[44] Thus the act of tz'dakah implements this societal balance in an economic manner.

Sola treats the subjects of tzedek and mishpat, seeking to clarify both their similarities and their differences. Tzedek and mishpat are often bound together in Scripture, and Sola interprets this as meaning that they point to the same supreme ethical principle, but the latter express it in terms of "law set by tradition, or in law codices."[45] Tzedek is what every individual does, mishpat is the judge's provenance. Inasmuch

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[43] Sola, p. 198.

[44] Ibid.

[45] Ibid.

as each judge is also an individual with a social conscience s/he must do both. What then is the essential difference in the nature of tzedek and mishpat? "... tzedek can be a subjective concept and thus relative. Two people ... can have different concepts of what tzedek is."[46] The implication is that mishpat is immutable, although Sola never says this outright. But in his example of two people in a court case, both of whom believe that tzedek is on their side, the judge, the arbiter of mishpat, is obligated to find the right law and apply it justly. Thus tzedek and mishpat are interwoven in Torah.

The author moves from the terms tzedek and mishpat to those of chesed and rachamim. He says:[47]

> These two concepts come to teach us about ethical actions, outside of the strict boundaries of law. In the doing of chesed, more is demanded of a person than in the doing of tzedek.

This means that in effecting societal balance, one must try to better the lot of the needy, without perverting justice. Thus chesed leans towards the underdog, and those who do chesed are not satisfied with just doing tzedek. Thus doing an act of "chesed v'emet" is doing not that which brings societal balance alone, but an act that not only helps the needy, but does so with no expectation on the needy's part that help will come.

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[46] Ibid.

[47] Ibid.

How do these four essential principles of Judaism interact to create ethics? "The relationship of chesed towards tzedek is the relationship of rachamim towards mishpat."[48] While technically speaking there is no such thing as mercy in justice, there is certainly mercy in the implementation of justice. The example of a parent is well taken. We would all be in trouble if all parents acted only out of a strict sense of justice rather than tzedek mixed with chesed. And where do we learn such a lesson but from our divine Parent? "Just as HaKadosh Baruch Hu is merciful, so should you be merciful..."[49]

Perhaps the weakest point in Sola's article is in the section entitled "Ethical Principles in the Reasons for the Commandments". Instead of analyzing the ethical basis for many of the commandments Sola simply states that there is one! The general principle is that commandments between fellow people are based on ethical principles of emet v'tzedek, tz'dakah u'mishpat chesed v'rachamim. But he fails to provide sufficient proof for this statement.

His next point, specifically that ethics are indivisible from Judaism itself, is very similar at its core to the view of Chacham above, that is that it is articial to dissect out any particular value in Judaism, and point to it as being Jewish in its essence.

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[48] Ibid.

[49] Ibid.

Sola states that: "Judaism's lofty ethical values do not serve at all as testimony to ethical behavior in the actual life of the people."[50] As a matter of fact, the absence of such ethical behavior caused those concerned with ethics, i.e. the prophets, to cry out for a mending of the societal fabric by ethical considerations of one's actions. Were it not for their ethical imperatives, the power of economic strength would have won out.

> But ethics has power too, spiritual power, and precisely the one who is weak physically and quantitatively is deserving of this ethical, spiritual power, which is a qualitative power.[51]

Having said this, Sola considers his point to have been proven:

> From this [we derive] that the ethical values of Judaism were made indivisible parts of its essence. There is no neglect of them, or swerving from them without this affecting the existence of Judaism itself negatively.[52]

Is Sola emulating the prophets by such a statement? We could interpret his stance as either an academic victory or a personal one. Does he feel that Judaism's ethics are under brutal attack in the State of Israel? Perhaps it is the best answer this author feels warranted in offering. As far as HaKibbutz HaDati is concerned, its place in the vanguard of the search for a perfect society would support expressing such

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[50] Ibid.

[51] Ibid.

[52] Ibid.

a view. Sola is not the only one concerned with these dimensions of Jewish living however, and we now move on to the wider audience of Deot.

Shlomo David Goldfarb opens his article[53] with a citation of Shaul Shiff of HaTzofeh[54], who claims that the numbers of religious electrical engineers in the national electric company is very small. He cites Prof. Joshua Shechter of Bar-Ilan, a physical chemist who has written to the effect that almost nothing has been done in the area of Torah legislation in grappling with the challenges that technology presents to halacha. Shiff claims that many of Shechter's colleagues share his opinion and that the problem is not confined only to technology, but rather, "to the entirety of questions connected to the administration of a modern state, according to halacha."[55] By way of illustration, Shiff relates the true anecdote of a religious man who wanted to join the police force, but was discouraged from doing so by a well known rabbi. Shiff concludes

> ... if such an answer is acceptable also to the problems of industrial productivity on Shabbat - the state will be shut down completely.[56]

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[53] Shlomo David Goldfarb, "The Halacha and Life's Problems", Deot 40, (Winter 1970/71): 324-5.

[54] HaTzofeh, Tammuz 4, 1969.

[55] Goldfarb, p. 324.

[56] Ibid.

Shechter, who we are now informed is ultra-orthodox [charedi] notes that not all industry which needs manpower can be shut down on Shabbat, examples being glass and ceramic factories. Here is where Goldfarb introduces what he sees as the problem to focus on:

> ... as much as the official Orthodoxy (the establishment) in Israel tries to hide from and ignore the problems of halacha, which occur frequently in a renewed state and under independent conditions - it will be driven, against its will, to study and decide on these questions, for some of them, or even most-stand at the very forefront of their/our world.[57]

Goldfarb assigns the blame for this to a Golah mentality as seen in the responsa literature. Phrases such as "this needs study"[58] or "this must be solved urgently"[59] imply that a given contradiction can be resolved, albeit with difficulty through what we would call pilpul. Those currently responsible for religious legislative instruction and study yet subscribe to this way of thinking and are not likely to change suddenly. The rabbinate has shown a tendency to be conservative rather than progressive in its problem solving, retaining methods which are no longer appropriate to the time and place. The urgency of the problems facing the State however, are not to be set aside and pondered. Answers are needed quickly. In order to get those answers people are

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[57] Ibid.

[58] Ibid.

[59] Ibid.

needed to act, to take the initiative.

He quotes S.Z. Shragai, a well-respected HaPoel-Mizrachi activist: "and the blame, in my opinion, is not on the Rabbis, but rather on our Movement."[60] Not that the rabbis are free from blame, but rather that we can expect them to be intransgient to a certain degree, and must therefore initiate counteractive measures. The case of Rabbi Isaac H. Herzog, once Chief Rabbi of Israel, and before that of Palestine, is illustrative of this point. Herzog wrote in 1948 in support of a framework of laws for the Jewish state which had its roots in Torah.[61] The problems with such a solution are various, not the least of which is how to adjudicate the legal situations of non-Jews. While admitting the fact of such foreseeable difficulties, Herzog yet wrote only that "This calls for further consideration,"[62] without supplying either guidelines or specific strategies for their solution.

Another example of intransigence and ignoring the problem is the debate which surrounded the treatment of Yom Ha'atzmaut, Israel Independence Day. According to Abramov,[63] the Chief Rabbinate vacillated as to how this miraculous event should be commemorated religiously. The extremist ultra-orthodox, such as Neturei Karta, had taken to observing the

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[60] Ibid., p. 324.

[61] in S. Zalman Abramov, Perpetual Dilemma, p.129ff.

[62] Ibid.

[63] Abramov, p. 244-6.

day as one of mourning, even going so far as to burn the Israeli flag in some instances. Rabbi Judah Leib Maimon, one of the founders of the Mizrachi and the first Minister for Religious Affairs in Israel was of the mind that the 5th of Iyar should be celebrated as a religious holiday, even though it fell in the midst of the Omer. It would be treated much like Lag Ba'Omer, the one day during the entire Sefirah period when marriages and other celebrations are permitted. Chief Rabbi Isaac Nissim felt that Independence Day might be joined with Lag Ba'Omer, from the point of view of allowing joyous events to take place on only one day in the Sefirah period.[64]

The real bone of contention in this matter was whether or not Hallel should be recited on Independence Day. Here the Chief Rabbinate chose a middle path, rather than anger overly much the religious extremists. Its ruling was essentially that a normal Friday evening service be conducted, with the addition of several psalms, including those that constitute the Hallel, but without any special benediction for these. Among the most vocal of the objectors to this ruling was HaKibbutz HaDati, which took the initiative in publishing a prayer booklet which included the full Hallel. The best example of the schizophrenic behavior of the Chief Rabbinate, however, is evidenced by their reaction to another publication, here described by Abramov:

> A group of synagogues published an "Order of

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[64] Ibid.

> Prayers" for the occasion, and the Director-General of the Chief Rabbinate assisted in its distribution, but the Chief Rabbinate subsequently ordered this "Order of Prayers" to be eliminated from these synagogues - a telling example of its ambivalence.[65]

In light of these events, Shragai would seem to be justified in blaming himself and the rest of the mainstream Israeli orthodox community for being the ones who

> conduct ourselves like machers, and not like people who believe it's possible to run a Torah State, and look mockingly on those who try to grapple with these matters.[66]

What are we so afraid of, he asks in so many words? That the extremists, who reject the fact of the State's existence at any rate will see fit to excommunicate us if we do not comply with their demands? Are these the kinds of people we are intimidated by? If we are looking to make a meaningful religious nationalistic life possible in Israel, we must not be psychologically prevented from beginning to form solutions to our problems our of fear of charedi judgment of our actions. Goldfarb summarizes his view of the hostile environment for finding solutions to the problems modernity and technology cause in a religious culture.

> to our distress, fear of zealots, like these men of common sense, still exists in the dati camp in Israel, and this establishment [the Chief Rabbinate] considers itself part of them, with the coming of the time to consider a solution for 'life's problems in the

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[65] Ibid.

[66] Goldfarb, p. 325.

state'.[67]

Is there any hope to be found from the actions of the Chief Rabbinate? Perhaps, if one considers Ovadiah Yosef's takannah regarding registration of marriages during the three weeks from 17 Tammuz to 9 Av with the exception of the third week, from the first of Av until the 9th. Goldfarb sees this

> "halachic intstruction" as not mere leniency, but rather a de jure recognition of the change that has taken place in the people's and the state's situation, in its renewed independence and rabbinate in its land.[68]

When more of these kinds of consciously progressive decisions are made out of recognition of the reality of religious life in Israel, rather than everyone keeping quiet for fear of the ultra-orthodox, then we stand a chance at really solving our problems.

Goldfarb profers a real challenge to those sympathetic to modernity within observance of halacha. The political situation may seem to be one which continues the petrifaction of the process of Jewish law, but this is up to us to change! Leaders and teachers are needed who will infiltrate, or even replace the present orthodox leadership, in order to create urgently needed solutions to life's problems for Jews in Israel. This plea for action is heard over and over from like-minded Jews, but the lack of response has resulted in the continuing political stalemate. The extremists are allowed to

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[67] Goldfarb, p. 325.

[68] Ibid.

control the coalitional governments, while the modern moderates have no political leverage which would make their voice heard. The sad reality is that modern observant Jews continue to be disenfranchised and thus resentful of the political process, and the rabbinate, which is its most visible branch.

David Flusser, in the same issue of Deot[69] also speaks to the question of what Judaism is in its classic sense, and what it should be in Israel. The present situation, that of establishment orthodoxy in Israel, is not an accurate reflection of what Judaism should be, or has been over the generations. Flusser enjoins a re-evaluation of what we must ethically do as religious Jews in Israel. He begins by asking what we, as Americans, no doubt consider a reasonable question.

> Because of the awakening of youth worldwide, and Jewish youth, even the "datiim" in specific and due to the aliyah or visits of religious Jews whose origin is primarily the U.S., the question is now beckoning, why do Israeli religious Jews and the religious establishment not have an agreed on and reasoned answer on political and ethical questions, like the war in Vietnam?[70]

By this query he wants to make Israelis aware of how Judaism is to be applied to every aspect of a person's life, from the ridiculous to the sublime. Throughout the article he will

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[69] David Flusser, "Torat Yisrael, Ethics and Politics", Deot 40, (Winter 1970/71): 272-6.

[70] Ibid.

continue to show how confusion between what the individual must decide for him/herself and those decisions best left to religious authorities can be damaging to both sides. He describes matters clearly, e.g. "There exist in the world groups of Jews who see themselves as believers and are not "Orthodox", and they are very many."[71] He lays the groundwork for his discussion of how the three elements in the title fit together, first by describing some demographic differences.

Flusser claims that there are differences between Israeli and American Orthodox Jews; American Jews are more socially active [in the Reform Jewish sense] - they were the ones who, even a few years previous, wanted the Chief Rabbinate to have answers to "current political and ethical problems."[72] This might be because Christian faith has failed in America and the churches are trying to attract people by way of giving them religious answers to current issues. Jews, he thinks, should not be following suit: "In any event, it appears to me that the deed is absolutely erroneous, when any dat decides religious law on everyday matters."[73] Why? Because everyday life is volatile and a p'sak din could serve as a dangerous precedent when things change again. It might be misapplied in matters which appear similar but are fundamentally different.

Flusser wants to deal with a specific problem, however:

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[71] Ibid.

[72] Ibid.

[73] Ibid.

> To point out the dangers connected with the fact that dat, whose ethics well from faith in the eternal God, makes hasty application of the eternal ethical stance to difficult problems which are current, like the war in Vietnam and its implications.[74]

Those clergy who would turn their energies to social action thus become pawns of the secularists who have decided moral issues, often simplistically. This is an even more urgent problem when we are dealing with "Torat Yisrael in its historical sense."[75]

What then is the historical meaning of Torat Yisrael to Flusser? P'sak halacha:

> ... the entire role of halacha will become absurd... when the halacha determines all a person's movements, and all his decisions and all his thoughts. For at that moment halacha will naturally come to an end, for then there will not be an end to the matter![76]

Even given the tendency of people to want any legal system to be consistent, it actually undermines the essence of such a system when it is consistent to the point of totalitarianism. Thus, Flusser notes that:

> It's natural for questions to exist, which every Jew must answer out of free decision, and just precisely the non-inception of formal halacha on everything makes possible its effectiveness in the areas which it deals with naturally.[77]

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[74] Ibid.

[75] Ibid.

[76] Ibid.

[77] Ibid.

In other words, what Flusser would like is if Jews let the halacha work the way it was historically conceived to work, rather than trying to make it be acrobatic against its will. He even gives a concrete example of the blacks in America, to show how we work against ourselves when we ask the halacha to answer all our questions:

> It is none of the halacha's matter, and not of Torat Yisrael's either - and well it is - to determine that Torat Yisrael demands that every Jew get organized into groups in support of the rights of blacks, or to engage in protests and the like.[78]

Another example: when the Boers fought the British, Jews ethically had to support the Boers. Now that they are oppressing Africans, halacha would have to say Jews oppose them. To Flusser, the only way to be true to the spirit of traditional Judaism would be to make our own personal decision, no matter what we decide:

> Any such decision is not thus, the matter of da'at Torah, but rather every Jew must decide according to his conscience, while he is guided by the ethics that Torat Yisrael transmits to him.[79]

A logical conclusion of all of this is that Judaism has no dogma, or in Flusser's words: "In matters of faith and opinion, there is great freedom in Torat Yisrael."[80] He continues on to detail his view of how the halacha is best

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[78] Ibid.

[79] Ibid.

[80] Ibid.

understood.

The separation of ethics from Judaism, of social gospel from pure religion is both artificial and false. This is the crux of Flusser's argument concerning the place of ethics, politics and religion in modern people's lives. He analyzes the cause for such thinking among both Jews and Christians:

> ... the clear decline of the inception of religion on modern man causes polarization vis a vis ethics. There are both Jews and Christians who emphasize the traditional message of the religion at the price of the purely religious side, and as opposed to them, there are those who point out that ethics is in and of itself not solely a religious concept, but has existed as a secular concept. These last, whose approach may be called "theocentric" ... see those who emphasize as the essence of Judaism (or Christainity) the ethical side - as renouncing the purely religious side of religion, and therefore they differentiate between ethics and religion, and look on the ethical side of religion suspiciously and with scorn. [81]

There are solutions to this which are, in actuality, no solution at all, as well as criticism which has no true basis in fact. There is danger in secularizing the ethical component of faith and leaving only theocentrism, but there is also the danger of emptying faith of all irrational meaning.

> In Judaism - the renunciation of ethics in the name of religion is an absurdity, for at least some of the righteous laws of Torat Yisrael have a decisively ethical intention. And if one interprets such laws only in a "theocentric" fashion, one has indeed falsified their content. [82]

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[81] Ibid.

[82] Ibid.

Obviously, Jews who are looking for ethical Jewish answers to current, actual problems have been influenced by their Christian environment. While this is clearly the case in Liberal and Reform Judaism in America, it is also what led to the questions posed by Orthodox American Jews to the Chief Rabbinate.

Flusser claims to know better than these: "... I see no reason whatsoever to renounce the ethical nature of Torat Yisrael because of the Christians."[83] Not every Jew will agree with him, of course:

> It will not be easy finding an authorized person who will admit that some of the mitzvot in Torah have an ethical role, despite the fact that the matter is absolutely obvious.[84]

Most Israelis are of the first sort mentioned by Flusser- those who would emphasize the traditional message of Judaism rather than admit that ethical motivations had anything to do with the shaping of Judaism. Far be it from them to assume they understand the Divine plan in forming the religious heritage we have since passed on to other faiths. This is very distant indeed from what Flusser envisions as a truly active role in living the life of Torat Yisrael.

Basically, Flusser would like religious Jews to take both a scholarly **and** a theological interest in their Judaism, rather than a nationalistic one. Then again, he would prefer they

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[83] Ibid.

[84] Ibid.

adopt an ethical one over either. Thus he describes "certain religious groups in Israel" as:

> not feeling the ethical responsibility which flows from the situation of occupation, and who secretly think it is possible to answer everything solely in a dry, halachic fashion, which is, of course, not the way of classic Torat Yisrael.[85]

This he sees as a cheapening of the worth of nationalism.

In concluding the article, Flusser simply states his opinion that neither the religion nor its representatives should be saddled with having to answer in detail every question arising from our daily existence. He elaborates on what it means to restore Torat Yisrael to what it was originally, i.e. a working system within which each individual is expected to draw his/her own conclusions:

> It seems to me that the right solution is simple, if, in our situation, difficult. Neither **Judaism** nor its institutions need to respond to daily problems, but **Jews**, in particular those of discrimination, their societal and spiritual leaders, need to give lasting answers **first of all to themselves**, and later perhaps to others, to those problems which face us.[86]

The essential point of his argument then, is that individual Jews need to reach personal decisions within the framework of their being Jewish. Exactly what his view of "being Jewish" is is not made explicit here, but it is clear why he was asked to express his opinion in a setting devoted to answering the

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[85] Ibid.

[86] Ibid.

question: "Is an observant Jew required to, and does he, take a particular, obligating stance on such topics and their implications?"[87] To this, Flusser can certainly answer "yes", and would urge all those who call themselves dati to join him.

Flusser describes present-day Israeli orthodoxy as theocentric, as religious to the point of excluding any other component within Judaism. The ideal Judaism, on the other hand, is a flexible, evolving system which brings factors other than religion into play. It is wrong to conceive of Judaism as either merely social gospel or as pure faith - it is both and more. How are Israeli orthodox Jews to restore Judaism to its original, ideal form? Individuals and spiritual leaders need to apply themselves to today's questions and hammer out answers which do not solely on religious criteria. These kinds of answers will stand them in good stead as they face all the challenges living in a modern world will bring.

Ephraim Elimelech Urbach approaches the same question as Flusser does, but from a different angle. His article "The Halacha's Authority in our Day"[88] also addresses the situation Israeli orthodoxy finds itself in. He draws upon classical texts to make his point concerning authority within religious Judaism. His first point is that all Israel agreed upon

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[87] Ibid.

[88] Ephraim Elimelech Urbach, "The Halacha's Authority In Our Day", Mahalachim 5, (September 1971): 3-10.

everything in the Babylonian Talmud. Thus its authority came directly from the agreement of all of Israel, not from some sort of obligating institution. What is the Babylonian Talmud's claim to fame and authority? Urbach says: "In the place of the Law Court of Seventy One came the book, the Babylonian Talmud."[89] Not that even the RaMBaM thought that this book could solve all problems; he (and Urbach) believe it succeeded in lessening them. The Mishneh Torah was designed to be read after study of the Written Torah, obviating the need for actual Talmud study because it pulled together all the laws that the Babylonian Talmud had taught. But neither it, nor any other code succeeded in this goal, nor was the Mishneh Torah agreed on by all Israel.

Only the Sanhedrin, the law court of seventy-one had what no book ever had or will have - the coercive power of an institution.

When a majority of the Sanhedrin decided on a textual point of law, discussion ceased. But the implementations of these laws, in the form of gezeirot and takannot had to be ratified, as it were, by the Sanhedrin's estimation of the community's ability to operate under them. All of this leads us back to the acceptance of the authority of the Babylonian Talmud:

> The agreement of all Israel on all those things in the Babylonian Talmud has as its meaning that all obligative and authorized halacha is empowered by the Babylonian Talmud,

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[89] Ibid.

and finds within it its source.[90]

In other words, RaMBaM described what he saw as reality, that the Babylonian Talmud was the accepted source of authority for Jews in his day. Urbach describes halacha in similar fashion:

> Continuity and Progress characterize the halacha, and both are essential to its authority. Arbitrary disconnection [of halacha] from its sources does away with the first essential; cessation of its growth process does away with the second essential, causes fossilization, and takes away its authority.[91]

Thus, while the halacha has continued to be authoritative:

> This authority of the halacha, which bases itself on "the agreement of all Israel" has not been without crises, beginning with the Karaites and up until this day.[92]

What all the different groups which deviated from the path of submission to halacha have in common is their "claim that the basis for the halacha's authority, i.e. "the assent of all Israel", was never total."[93] This then led to an opposite reaction:

> At every time of protest, there was no shortage of those who advocated stringency and segregation. To the degree that these were victorious, the halacha became their inheritance and that of their circle and lost its general authority. Despite this there have always been large groups and important

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[90] Ibid.

[91] Ibid.

[92] Ibid.

[93] Ibid.

> people who advocated differently, that precisely at the time of protest and opposition of the law, that the halacha should deal with what is put upon it from its very existence, i.e. to resolve those problems which time has created.[94]

Thus there have always been those, i.e. the Geonim who, like Urbach and the movement, wanted the halacha to be responsive to the modern situation. Unfortunately, this did not always have the desired result, "... the response to modernity brought about the creation of Orthodoxy, which had not been identical with traditional Judaism."[95] Here he relies on Moshe Samet's thesis in his article on the development of Orthodox Judaism[96]. But the politicization of Orthodoxy still has not met the needs of the people, so that halacha yet does not enjoy the full assent of all Israel.

The blame for this, to Urbach's thinking, is on those rabbis who failed to recognize the importance of the national enterprise. These were the one, unfortunately, who became enfranchised as the religious authorities once the state was established. Were the rabbis of the Mizrachi movement to have taken that position, one wonders if the Movement for Torah Judaism might not have achieved its goals. Inasmuch as this did not happen, Urbach can cast the blame historically on others:

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[94] Ibid.

[95] Ibid.

[96] see above, chapter 1.

> Here is one of the essential reasons for the failure of religious Judaism, that, due to an abundance of doubts, [the non-Mizrachi rabbis] decide to ignore these problems entirely.[97]

We don't have the kind of rabbis who can answer our questions, "therefore we have no one to ask them."[98] The circle is perpetuated. Urbach states it bluntly: "The supreme religious institution, which received authority from the state, caused the loss of halacha's authority'."[99] And who makes up the supreme religious institution? Obviously less visionary rabbis than we would like:

> If the field of vision of Israel's rabbis remains circumscribed to those areas of particular neighborhoods in Jerusalem and B'nei Brak, and to the Batei-Midrash and the yeshivot, then their authority will eventually be circumscribed to these same groups.[100]

The way to solve this dilemma? Find other rabbis:

> Only those rabbis, whose field of vision will be the modern society with all its variety of phenomena and thorny problems will not be prevented from making halachic decisions on these problems before they have become absolutely burning issues and when they ask about something will not mumble.[101]

The problem as Urbach sees it, is that we have given our rabbis no adequate training in actually handling the modern day's problems. We can not very well expect halachic

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[97] Urbach, p. 7.

[98] Ibid.

[99] Ibid.

[100] Ibid.

[101] Ibid.

decisions without a clearly understood process for achieving them. He, and the movement he founded, take the issue very seriously. In summary, Urbach contends that we must renew our approach to halacha and bring it back into Israeli society as a driving force:

> Halacha's authority in our day is dependent on, and tied to its resurrection as the halacha of the contemporary society, and in the training of halacha's agents, who will be not only children of Torah, but also its builders*[102].

The final article in this section deals with a subject brought up by many contributors to the periodicals under study: rabbis responsive to contemporary Israeli life. The late Rabbi Moshe Munk writes in August 1971 in the journal of the religious kibbutz movement concerning the details of training a new kind of rabbi[103]. Although not a kibbutznik himself, he has fine credentials for contributing to Amudim. Rabbi Munk was a supervisor in the religious division of Aliyat HaNoar and thus had occasion for contact with HaKibbutz HaDati. He is very familiar with the circumstances of the religious kibbutzim, and their youth. He very clearly states his intention in writing this article at the outset: "I want to deal with the subject: how to educate rabbis, and not: how do we make the rabbis independent."[104] He is not

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[102] Ibid.

[103] Rabbi Moshe Munk, "How to Educate Rabbis in Israel", Amudim 300, (August 1971): 392-3.

[104] Ibid.

concerned with the practical, institutional aspects of his suggestions as much as he is with the actual impact of rabbis on their respective communities. To his thinking, there are two components to preparing a rabbi to be effective in the present Israeli context. There is first and foremost halachic education, which will render a rabbi able to p'sak halacha. Second, there is professional training which will make that rabbi accessible and influential in a community. The idea of a seminary distorts a rabbi's education, in part by relying too much on training. Thus he says, "I think that while there should **not** be a seminary for rabbis, there **should** be additional training beyond the yeshiva."[105] Munk goes on to detail his ideas and ideals for the training of rabbis.

First, a rabbi should be qualified to make halachic decisions, which is essentially what a yeshiva education is all about. But this is too limiting, inasmuch as decisions being made by rabbis today go far beyond what a yeshiva graduate has been trained to deal with. Technological and societal challenges confront even the halachic world today. His solution is, that inasmuch as the established Rabbinate is not prepared to deal with the changed situation, we should be training rabbis who will be prepared and able. In Rabbi Munk's words:

> What has happened here in Israel is something which it is difficult to find a precedent for in any other place: the role of the rabbi has

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[105] Ibid.

been separated from that of the judge.[106]

The bifurcation of roles creates a situation which is both uncomfortable and unsatisfactory.

Being an halachic decisor is only part of what a rabbis does. To Munk "The second role of the rabbis is to be a spokesman."[107] In Israel this means addressing a very varied audience, from established families to youngsters on kibbutzim, from the very orthodox Jew to the nominally Jewish person on the street. The difficulties in training rabbis to meet the needs of all these audiences is obvious, but Munk does not yet offer a concrete example of how to accomplish this.

Furthermore, a rabbi's role extends in many other directions. He is called on to be an organizer, as well as a role model who influences others by personal example. This last role applies even to those who may not immediately identify with an orthodox rabbi. Munk here betrays some knowledge of public relations: "By creating personal connections, the rabbi will also succeed in influencing [others] toward observance of commandments."[108] Finally, "... a rabbi must be able to be a teacher..."[109] This is not limited to orthodox school contexts but to secular Israeli

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[106] Ibid.

[107] Ibid.

[108] Ibid.

[109] Ibid.

schools as well, not to mention community lessons. All of this is by way of outlining the many demands made on a rabbi which his present training does not prepare him to meet.

Part of the blame falls on those who, while they may consider themselves good candidates for the rabbinate, actually fall far short of meeting the requirements:

> In general I would say that the rabbinate needs men possessed of three basic characteristics: first, a basic desire to have an external influence, without differentiating between religious and non-religious... Second, natural abilities in effecting influence, and third, prior experience in educational work.[110]

If the potential candidates would meet these criteria **before** they embarked on post-yeshiva training they would be much more effective in their work.

This is a very refreshing point of view to hear from an orthodox rabbi, and obviously one which finds a receptive ear on HaKibbutz HaDati. By stressing a rabbi's need to be tolerant of others, even if this is only until he can achieve his objective of bringing them to greater observance, Munk shows real insight into Israeli society. Without a sense of when, where and what to say, no rabbi will succeed in influencing others, much less those who are disinclined to follow him to begin with. Thus, while he may learn what to say while in yeshiva, he needs further training to help him know when and where to say it. He has good examples of the

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[110] Ibid.

success of post-yeshiva or concurrent study system in the United States. But again, we ask along with him the primary question:

> What are the areas of the basic training? First of all, knowledge of Bible, Aggadah, and the literature of thought/philosophy, something which is very much missing in the yeshivot... Second: a certain understanding of psychology. Third: an understanding of modern science and technology, and specifically of the limitations of science.[111]

What this yields is a rabbi who knows much more about Judaism overall than previous graduates who may be qualified halachic decisors only. Munk elaborates on the essential nature of the third area of training:

> The rabbi must know the limitations of science, and its non-dependence in the area of faith. Additionally, a certain knowledge of administration is necessary.[112]

Acquaintance with modern literature and 'spiritual streams' in Israel are also suggested, as these are the languages which much of Israel's non-orthodox Jews are conversant with. Last but not least, it is advised that rabbis obtain skills in both speaking and writing.

Having outlined all the areas which a rabbi should receive training in, Munk goes on to cite examples of how such training has proven useful in the field. He further notes that such training enables rabbis to earn enough to live comfortably, which, while not a consideration for HaKibbutz

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[111] Ibid.

[112] Ibid.

HaDati, is a point not lost on the rest of Israeli society. Overall, Munk's argument is convincing and his plan of studies certainly well-rounded and applicable to the needs of Israeli society. Nonetheless, the problem of implementing such a plan remains:

> How to convince the heads of the yeshivot to agree that after a certain period of study, [a student]... will go to some institution in order to receive training as I have suggested.[113]

While Rabbi Munk's ideas have a great deal of merit, it seems they have remained only theoretically effective, as no one carried forward his initiative after his death.

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[113] Ibid.

CHAPTER FOUR: ACTUAL AND THEORETICAL ISSUES IN THE HALACHA

In this chapter we will examine different treatments of actual halachic problems encountered by contributors to the journals under consideration, and the solutions proposed by them. The topic of civil marriage and divorce is approached in several different ways, as might be expected from this heterogeneous group of modern observant Israelis. There are also individual writers who raise issues directly affecting them, particularly within HaKibbutz HaDati, such as agriculture and observance of commandments, or implementing the practice of tz'dakah. We begin with this last issue, considered briefly on the pages of Amudim.

In August 1968, Avraham Paltiel writes on the problem of how a modern religious Jew on kibbutz, or anywhere in Israel for that matter, should observe the commandment to give tz'dakah.[1] He describes the situation of the Jewish needy in Eastern Europe after the Emancipation as that of being no longer dependent on communal organizations for their sustenance, as was the case previously, but rather on individual initiative. The breakdown of the familiar communal structures, including the shnorrer, did not see their total replacement by governmental welfare agencies in modern states. Even in pre-Emancipation communities, personal initiative was not the only way of insuring that the needy were supported.

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[1] Avraham Paltiel, "Tz'dakah - how?", Amudim 263, (August 1968): 134-5.

The RaMBaM, in his Mishneh Torah, spoke of appointing tz'dakah collectors in every city with a Jewish population, as well as of the various stages of one's obligation to support the needy if one is a temporary resident. Tz'dakah was to be collected, even if coercive measures were needed to accomplish this. Paltiel first criticizes the pre-Emancipation structure for upholding less than the spirit of the law:

> We learn from the RaMBaM that the practical implementation of the commandment, then as well, was organized by obligatory [financial] appropriation on the community's part. Thus the previous form of maintaining tz'dakah in our society does not fulfill its original aim. We have the impression that at times it comes precisely to prevent the fulfillment of governmental obligation placed upon us. It also gives us an opening for evasion, from the conscientious viewpoint, of the essence of the obligation.[2]

The issue of a religious conscience is crucial to Paltiel's objections. He calls for a consistent attitude in observing the law, rather than strict adherence without corresponding intention. Paltiel notes the existence of several institutions within Israel, which move towards an observance of the original spirit of tz'dakah legislation. There are also charitable organizations like those engaged in clothes recycling, which are to be commended for their efforts, but these are not enough in that they serve mostly to quiet our consciences.

Paltiel is concerned too about the needs of immigrants,

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[2] Ibid.

pointing to the government's establishment of village centers for them as being an inadequate solution. Inevitably these are too small to allow for social development, which is an absolute necessity for the survival of such communities. He especially feels the need for doctors and teachers in such communities and cites the volume The Kibbutz in Israeli Society by E. A. Simon, which suggests that kibbutz children would be the ideal candidates for filling such roles. Some of these men and women would be of a mind to give of their time and energy in the service of the state, in very modest conditions, unlike members of the society at large. Paltiel sees the kibbutz/k'vutzah as the most permanent of these types of settlements and their members as the most fitting people to accomplish this task. His analysis envisions more and more kibbutz children reaching working age, and less and less people needed on kibbutz due to increasing mechanization. This will lead to an inevitable change in the societal structure of kibbutz which would lessen the traumatic impact of sending members off to work in immigrant settlements.

His point of departure was the commandment of tz'dakah, and he comes back to this by positing that the kibbutz movement can pave the way for a return to the original form of tz'dakah, as taught by the RaMBaM, by just such communal service. This would serve not ony a "charitable" function in society, but might help solve as well "that painful cultural

(and security) problem of the unity of the Jewish people."[3]

Paltiel brings Judaism's tradition of societal responsibility for the the needy as well as the ideal of tikkun olam to bear on a problem experienced by all Jewish commmunities, not just socialist settlements. Other members of HaKibbutz HaDati use the same forum as he to bring up problems which they feel need to be published in order to raise community awareness. Tzuriel Admanit is a frequent contributor to Amudim and a progressive thinker in terms of adapting the halacha to contemporary needs. He questions the parameters of tz'niut [modesty], as well as the state of equality of religious educational opportunities for women on religious kibbutzim. In so doing, he raises the broader question of who is the authoritative source for answering such questions. His conclusion is that the community must be the one to formulate a realistic halachic response, rather than relying on external rabbinic resources. He is criticized for this by another member of HaKibbutz HaDati, providing the readers of Amudim with a thoughtful and thought-provoking exchange of opinions on the issues at hand.

Admanit compares the two issues of wigs worn by religious Jewish women and the election of a female as Israel's prime minister.[4] His thesis is that the basis for opposition to the

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[3] Ibid.

[4] Tzuriel Admanit, "Orthodoxy at the Crossroads", Amudim 280 (May 1969): 290-3.

first, and support of the second, is the same, i.e., rejection of long-held traditions and customs. The argument over the first issue has a long history, with the controversy only recently being rekindled. The newly appointed chief rabbi of Tel-Aviv/Yafo, Ovadiah Yosef, while opposed to wigs, evidently did not intend for his opinion in this matter to cause dispute. Rather, Admanit points to the publishing of an opinion from an orthodox woman in HaTzofeh as to the well-known fact that: "... a religious woman knows that it is one of her obligations to beautify and adorn herself for her husband's sake."[5] A newly ordained rabbi from B'nei Brak, Dan Shiloh, is brought into the debate, expressing vociferous reservations in this "halachic argument" between Ovadiah Yosef and the woman. Admanit summarizes his main point as follows: "Halacha is authority, and this authority is transferred to those 'whose talmud torah' is incomparable."[6] The next participant is then introduced, the respected Rabbi N. Z. Friedman, who argues that wigs are not an halachic issue at all, but rather a custom, and rabbis do not take issue with long-standing customs. He asks the telling question: "Are we obliged to be scornful of the ancients?"[7] Friedman has powerful evidence, in the form of a paraphrase of the Gaon of Vilna, to the effect that he forbad his daughters to wear

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[5] Ibid.

[6] Ibid.

[7] Ibid.

wigs. This is symbolic of the graduated nature of observance. Not all religious Jews have attained the level of observance that would lead them to have women wear wigs. Just because such a lofty personality as the GRA took this stance does not make it normative for all religious Jews.

Admanit takes the view that the renewal of the argument on wigs, while involving rabbis, is yet not thereby rendered a rabbinical issue. It is an ordinary social problem, which arises from changing circumstances. The definition of tz'niut is an issue of social reality rather than a challenge to the institution of rabbinical authority. From contemporary society's behavior, it would seem that it has given approval to the institution of the wig among religious Jewish women. Furthermore, why should we speak at all of relativity in terms of observance? If the GRA forbad his daughters to wear wigs, surely he intended this to be generalized to all religious Jewish women!

But then again, while it is possible for two Torah scholars to disagree on a particular question, it is not reasonable to accept both their opinions, given that they are both "holy and modest"[8] each at their own level, according to Admanit. Moreover, is it so improbable that a question that was seemingly settled halachically long ago is brought up anew? There are many instances of practices which through their automatic observance, served the opposite purpose than that

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[8] Ibid.

for which they were originally designed. Here Admanit makes a general point which is far-reaching in its implications:

> The renewal of Israel's independence surprised us in so many areas, and thus the sins of yesterday turned into holy commandments, and behavior that had been a sort of separatist existenc and ancestral purity, became evasion and 'standing idly by' the sin of a fellow Jew. Can one so easily ignore all the changes and remain as yesterday?[9]

The clear impact that the changing times have on our behavior is apparent to Admanit, but the modern viewpoint inherent in such a view is not acknowledged by him. By the above cited statement we can see how much the author takes for granted the relativity of law/halacha in a religious Jew's life. this is not to say that he, as an observant Jew, would do away with halacha, but rather that his observance of it might differ radically from previous generations in outward appearance. This allows him to state that:

> It is clear to all, that the outward ideal appearance of a Jew observant of Torah and mitzvot here and now will not be congruent with the image of the GRA and the Chatam Sofer.[10]

The religious lives of these figures did not have to consider and adapt to such factors as the maintenance or continuing settlement of the State of Israel. Admanit is ready to equate a settler on the West Bank with the above-mentioned sages in terms of how important and concerned with Torah each are.

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[9] Ibid.

[10] Ibid.

In proving this point further, he brings the example of Yom Ha'Atzmaut and its interruption of the mourning period of the Omer. There are orthodox Jews who do not observe this holiday, most notably anti-Zionist Americans. To his mind, the latter represent a type of less religious Jew. Thus Admanit accepts the hynpthesis that every Jew is obliged to come to terms with the new circumstances brought about by the changing reality, although not necessarily at the expense of the traditions of former generations of revered Jews. Moreover, while we must adapt our observance to new circumstances, we must not delude ourselves in thinking that the accepted tradition of our people will provide us with clear guidance as to the new forms such observance will take.

What is the common denominator in the issues of wigs for religious Jewish women and the appointment of a woman as Prime Minister of the State of Israel? To Admanit's thinking, it is: ."... the accepted Orthodox approach to finding 'halachic' solutions to the problems of modern society."[11] Thus Admanit justifies his position, elaborated previously, that the accepted Orthodox view of women is inconsistent and illogical. He sees the society which gave birth to the halacha as substantively different from the present one. Previously, Jewish society perceived a necessity in separating men and women, mens' activities from womens', which led to the limiting of a woman's involvement in Jewish higher learning,

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[11] Ibid.

i.e. Torah study. The legal system based on such a perspective of women as lazy and unfit for problem-solving seriously circumscribed the areas of activity permitted them. As a result, the appearance of a woman in a position of Jewish public leadership came to be interpreted as a defect in the societal structure.

The author openly scorns such an outmoded view: "That this area of halacha is based upon a fiction is only too apparent."[12] A society which embraces the values of equality of status and thus opportunity for women can formally observe some of the laws of the society described above, but cannot be congruent with it. The unspoken criticism here is that the old system must sometimes take a back seat to present-day reality, and those who insist on being strictly, petrifiedly legalistic must perforce be left behind by the modern society. Inasmuch as Admanit has no intention of being anywhere but at the forefront of the renewed Zionist enterprise, he cannot subscribe to the thinking that characterizes accepted Orthodox tradition.

Miriam Shiloh begins her response to Admanit **not** by criticizing him for the view concerning the wearing of wigs as a fulfillment of the commandment to cover one's head (with which she disagrees).[13] Instead, she praises his consistent

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[12] Ibid.

[13] Miriam Shiloh, "Liberalism at the Crossroads", Amudim 287, (December 1969): 115-6.

attitude as an observant Jew:

> Tzuriel's honest approach in fulfilling the commandments, whereby the nishmah is always joined to the na'aseh, certainly does not allow him to see in the new fancy of natural locks [wigs] a proper fulfillment of **the spirit** of the obligation to cover one's head.[14]

The author feels a need to correct what she calls "an educational defect in need of repair[15]" on Admanit's part. Her credentials for criticizing such a pillar of Amudim are her origins as a child on HaKibbutz HaDati and, more importantly perhaps, her perspective gained from subsequent experience in an urban religious community. It is therefore understandable that she refuses to challenge Admanit on any halachic matter, not having the background to do so with any authority. She prefers instead to challenge his ideas and rhetoric.

Shilo draws an analogy between Admanit's statement: "the community determines the norm in the observance of law"[16] and the practiced way of learning language. While language is taught in a classroom by a qualified teacher, children on the street are wont to make up their own words and rules. Were we to adhere to the street rules, language would be unintelligible. Is Tzuriel then saying that we should do as the community does in halachic matters, rather than listen to

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[14] Ibid.

[15] Ibid.

[16] Ibid.

those qualified to teach and interpret the laws of Judaism? We are, of course, able to accept those changes the community institutes once they have been approved by appropriate authorities, just as new words make their way into a language by gaining the approval of teachers over time.

> It is known that the halacha has very much taken into consideration the ability of the public to accept upon itself halacha, according to the accepted norms of that same public - but **the rabbi** is the one who decides if, and how much to consider public opinion- and were it not so our Torah would be already as divided as the number of individuals in Israel.[17]

Shilo's real critique of Admanit rests on his being part of a closed community, a religious kibbutz. The kibbutz is suspect because it has not accepted the crucial aspect of an halachic system - an halachic authority, a rabbi. Shilo sees the kibbutz as anarchic, lacking in clear direction, especially fas far as its children's religious education is concerned. She posits that the only kind of reasoning that average Israeli young people will accept as binding is halachic reasoning. They want an authoritative statement of right and wrong, rather than a relative weighing of values, like aesthetics or modesty. They will simply discard the rationalizations used by the Orthodox as outmoded and illogical.

She brings up a previous article of Admanit's where he describes the psychological justifications for covering one's

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[17] Ibid.

head. This added non-halachic reasoning had the effect of weakening the thinking behind this law for her. Her observance of this law rests on its **obligatory** nature, just like any other law in the Shulchan Aruch. In actual fact, when she and other teachers did not teach girls to cover their heads, none of them did it by themselves, except perhaps coincidentally. When the teachers decided to teach this custom, the results were much better.

Yet another article by Admanit is problematic for Shilo as well. He wrote a criticism of religious education, in which he claimed that in its failure to point out the differences between disco dancing and folk dance the youth were drawn to disco dancing. What she has seen in reality is that even those who disco danced previously, after completing a religious ulpan or yeshiva, no longer participated in any form of mixed dancing. Just as before she was ready to praise him for being consistent, now she blames him for being inconsistent:

> ...if casual contact with a girl is permitted, then it is permitted; and groups of youth who do not remain in the framework of kibbutz sooner of later will go club dancing.[18]

The problem moreover, is not confined to Admanit alone; it is with kibbutz religious education which does not teach children to recognize the halachic authority of a rabbi or other teacher. Thus, as a young girl on kibbutz who washed out a stain in her shirt on Shabbat in the dining room,

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[18] Ibid.

causing Tzuriel to remark to her that such activity was forbidden, she yet continued to do it, thinking:

> ... if the halacha takes into consideration reality and is determined by it, it then must be flexible in this instance, because it is very discomforting for me to sit in the dining room with a stain on my Shabbat blouse.[19]

She then asks, rhetorically: "Is he [Admanit] able to fix a clear border that will convince youth that this is not the case[?]"[20]

The author's main point then, is: "When the religious public ceases to rely on halacha, **it cuts the branch on which it sits.**"[21] If we do not educate our children to recognize the authoritative power of halacha and its decisors, we insure the future failure of religious Judaism.

Shiloh proceeds to graciously thanks Admanit for all his efforts on behalf of integrating women fully into religious life on HaKibbutz HaDati. She goes on to cite rabbis who have helped to improve the situation of women in Orthodoxy, winding up with a general statement of sentiment probably not shared by many in the modern observant camp:

> There are more than a few rabbis who stand with both their feet in the modern reality who can show a way for observing halacha at present - one must only want to listen to them. [22]

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[19] Ibid.

[20] Ibid.

[21] Ibid.

[22] Ibid.

Finally, Shiloh notes that while the educational system of HaKibbutz HaDati is not yet where she would like it to be, there is yet time to change it without resorting to the isolationism found in such religious communities as B'nei Brak. How can this be accomplished?

> ... if the relationship of honor to the study of Torah, halacha and its decisors were to take its rightful place in the education of HaKibbutz HaDati, the results of the education would be more satisfying to the educators than previously.[23]

The amount of satisfaction of course depends on the attitude of the educator; clearly, she is more satisfied with religious education which adheres very closely to traditional forms. Her experience on kibbutz however, would attest to a range of attitudes of educators on it, and thus a range of satisfaction with the present system. Shilo leaves the practical application to others to elaborate, evidently satisfied that HaKibbutz HaDati will find a way to implement her suggestions.

Moving now from an exchange of views as to the proper methods and justifications for the teaching of halacha on religious kibbutzim, to a more generally applicable issue, we turn to Shmuel Shiloh's article "Mixed Marriage in the Halacha"[24]. In the wake of a decision in the Shalit case and legislation concerning the Law of Return, the Law of

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[23] Ibid.

[24] Shmuel Shiloh, "Mixed Marriage in the Halacha", Deot 39, (Spring 1970): 252-3.

Citizenship, and the Law of Population Registry, Shmuel Shiloh points us to the writing and thought of Rabbi Ya'akov Reisher. Shiloh's article on mixed marriage does not purport to be halacha l'ma'aseh, but he does put a good deal of stock in the progressive decisions of one particular poseik. As it happens, the rabbi in question would have liked to see the possibility of a mechanism for dealing with the results of a mixed marriage, if not in fact the establishment of a procedure for conducting them. The latter is something Shiloh is very much in favor of, while he is yet sensitive to the halachic categories to be gotten around in pursuit of such a procedure.

First of all, it is clear that from a strict halachic perspective, there is no state of marriage possible between a Jew and a non-Jew. Nonetheless, there are certain questions which arise from such a situation which deserve consideration:

> My words here are aimed specifically at those among the dati camp who totally negate the possibility of recognizing mixed marriage as an halachically recognized status, even concerning specific aspects of it, such as laws of finance between a couple.[25]

These dati people, wo in this case we would call orthodox as well, would not call such a mixed couple husband and wife, insisting rather that they have no legal bond whatsoever. Shiloh will not pursue what Rabbi Uziel was constrained to deal with in this situation, i.e, that in such a marriage the

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[25] Ibid.

husband in obligated to pay child support and alimony. This decision set a precedent.

Without going into Rabbi Uziel's methods, Shiloh states that he used "traditional halachic approaches to reach his conclusions."[26] Shilos wishes to attempt the same thinkg, showing how Rabbi Reisher dealt with the question of "the recognition of the halacha toward the shared life of a Jew and a non-Jew."[27]

Around the turn of the 18th century, Rabbi Reisher received a request for a p'sak halacha concerning an observant Jewish man married to an observant non-Jewish woman. The woman was in posession of leaven she'avar alav haPesach. The question posed to Rabbi Reisher was, which rule applied? 1) 'The leaven of a non-Jew is permitted b'hana'ah' or 2) 'That which a woman acquires, her husband acquires as well.' Reisher did not accept the traditional answer, i.e. that the second rule does not apply. Furthermore, Shiloh is impressed that Reisher did not delve into the ethical aspects of the situation, but confined himself to the practical concerns only.

Reisher wrote in his response that while a non-Jew may not effect the state of marriage with a Jew according to halacha, nonetheless: "... it seems that there is the customary state of marriage [minhag ishut] in many aspects of the matter."[28]

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[26] Ibid.

[27] Ibid.

[28] Ibid.

Shiloh then shows how Reisher used prooftexts which reflected the treatment of non-Jews as having personal status within halacha, albeit in the framework of a non-Jewish couple, that is, where both partners are non-Jews:

> It turns out that the halacha recognizes the status of husband and wife among non-Jews, when dealing with other non-Jews. Are these words applicable to mixed marriage? Rabbi Ya'akov Reisher's answer: 'yes indeed!'[29]

After citing Reisher's response, which effectively stated that one should do as the country does, meaning that the wife's property is the husband's as well, Shiloh continues:

> What comes out of what is said in this response is that, in principle, similar to the limited recognition the halacha has of the institution of marriage between non-Jews, the halacha recognizes mixed marriage, that is, marriage between a Jew and his non-Jewish wife, who is 'the woman singularly his.'[30]

This is a misinterpretation of what Reisher is saying, to our mind. Yes, the halacha does recognize that a husband is financially responsible to a member of his household, even a non-Jewish woman, but it does not go so far as to actually recognize the marriage. Shiloh feels we are ethically bound to find a way to accept such a mixed couple, upon their emigration to Israel. In his words: "A solution in this matter is likely, in our opinion, to be accepted by many segments of the people in our day."[31] While determining

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[29] Ibid.

[30] Ibid.

[31] Ibid.

whether or not such a solution is within the bounds of the halacha is very much suspect, its glad acceptance among most Israelis is very close to guaranteed.

In Shilo's thinking we find a liberal approach to a clearly defined halachic problem: the modern reality of mixed marriage. What is noticeably lacking in the article is any hint as to where other such creative halachic solutions might be found to problems of a similar nature. The question must be asked as well, why has Shilo tried to apply the p'sak halacha of the Shvut Ya'akov, which dealt with an extremely rare situation in the 18th century, to the present time, when mixed marriage is not only much more widespread, but also generally conceived of as a grave danger to the Jewish people? The answer, quite simply, may be: desperation for finding any way at all to deal with this problem. Shiloh is certainly not alone in his concern for the future of intermarried couples within religious Judaism, but his solution does not seem to be a viable one.

We now examine a different sort of attempt at a resolution of the discomfort felt by some religious Jews over the impossiblity of effecting a civil, rather than religious marriage in Israel. Pinchas Shiffman addresses himself to the issue of civil marriage in Israel in his article "Chok B'lo Nachat"[32] As a lawyer and a teacher of lawyers, he is very

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[32] Pinchas Shiffman, "An Uneasy Law ", Deot 41, (Spring 1971): 23-7.

concerned with consistency in the legal framework of Israel. Thus he is uncomfortable with the present status quo arrangement, and subjects it to incisive and, in our opinion, fruitful criticism. He begins on a note of submission to the vagaries of life in Israel as regards this subject:

> It seems that the feeling that there can be no refuge, sooner or later, from the conducting of civil marriage in Israel has lately turned around to become the inheritance of broad groups.[33]

His opinion on this follows:

> I fear, that public support which religious marriage has enjoyed as the sole form of marriage has weakened recently, and this is not only as a result of the strengthening of principled opposition to the the fact of legislative religious coercion on the non-believer. The straw that broke, or that will break, the camel's back is in essence the lack of will on the part of the secular public to be subjugated to stringencies and prohibitions which negatively affect one's personal happiness, without reasonable grounds.[34]

For a secularist, there is no reasonability to the basis for such antiquated laws as those which deal with prohibited marriage between kohen and g'rusha; mamzeirut; chalitza, etc. Even believing [religious] people sometimes have a hard time accepting these as reasonable. Yet a believing person

> sees himself as obligated to submit to the religious commandment hidden in them and to subdue ethical, logical or emotional criticism, which even he, at times, subjects

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[33] Ibid.

[34] Ibid.

one law or another to, internally.[35]

Shiffman takes a step many Orthodox Israelis would not, in admitting that it is only natural to weigh halacha on one's internal scales of justice, no matter what the practical outcome of this is. His insight into human nature is not absolutely naive, moreover; Shiffman is keenly aware how much the bulk of tradition is against him in this regard:

> The opposition between halacha which sees itself as the most important thing through submission to religious commandment, and the view which sees in the imposing of religious prohibitions on the non-believer a defect in an ethical principle, is an opposition which several previous generations have pointed to, but recently it has become sharpened, and taken on the character of severe practical conflict.[36]

The public is not as willing to be convinced by nationalist/cultural arguments as it once was, owing in large measure to the intransigence of the Rabbinate. Only after much political pressure is applied to this body has it been at all responsive to the needs and demands of the non-observant majority.

Rabbi Shlomo Goren's singular act of solving a problem within the halacha[37] is the exception which proves the rule. It is worthy to note that Rabbi Goren never attempted such activity after his election to the Chief Rabbinate, although

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[35] Ibid.

[36] Ibid.

[37] Rabbi Goren rendered a decision in the Langer case during this period which purported to use traditional halachic methods in declaring children of a second marriage not to be mamzerim.

he had intimated he would. Shiffman conveys the general feeling that the Rabbinate is dragging its feet in doing its job of responding to current situations for the public's benefit. The fact that it relies overly much on stringent decisions does not sit well with Shiffman; he considers this

> ...the easy way out for a _poseik_ - it is _status quo_. For, just as it is forbidden to call pure that which is defiled, so too is it forbidden to call defiled that which is pure. (Jerushalmi, Trumot, 5:3 and RaSHI on _kocha d'hetera adifa_.)[38]

In Shiffman's clever turn of phrase: "one who wants to be _moreh hora'ah_ [a term for a teacher of religious decision making] cannot be _yareh hora'ah [one who is frightened of teaching]_."[39] It takes courage to make innovations, while leaving things as they are is sometimes an act of cowardice.

Shiffman cites the recent Chief Rabbinate's ruling on the possibility of coercing a husband to give his wife a divorce. The Rabbinate, however, did not permit itself the implementation of such a ruling because it has to be stricter with itself, so as not to distort the sense of the _halacha_. That is to say, the Rabbinate chose not to implement coercion of a husband to grant a divorce, although it had found grounds within the _halacha_ to do so. Shiffman questions the Rabbinate's justification for such stringency in applying even somewhat liberal interpretations of law. Moreover, there are

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[38] Ibid.

[39] Ibid.

other issues, like mamzeirut, which are not even on its agenda.

The author's analysis of the Rabbinate's actions is helpful to an understanding of his eventual conclusions:

> The Rabbinate has created a barrier between itself and the public, including the religious public. One of the reasons for this barrier stems from the fact that the ethical sense of the Rabbis reveals itself more than once as essentially defective.[40]

The specific instance seems particularly ridiculous to Shiffman:

> If the rabbinical courts are ready to allow a man to take a wife over his own, whom he hated during the forty or so years he was married, in their acceptance of the claim that she is, practically speaking, considered his concubine, because their marriage was conducted in a civil ceremony - there is in this enough to raise the hackles of any thinking person, even if he is an observant Jew.[41]

Another factor in the shift in public opinion towards civil marriage is the civil courts, which have made decisions which in essence undermine the reasons for religious marriage. The courts are now accepting as married those who had civil ceremonies outside of Israel, even if the partners could not be married under religious law, e.g. kohen and g'rusha.

Finally, Shiffman gets to his practical suggestion:

> No one suggests negation of legal recognition of religious marriages. The suggestion is to conduct civil marriages for those who want

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[40] Ibid.

[41] Ibid.

> them, side by side with religious marriage, which will continue to be recognized by the laws of the State. The situation today already approaches this in large measure...[42]

He does not go into the difficulties inherent in civil divorce, and is very much aware how much greater these are than those posed by civil marriage. Instead of frankly stating that he is in favor of adopting civil marriage in Israel tomorrow, Shiffman restrains himself in favor of closer study of this problem and its roots in the halacha:

> In any event, we must study the suggestion to conduct civil marriage seriously, at the very least in those 'emergencies' in which the partners are forbidden to marry according to halacha, while the halacha yet recognizes the validity of the marriage, post facto.[43]

In sum, Shiffman lays claim to a philosophy of religiuos decision-making which would have as its aim the solution of ethical dilemmas for modern Jews within the halacha. He sides with RaSHI in preferring the longer, harder path to finding allowances within the religious legal framework for the sake of making peace between the people and the halacha. This is in pointed contrast to the current situation, in which the Rabbinate has to be pushed even to consider halachic adjustments to changed circumstances.

The problems surveyed in this chapter have been both urgent and thorny at times, but all were actual difficulties with which modern observant Israelis chose to wrestle, rather than

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[42] Ibid.

[43] Ibid.

remain passively accepting. The vision of all these individuals is to be commended, even if their methods are not always sound or practical. One group in particular, HaKibbutz HaDati has been struggling to create a lifestyle that walks the fine path between the ideals of Jewish religious existence and the desire to create a better, more equitable society. Agrarian communal living is not an easy choice, even given the best technology. When the aspect of religious observance is added, it is often a very complicated process which must be called into play to make decisions. The next contribution to our study is part of just such a process. It is a report of a conference on the topic of "The Advancement of Observance of Commandments in the Agricultural Settlements on Jewish National Fund Property."[44]

The Jewish National Fund has a religiuos department, which provides assistance and information to the religious settlements on its land, both kibbutzim and moshavim. There also exists in Israel an institute devoted to "agricultural research according to Torah."[45] The participants in the conference included representatives of these two groups, as well as all the religious settlement groups, the religious youth groups, the Ministry of Religions and rabbis from the moshavim. The conference was for the purpose of discussing

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[44] Rami, "On Agriculture and Observance of Commandments", Amudim 303, (May 1971): 203.

[45] Ibid.

> methods which would encourage and further the observance of commandments (those dependent on the land and others) in all the religious settlements in Israel.[46]

By having all the affected parties participating, it was hoped implementation of the decisions and suggestions generated at the conference would be simplified.

Rami summarizes the topics covered by each speaker. While most of the issues fit under the general heading of "science/technology and halacha", the immediate consideration of what to do in the upcoming shmitta year is also covered. The treatment of hydroponics, for example, was unexpected, but is evidently not beyond the scope of such a conference. The Institute, while primarily a research facility, also publishes, and had recently set up "The Institute of Higher Learning for Halacha in Agriculture."[47] This school has as its goal

> ... the clarification and elucidation of various questions which have not yet been resolved, in everything connected with theoretical as well as practical halachic problems.[48]

A total of five people are involved with the Institute's work in publishing, and it was proposed that this number be increased. The specific matters under consideration included greenhouse tending and animal care on Shabbat. It was noted

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[46] Ibid.

[47] Ibid.

[48] Ibid.

that if more people were added, the possibility of "... physical guidance alongside scholastic study and publications"[49] being added to the Institute's role would exist.

The overall effect of this conference is clear from the last paragraph of the article:

> At the conclusion of the conference it was decided to call to all the religious settlement groups to make a concerted effort towards dissemination and implementation of science in the service of the Torah in the various agricultural branches.[50]

As this study is limited in its chronological scope, we do not have the opportunity to examine more closely the work of the organizations mentioned here. The workings of HaKibbutz HaDati however, are well documented and we now proceed to the debate concerning the place of rabbis on the religious kibbutzim, one example of this body's continuing dynamism.

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[49] Ibid.

[50] Ibid.

CHAPTER FIVE: RABBIS ON RELIGIOUS KIBBUTZIM

HaKibbutz HaDati is unique in many aspects. It is the only kibbutz movement which integrates full halachic observance with a democratic and socialist lifestyle. It is both inside and outside the Israeli religious establishment, accepting only some of the Chief Rabbinate's rulings and protesting others, such as the conscription of girls into the army, and the refusal to publish a siddur for Israeli national holidays such as Yom Ha'atzmaut, Yom Yerushalayim, etc. Their roots are in the B'nei Akiva youth movement, and they have faitfully carried forward its ideals of Torah v'avodah up until the present time. Howard M. Sachar has characterized their settlements as:

> superb religious kibbutzim ... [which have] displayed a liberality of thought, an openness toward secular learning, and a tone of almost purposeful mildness.... Here seemingly, was to be found at least one path toward a reconciliation of Orthodox and secular ideals.[1]

The internal workings of the religious kibbutzim are, like all kbibutzim, conducted in an open atmsophere; all opinions are allowed to be heard but the vote of the aseipha [members decision making meeting] is binding. For HaKibbutz HaDati however, the authority of the community's decisions must be weighed against the authority of a rabbi's decision in some instances. The entire question of rabbis on HaKibbutz HaDati

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[1] Howard M. Sachar, A History of Israel: From the Rise of Zionism to Our Own Time, Alfred A. Knopf, New York, (1986): 611.

raises more than one hackle on the religious kibbutzim, and in this chapter we will examine the expressions of support, outrage and confusion which were published on this subject during the period after the 1967 war and prior to the 1973 war.

In August of 1968, Rabbi Catriel Tchorsh asked the question "does the rabbi as an institution have a place in the religious kibbutz?"[2] He did so out of a self-proclaimed desire to improve the religious situation on the kibbutzim, and in reaction to an exchange of letters published previously in Amudim. These letters were written between a youth and a youth leader and raised many questions, this one among them. Tchorsh sees this question as a sign that the time has finally come when people want it answered, and goes on to offer his solution, in hopes that it will ultimately be accepted. He begins at the source, quoting the anonymous youth's letter in framing the question:

> I would like to know what HaKibbutz HaDati is doing or intends to do in order to train rabbis and scholars from its ranks who will know how to lead the young generation, will see to the regularity of Torah study, and will preserve, not only the 'kibbutz' [communal] element of HaKibbutz HaDati, but also the religious element. By so doing, we will be able to solve the problem of moreh hora'ah on the kibbutz, something which is very lacking in a number of kibbutzim.[3]

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[2] Rabbi Catriel Tchorsh, "In the Matter of the Rabbi on Kibbutz", Amudim 271, (August 1968): 359.

[3] Ibid., p. 359.

What is so wrong with the rabbis present in Israeli society at the time, one might ask. Basically their major fault, from the point of view of one kibbutz youth is their lack of kibbutz education, and their subsequent unfamiliarity with kibbutz and the kinds of problems it naturally gives rise to. These are the young person's words, and while Tchorsh agrees with these wholeheartedly, he is quick to point out that he said the same thing thirty-five years ago when he arrived in Israel, became active in the movement and found one solitary rabbi on a religious kibbutz.

One expects to find every Jewish community outside of Israel possessed of a rabbi, no matter its size. How is it then that HaKibbutz HaDati has no one to guide, teach and judge in religious matters, Tchorsh argues? There is great argument about precisely what to do with the spiritual side of kibbutz existence. Here Tchorsh lauds Moshe Una, a veteran and leader of the religious kibbutz movement, on his straightforwardness, even while he disagrees vehemently with him, insisting that Una's way of thinking does not help matters at all. The situation was bad enough when rabbis did not come to the kibbutzim which arose over time, but even the one rabbi Shimshon Rozental, left kibbutz Yavneh for some reason. True, Rabbi Levinger did take his place, but this is the exception, and for the vast majority of kibbutzim, Tchorsh's point of view is valid - there are no rabbis.

Here is the author's main point, i.e. that we, HaKibbutz

HaDati should take those of its members who have good religious educations and send them off to yeshivot in order for them to learn how to be rabbis, and then place them on the kibbutzim. This would obviate the necessity for finding rabbis who accept the kibbutz ideology and lifestyle, and solve the problem of rabbis on kibbutzim. It is true that this has not happened in the forty years Tchorsh has been in the country, so he is not expectant or optomistic of it becoming tomorrow's reality.

The viability of such a program is attested to by the fact that the secualr kibbutzim have for a long time been sending their members off to universities so as to create an intellectual element on kibbutz to further the community's scientific and technological progress. It would seem to be no great difficulty to do the same for rabbis on the religious kibbutzim. To Tchorsh's thinking, what the tragedy really is, is that the more individuals set themselves up as morei hora'ah who institute customs and takannot which are not in consonance with the Chief Rabbinate's position. He uses the machzor for Yom Ha'Atzmaut as one example. This then leads to the impression on the part of the Chief Rabbinate that it is HaKibbutz HaDati which is rejecting them! Obviously, if HaKibbutz HaDati wanted rabbis, then they would not be instituting all these changes which go against what the Chief Rabbinate has decided to do. The logic is that there can be be no religious feeling without the official presence of the

Rabbinate.

Tchorsh goes on to elaborate the difficulties infinding rabbis who would know how to deal with the daily problems of kibbutz to serve onthe kibbutzim and concludes the article with two concrete suggestions:

> 1). To search for already trained young men in the yeshivot, and particularly in the yeshivot of "merkaz haRav" and "kerem b'Yavneh", who are equipped with the spirit and general idea of the members and of the movement.
> 2). To establish a Torah 'garin[4]' from among the finest minds and talents for Torah and lae, leadership and counseling, who will serve as rabbis and morei hora'ah within our kibbutzim.[5]

The author firmly believes that this is not only what the majoirty of the movement needs, this is what the movement wants.

We can perhaps expect that a Rabbi would be fuly in support of rabbis on the religious kibbutzim, so the words of Rabbi Tchorsh do not come as any great surprise. But he himself admitted that his voice had not been listened to, or his suggestions implemented for thirty-five years. There are others within HaKibbutz HaDati who are not as eager as Tchorsh to see rabbis placed in the settlements of the movement, and Tzuriel Admanit is one of the most vocal in expressing his views on this topic.

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[4] a nucleus of people wishing to establish, or strengthen an already existing communal settlement.

[5] Ibid.

Comrade Admanit seems a bit weary of all the talk about rabbis on religious kibbutzim. He certainly is not convinced that the presence of a rabbi on any of them would have prevented the creation of the machzor for Yom Ha'Atzmaut. He takes a stance clearly in opposition to that of Tchorsh, who supported the Chief Rabbinate's authority over the kibbutzim. Admanit provides some historical background for the possibility of rejecting such authority:

> It is impossible to ignore the fact that the religious personality of many of the veteran members of HaKibbutz HaDati became crystallized in opposition to the the opinion of importnat, even authorized rabbis. Our Zionist awarenesss was the fruit of religious intuition, yet unauthorized from the point of view of the rabbinical establishment.[6]

Admanit here refers to the continuing controversy among some rabbis as to the propriety of that national enterprise, the State of Israel. The Zionist movement did not attract the majority of rabbinic leadership at one time in its history, and this is ample reason, for Admanit, that it in turn not be included on the kibbutzim. It has certainly served as a deterrent for accepting the rabbis as the unequivocal decisor of Torah for the individual on a religious kibbutz. This, of course, is only part of the resistance. More significant is the struggle, ongoing in Israel since its inception, for the rightful place of Torah in the state:

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[6] Tzuriel Admanit, "The Rabbinate and the Religious Kibbutz: the Status of the Rabbi in a Religious Commune Insures Yet Obligates Him", Amudim 272 (September 1968): 391ff.

> Rabbi Tchorsh also knows that the decision about the customs of Yom Ha'Atzmaut was the result of pressures and compromises, and not the result of unequivocal halachic-Torah discussion.[7]

From here, Admanit launches into a consideration of the institution of the Chief Rabbinate of Israel. He identifies his reason for dicussing this as deriving from Tchorsh's assertion that the lack of rabbis on the kibbutzim influences our attitudes towards the Chief Rabbinate. Admanit deems it necessary to refute such thinking, inasmuch as he feels that the kibbutim **have** turned to the Chief Rabbinate to resolve problems, althought it has not always received answers from that body! His point is that the differences HaKibbutz HaDati has with the Chief Rabbinate are not halachic in nature, but rather political. If the Chief Rabbinate were to take HaKibbutz HaDati into account in its decision-making then confusion and crises of faith would not occur. In his words:

> The Rabbinate today does not deal with halacha within the four cubits of the Beit-Midrash and is commanded to have well-ordered public relations, like every governmental institution.[8]

In other words, if the Rabbinate were to truly apply **only** halachic criteria to deciding religious questions, rather than involving itself in political consideration of religious issues, in the name of public relations, perhaps there would be more agreeement within the dati community as to the

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[7] Ibid.

[8] Ibid.

acceptability of its rulings.

Having given vent to his frustration with the Chief Rabbinate, Admanit returns to the issue at hand, that of rabbis on religious kibbutzim. He finds a glaring error in Tchorsh's statement that one can find in every Jewish community in the Diaspora, "a rabbi and other religious servants"[9] as support for there being rabbis on kibbutzim. HaKibbutz HaDati does not hold the value of consciously trying to imitate the Diaspora. First, in Israeli kibbutzim there are no class distinctions between members, and thus neither professional rabbis nor religious servants. Every members takes on part of these individuals roles as they have been practiced in the Diaspora. There is serious doubt if it is desirable to introduce a rabbi into the kibbutz who would effectively take upon himself these traditional offices: "Any common transfer of the role of a Diaspora rabbi to our special circumstance must be in error."[10]

Another ideological problem is that of the rabbi's authority. In urban settings in Israel, the rabbi is recognized as the sole halachic decisor only by those who accept his authority. In the kibbutz, were the rabbi to serve as part of the rotating administration, his decison would yet not be subject to the constant democratic critique which all members come under. Would this undermine his sole authority

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[9] Ibid.

[10] Ibid.

as halachic decisor, inasmuch as it sets him apart from an entire community which has no such distinction among its members? Furthermore, such a rabbi would be under duress to:

> express his opinion on every question which has, in his opinion, halachic or ethical implications, and this opinion would obligate the community - as a whole and each of its members in an individual manner as a society.[11]

Thus the role of the rabbi at one and the same time insures his authority, but also obligates him to exercise it constantly. Admanit thus takes the stance opposed to Tchorsh's, i.e., that there can be religious feeling on kibbutz without the presence of rabbis. This is not only a problem for those who are already rabbis, but even more so for those who are potential candidates.

Tchorsh rightly asserts that it is difficult to find rabbis with ideologies and lifestyles suitable for life on kibbutz. But the entire training of rabbis is not parallel to that of other academics. A rabbi is not just a repository of knowledge, he is a communal religious leader with seemingly unbounded horizons to his leadership. How then will the kibbutzim be able to choose beforehand who is to be their communal religious leader, as they do with elected communal office holders (secretary, treasurer, etc.)? And what "yeshiva bocher" would willingly take on such awesome responsibilities, even were he to be a product of kibbutz?

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[11] Ibid.

After building such a seemingly strong argument against rabbis on kibbutzim, Admanit surprised us by the first sentence of his last paragraph: "With all these reservations, Rabbi Tchorsh is right in the fact of the essentiality of the place of the rabbi in our communities."[12] He admits that it would take some juggling of physical albor and rabbinical duties in order for a rabbi to enjoy respected status as a member, but then again, who said that being a rabbi was easy? The reward for a rabbi knowing his limitations in society, for recognizing his place as "... guide and counselor inquestions of principles, and as halachic decisor in the daily questions asked of him"[13] is that he can then "raise the religious awareness of the communal group on its different levels."[14] His role would be to apply his knowledge and resources only when requested to by the members, rather than assume that he has sole authority to decide in all matters which he feels obligate a religious response.

While this is a challenge, even to those raised on kibbutz, with the cooperation of the kibbutzim, the yeshivot and the rabbinical council, it may yet be possible to find men willing to take up this challenge. This would be a fitting solution to the problem, and may very well be Admanit's way of saying that rather than make the lay leadership currently in place on

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[12] Ibid.

[13] Ibid.

[14] Ibid.

the kibbutz into rabbis, let us make the rabbis more like the lay leadership.

What Admait believes in, and what his objectors would also agree with, is that there is a serious need for a deepening of the halachic element on HaKibbutz HaDati. The respons which his article eleicits from another member of HaKibbutz HaDati is expected, in that it defends the honor of the Rabbinate as the sole repository of authority in halachic matters. Nonetheless, it touches onthe present lack of trained religious leadership on the kibbutzim, and this is certainly the more important issue.

Tzvi Ben-Chen asserts that what Admanit wrote is unconscionable because:

> it is a great sin to mock the sages or to hate them ... and there is no greater insult to a sage than to say that his halachic decision did not come form halachic considerations, but rather from political exigencies, and even more so when what is spoken of is not an individual sage, but the entire Chief Rabbinical Council.[15]

Obviously Ben-Chen will not agree with Admanit's reasoning if he perceives him as a sinner. In fact, he takes the liberty of criticizing Admanit's halachic reasoning in another case as well in order to bolster the case against him. The question is what is the problem with Admanit voicing his own personal opinion, even if it does contradict that of the Rabbinate? Ben-Chen has this to say:

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[15] Tzvi Ben-Chen, "Objections and Reactions to Tzuriel's Words" Amudim 275, (November/December 1968): 106.

> Anyone who wants to express his opinion on a halachic matter and determine whether or not the decision of the Chief Rabbinate is the truth of Torah, it is fitting that he should himself be a sage and an authorized moreh hora'ah.[16]

Having thus udnermined Admanit's basis for any sort of criticism of halachcic autoritieis, Ben-Chen returns to the subject athand, which he does not agree is really whether or not there should be rabbis on kibbutz. Rather, he sees the issue of religious education on kibbutz, the subject of the original correspondence, as the more fundamental question. I that exchange, the youth wrote that the state of religious education on kibbutz is deplorable, in that it gives one only: "the most superficial ideas and concepts in Judaism."[17] Admanit argued this point, insisting that there is nothing wrong with the educational system of HaKibbutz HaDati. It is no wonder that Ben-Chen found evidence to support the youth against Admanit. What is surprising is the extent to which the younger members of Kibbutz Yavneh deprecate the religious education they received there after returning from their subsequent two year stay at a yeshiva. How is this relevant to the issue of rabbis on kibbutz? By virtue of the fact that Ben-Chen is voicing the opinion of those who accept the sovereign authority of the rabbinate, where it finds itself, even on HaKibbutz HaDati.

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[16] Ibid.

[17] Ibid.

Thus, when the author points out that it is not in the rabbis power to allow or prohibit a certan act, that they are not legislators, but rather interpreters of Torah legislation, he reveals his underlying philosophy. There certainly should be rabbis on kibbutz, and they be subject to proper criticism by learned Torah students, according to Ben-Chen, because this will lead to greater learning and deeds on the part of the kibbutz community. The basis one might have for criticizing such a rabbi's decision? Strictly an halachic basis. If one feels that the rabbi's decision is an expression of that rabbi's personal opinion, rather than the teaching of Torah, one is obligated to reject it, and to say: "in this matter I do not accept the rabbi's opinion ...."[18] To Ben-Chen's way of thinking what stands in the way of HaKibbutz HaDati accepting rabbinical authority is its fear of a rabbi's interference with the kibbutz's autonomy, as well as the doubtful upholding of the mitzvot as they should be upheld.

Yet another kibbutznik writes in response to Tzuriel Admanit's article on rabbis on the religious kibbutzim[19]. Benjamin Amiran says that this issue has been problematic since the beginnings of HaKibbutz HaDati. He believes that there are some kibbutzim, notably his own, which would be willing to accept a rabbi to help them in the areas of study

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[18] Ibid.

[19] Benjamin Amiran, "From Where Will They Find Rabbis For Us?", Amudim 275, (November/December 1968): 109.

and religious decision making in light of problems created by new forms of life particular to life on kibbutz in Israel. Kibbutz Lavie assesses its five year old experiment of a rabbi within its community concluding that is, if not a total success, then at least it "cannot be seen in any way as a failure"[20], despite the difficulties. These in part were a result of the circumstances of kibbutz life, where the aseipha is the sovereign authority, rather than the rabbi, as is the case in Jewish Diaspora existence.

What typifies the experiment as a success?

> The scope of Torah study and its level within us; the fact of our struggle with the problems of religion and viewpoint and the existence of clarification on the shmitta year, etc., these are trustworthy witnesses to the importance of a rabbi in our midst.[21]

The best evidence however, is certainly that it was the decision of the aseipha to search for a rabbi a second time. The search committee unfortunately had a fruitless year, which gave rise to much disappointment in the kibbutz. This disappointment was due not to the waning of any desire for a rabbi, but from the fact that, despite promises from prominent rabbis to the contrary, no rabbi was found who was willing to join the enterprise of Kibbutz Lavie. As Amiran sums it up:

> The bitter truth is, that there is not to be found at this moment, one rabbi in the State of Israel who is willing to fulfill his role

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[20] Ibid.

[21] Ibid.

on kibbutz.[22]

The fact that there are kibbutzim which have chosen to welcome a rabbinic presence in their midst does not mean the issue is no longer open for discussion. Quite the contrary is in fact the case. While HaKibbutz HaDati is a unified movement, the kibbutz as an institution has long been recognized as a fertile ground for individualistic behaviors, where members who may disagree on any number of issues yet live together to create a vibrant society. There are theoretical as well as practical issues to be decided, and no one answer will suffice for all the kibbutzim of HaKibbutz HaDati. Thus, even after Amiran complains of the lack of rabbis to serve on Kibbutz Lavie, another member of HaKibbutz HaDati can write in support of the idea, if not the actual implementation of it.

Menachem Cahana opens his article with a very clear statement of his purpose:

> The goal of this article is to prove, from a **theoretical perspective**, the need of HaKibbutz HaDati in choosing a decisive religious authority. One should not look on the views which I will express in this article as on absolute truths. Rather one should see them as sorts of thoughts which came to me in the context of this subject.[23]

Having set himself up as the provider of an opinion to be

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[22] Ibid.

[23] Menachem Cahana, "We Have Need of Rabbinical Authority", Amudim 277, (February 1969): 178.

rejected, accepted or amended, Cahana proceeds to build a case for the acceptance of sovereign rabbinical authority on the religious kibbutzim.

He begins with "the importance of the mitzvah 'thou shalt not swerve [from the path of Torah']"[24], which he takes to be a directive to listen to the words of sages. Personal autonomy is anarchy to his mind:

> there is no possibility for every individual to do what is right in his eyes; we must prevent splits, and thus all must accept authority![25]

But more than this is intended by this mitzvah. Indeed, it is the linchpin between the Oral and Written Torahs. Were it not for the commandment to keep the path of Torah, we would never have had reason to listen to sages and would never have created the edifice of halacha, which guides us unerringly. Whoever disregards this commandment disregards the basis for the implementation of the Oral Torah for all generations, as there is no Written Torah without the Oral Torah for Cahana. He warns that this is not a thing to be done lightly.

But what exactly is the process of learning what this path of Torah is? This is decided by the halachic decisors. And how do they decide? According to Cahana:

> When there appears before the halachic decisor a time-caused problem, a problem created in the wake of a changing reality, his halachic decisions will be influenced not only by his

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[24] Ibid.

[25] Ibid.

> study of the sources, but also by his world view. It is no wonder that the anti-Zionist rabbis proved, by way of the sources, that it is forbidden to emigrate to Israel, while their Zionist colleagues proved that it is a commandment, by way of these same sources themselves.[26]

The point is that the halacha is subjective and open to interpretation, and that there are legitimate theoretically opposing stances within it. What is essential is not that everyone agree on a theoretical level, but rather that they all agree to accept the decrees of an authorized authority.

In our time, we have differences of opinion as to whose authority we should accept. Will it be up to the individual, inasmuch as there is no one authority to obligate him? Or will he rely on various authorities for their legal decisions? Or will he adopt one particular authority and uphold only its decisions? The first two are untenable, says Cahana. Why? Because of the commandment 'thou shalt not swerve.' This is a very conservative argument, although what is most interesting here is that it is the **individual** who decides that he needs an **authority** to decide for him!

What a religious kibbutznik **should** do, according to Cahana, is to choose a particular halachic authority, one who is closest to one's own world view, which one will follow, even though that authorit's decisions contradict his own personal opinion. Here then is his main point: HaKibbutz HaDati is not fulfilling the commandment of 'thou shalt not swerve'

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[26] Ibid.

because it has not appointed for itself a particular halachic authority. Until it does so, Cahana will not be satisfied. Just as HaKibbutz HaDati throws up to the Chief Rabbinate its lack of halachic decisions for actual current problems, so does Cahana throw up to HaKibbutz HaDati its lack of observance of this commandment. The author seems to be saying that such a willfully unhalachic system as HaKibbutz HaDati has no halachic leg to stand on in its critique of the Chief Rabbinate.

Cahana goes one step further in his assessment of HaKibbutz HaDati as nonhalachic ... he equates it with Reform Judaism, in that both claim autonomy for decision making. The existence of reform within Judaism is not the issue, but rather: "the question is only who directs it, the community or the rabbinical authority?!"[27] Thus the task facing HaKibbutz HaDati is that of selecting a rabbinical authority whose decisions it will accept, even if they are not consonant with its own wishes, and whose decisions will be implemented, whether or not the kibbutz agrees with them.

The writer has accomplished what he set out to do, i.e. provide a theoretical basis for the need of rabbinical authority on kibbutz. The 'why' has been answered, but not, unfortunately, the more difficult 'how'. What we will examine now, are two views of the development of this debate concerning the place of rabbis on religious kibbutzim.

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[27] Ibid.

Neither perspective gives a practical answer however, and so we are left with a plethora of opinions, but very little to do with them practically.

In the context of a glance back at various developments of HaKibbutz HaDati, Eliezer Yair summarizes and excerpts those articles which appeared in Amudim on the subject of rabbis on kibbutz.[28] He characterizes this as an ongoing, painful problem which has resisted all attempts at solution:

> The thinkers - thought, and the experimenters - experimented, but despite everything we have as yet not succeeded in bringing the theoretical from potentiality into actuality.[29]

The most disturbing result of this lack of solution to the problem is that an entire generation has grown up in communities that, while otherwise overflowing with religious meaning on many levels, have been without rabbis in their midst. How this has affected the children of HaKibbutz HaDati will be conjectured later on in the article. First, however, the author traces chronologically the discussion of rabbis on kibbutz, beginning with Menachem Bolah.

In 1946/7 this then member of Kibbutz Yavneh believed in having rabbis on kibbutz, but financial exigencies prevented this. In his opinion: "... it is necessary to appoint

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[28] Eliezer Yair, "Asei L'cha Rav", Amudim 298, (October 1970): 13-16.

[29] Ibid.

rabbis, for the k'vutzah needs religious authorities...".[30] What would happen if suitable rabbis were not found? "... the religious k'vutzah would be totally unable to achieve its religious goal, and mediocrity would destroy it."[31] The fact that the kind of rabbis Bolah sought were nothing less than halachic supermen totally lacking in egoist motivation made his idea appealing, while at the same time rendering it totally unfeasible! He suggested that kibbutz members be the ones to train as rabbis until:

> they achieved rabbinic authority, and together with a number of other members would constitute a rabbinical court in the k'vutzah, as this is the very institution which shapes the religious identity of the community.[32]

The following year, Rabbi Y. Bar Yoel wrote an article in which he took the attitude that it was the community's refusal to accept the sovereignty of rabbinical decisions which impeded a solution to the problem. "He blamed the kibbutzim/k'vutzot, for their not being ready to accept the authority of one person."[33] This can be a logical objection on the part of the kibbutzim, when it is seen as a socialist community's response to the imposition of an autocratic institution's decisions upon it. In keeping with this line of thought, Bar Yoel called upon the Chief Rabbinate to appoint

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[30] Ibid.

[31] Ibid.

[32] Ibid.

[33] Ibid.

rabbis for the k'vutzot. In Yair's words: "He leaves it to the Chief Rabbinate's initiative, for it is the body responsible for the creation and implementation of its authority."[34] Obviously, this view has its drawbacks.

Next to be in considered is Dov Rafel, writing in 1950. He tackles the problem first by defining its parameters. To his mind rabbis on kibbutz must fulfill the three functions of authority figure, educator and enforcer of social and spiritual values. If we emphasize the first function we may prevent the others from being realized fully. In any event, there are many rabbinic authorities for us to choose from, thus: "...the local rabbi's essential function is to be a bridge between the community/congregation and the halachic decisors."[35] To this end he must call into play his educational skills and thus:

> ...the role of the rabbis is essentially to motivate the community to thought until the problem is perceived, and to guide it on the right path, until the solution is perceived.[36]

Chaim Fisher, writing in the same volume, is skeptical of the idea that the individual settlements should find rabbis for themselves. He puts the responsibility for training and placing rabbis for the k'vutzot on HaKibbutz HaDati. The candidates for such training would of course be members of the

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[34] Ibid.

[35] Ibid.

[36] Ibid.

movement, just as the candidates are for any of the positions within the settlements. Interestingly, Yair sees this goal as having been accomplished with the establishment of the committee for the directing of religious life of Hakibbutz HaDati. The committee is, of course, composed not of rabbis, but of respected members who have the community's trust invested in them.

Moving now to more practical considerations, Yair cites several articles already examined in this work. He summarizes Tchorsh's stand in 1968 as one that is by its very nature one looking at an in internal problem from the outside, inasmuch as Tchorsh is not a kibbutznik. Rabbi Tchorsh insists on the necessity of rabbis on kibbutz, and envisions them coming from the kibbutzim themselves, in accord with Rafel. We will recall Tzuriel Admanit's rebuttal to this opinion, which Yair renders succinctly: "... the absence of rabbis on the k'vutzot expresses a symptomatic phenomenon of the modern society."[37] Admanit's rejection of the then current rabbinical leadership is a powerful argument, and is only strengthened by the fact that it is a critique of the system from within. To reiterate, Admanit does recognize the need for rabbis on kibbutzim, but is close to Bolah in that he sees the demands made on such a personality as a real deterrent to all potential candidates.

Yair offers his own summary of the preceding:

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[37] Ibid.

> It is an interesting phenomenon, that in the entire debate, there has been almost no new movement over its more than thirty years. The ambition of those who would require [rabbis on kibbutz] remains strong...
> And those who hold the opposing opinion speak primarily about disappointment with the Rabbinate as an institution and with the rabbis as the generation's leaders, when religion is no longer the shaping force of life at present.[38]

Their conclusion then, is that a religious community can effectively fulfill the functions a rabbi would in a secular community. Experience shows that almost all attempts to incorporate a rabbi on kibbutz have failed.

Finally, Yair offers his own views:

> It seems to me that the principal obstacle (up until now) is expressed by two facts: kibbutz members themselves do not see the rabbinate as a challenge... On the other hand,... the rabbis are intimidated by the present contradictory situation on kibbutz that, in their opinion, exists between the democratic structure of the society, and the acceptance of the yoke of <u>halacha</u>.[39]

He is cautious of accepting the rabbis' analysis insofar as these same rabbis seem to have no problem serving in secular, democratic communities, but only in settlements which are totally devoted to religious means and goals. Yair typifies both reservations as Israeli societal symptoms. What then would be a practical, realistic solution to the problem? First, we must consider whether or not the lack of rabbis on <u>HaKibbutz HaDati</u> is indeed a problem.

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[38] Ibid.

[39] Ibid.

To this end, Yair asks the question which he has been leading up to:

> Have we been successful in establishing a new kind/type of religious Jew in our midst, despite the lack of rabbis? Or is it perhaps precisely due to this absence?[40]

He points to the children of the religious kibbutzim as having demonstrated ability, initiative, even leadership, but not in the rabbinical role. This is how Yair sees these religious Israelis:

> The typical member of the second generation on HaKibbutz HaDati accepts his being religious as an incontrovertible fact which needs neither proof, nor further speculation. There is no need to delve into it, no need to invest effort in making it a basis [for life].[41]

This leads to a deterioration of religious values and thus the consciously religious lifestyle which had up until now been the mark of HaKibbutz HaDati. For Yair, as for Bolah, this marks the end of vitality of the religious kibbutzim.

Having defined the question then, Yair is able to say: "Surely, the rabbi as h a l a c h i c d e c i s o r is not the important problem."[42] We have modern methods of getting halachic decisions. Rather, the rabbi is essential because he is a religious leader and guide:

> Without daily contact with real Torah sages [talmidei chachamim amiteeyeem] valuing and common courtesy towards Torah sages and the

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[40] Ibid.

[41] Ibid.

[42] Ibid.

> Torah as that which determines our lifestyle will also deteriorate. Our sons do not know from their own experience who **a man great in Torah** is. They do not know his influence and value. Religion is a r e a l i t y, but is it still an i d e a l?[43]

This psychological insight is very helpful in perceiving the basis for all the arguments in favor of requiring religious kibbutzim to have rabbis, no matter where they come from. Rafel was the one who spelled out the functions of the rabbi on kibbutz, but it was Yair who prioritized them and in so doing made clear the force of all arguments in favor of rabbis of kibbutz. If HaKibbutz HaDati wants to retain its vitality it would do well to acquire rabbis. This is all by way of reason and argument. What of the reality of such a suggestion's implementation?

Yair is not convinced that only kibbutz members would make the best rabbis for HaKibbutz HaDati:

> If we ever want to find a man who can fill the role successfully, we must be absolutely serious in starting and trying, until we find the candidate. The path from the ideal to the real must of necessity be by way of compromises, concessions and innumerable intermediate stops.[44]

We need guidance in choosing the appropriate people, and towards that end must take counsel with others - u'knei l'cha chaveir. Yair's bottom line on getting rabbis for kibbutz: "If we do not acquire teachers for ourselves, we will not have

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[43] Ibid.

[44] Ibid.

anyone from whom we can learn Torah."[45]

Finally we have an article by Uzi Paz, taken from the newsletter of Kibbutz Ein-HaNatziv, Tziunim.[46] Paz relates that five discussion groups, totaling approximately 100 members, a very significant percentage of the resident population, took up the issue of rabbis on kibbutz. Three subjects were covered in these groups: the need for a rabbi; the image of the rabbi; and the actions/involvement of a rabbi. Paz summarizes what the majority and minority opinions were on each of these issues.

THE NEED FOR A RABBI

The minority opinion was against having rabbis, for the following reasons:

> 1. It is impossible to guarantee that there will be no debate between the rabbi and the members, between the democratic principles of the kibbutz and the authoritativeness of the halachic decision.
> 2. It is very difficult to assume that it is possible today to find a rabbi with the characteristics (see section 2) demanded of a rabbi on kibbutz.
> 3. From the perspective of halachic decision making, it is possible to continue the present situation, that is to say, referring to Rabbi Nesher (Beit Shean) when necessary.
> 4. We have raised a generation that has not slacked off in level of religious observance from that of their parents, without a rabbi among us.[47]

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[45] Ibid.

[46] Uzi Paz, "Rabbi on Kibbutz - Summary of Internal Discussions" Amudim 310, (October 1971): 38-9.

[47] Ibid.

These objections were answered by noting that, as far as the democratic values of kibbutz were concerned, there are areas in which these are not relevant, such as health and security. The same would apply to religion. A rabbi should emphasize personal influence over influence by p'sak halahca or confrontation. Ideal kibbutzniks don't grow on trees; the same applies to rabbis. We must trust the search committee to do its best in finding a suitable candidate. The need for a rabbi is primarily that of a need for halachic decisions. We can't always get an answer from Rabbi Nesher, either because of the nature of the problem, or because it arises on Shabbat. Furthermore, a rabbi would also make us aware of: "... those situations which we had not even considered problematic from an halachic perspective."[48] As to the third objection, it is not yet clear to all opinions whether the second generation is of the same level of religious observance as the first. Thus: "The essence of the rabbi's role would be the raising of the religious level, or at least, the prevention of its decline..."[49] Paz reiterates that the vast majority was in favor of appointing a rabbi for the community, with a very small faction opposing this.

THE IMAGE OF THE RABBI

There was unanimous agreement on several characteristics the rabbi would be expected to have. The rabbi should have a

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[48] Ibid.

[49] Ibid.

background not only in Torah, but also in the liberal arts, so as to have "a shared language"[50] with members and children in as many areas as possible. Similarly, there was an expectation that he would have some understanding of the agricultural and financial workings of kibbutz. In short, they don't want either a yeshiva bocher, or someone with essentially the same attitudes. Tolerance and patience were deemed necessary characteristics for a rabbi on kibbutz - he should not expect enormous changes to occur overnight. The kibbutz's perception of the role a rabbi plays in influencing the members was described succinctly in point 3. "The rabbi should have educational talents."[51] It was also desired that the rabbi have served in the Israel Defense Forces. There was recognition that finding a candidate to meet all these criteria would be difficult.

Differences of opinion were expressed on three points. First, whether or not the rabbi should be a member. "The majority of members held that only a member-rabbi could wield educational influence."[52] Second, should the rabbi be kibbutz-born, or a member sent to a yeshiva to study? Most felt it would be counter productive to have a rabbi from their 'family' as it were, because, "there is no such thing as a

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[50] Ibid.

[51] Ibid.

[52] Ibid.

prophet in his own city."[53] Of course, the counter argument is that only someone who had grown up on kibbutz would be familiar with the problems generated by such a lifestyle. Third, the question of whether or not the rabbi need be a native Israeli was raised. Only a few members insisted on a native born rabbi who, while preferable, are not as easily found as the type of university educated yet orthodox rabbis one finds outside Israel.

THE WORK/INVOLVEMENT OF THE RABBI

There were again two opinions as to who should decide where and even if the rabbi "works". Those who felt the rabbi should decide also felt that he should devote all of his time and energy to teaching and learning Torah. Those who felt that any member of kibbutz should work, because work is a value in and of itself, felt that the rabbi should, "identify himself with the way of the k'vutzah."[54] Furthermore, assuming that he serves as a role model for others to follow, members would be more inclined to follow someone who they feel closely identified with. The majority of members felt he should be part of one branch of the kibbutz's work, albeit on a part-time basis. An example of this is Rabbi Levinger, former rabbi of Kibbutz Lavie, who insisted on working in the sheepfold.

We found particularly amusing the issue of rotational

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[53] Ibid.

[54] Ibid.

duties on Shabbat. These are assummed to include things like setting the tables, cleaning the dining hall and washing the dishes. On most, if not all kibbutzim, the Friday night meal is the largest of the week, and rotational duty for it is thus one of the least gladly anticipated. The opinion was voiced that the shiurim [text classes] the rabbi would offer on Shabbat would serve in place of his entering into the rotational cycle on Shabbat. This might be interpreted as an expression of the desperation of some members to attract a rabbi, or the very high opinion they have of the work one puts into preparing shiurim!

The concluding session of the discussion included the proposal to invite a rabbi currently serving one of the kibbutzim of the movement to come: "to a discussion of the issue of the roles of the rabbi on kibbutz as additional preparation for the general meeting [at Ein-HaNatziv]."[55] It was also determined that the issue of choosing a search committee would be raised for discussion at the aseipha, which would have as one of its roles the search for a rabbi.

Overall, what all these article speak of are the enormous difficulties even imagining a rabbi on kibbutz presents. The overarching issues of autonomy versus authority, democracy versus theocracy, and a class system versus a classless society are very much on the minds of these writers. How, assuming it was theoretcially acceptable to the members, does

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[55] Ibid.

a kibbutz absorb a member who may not participate in physical labor, but may yet override or pre-empt the decision of the aseipha? These are all questions which have provoked a lot of thought, and perhaps, because of this, very little action. The situation is only exacerbated by the lack of potential candidates for kibbutzim who might want rabbis, which is is part tied to the lack of rabbis in Israel who are authorized by the government, yet who take modern stances on halachic problems. Kibbutz is an open forum, where any working particpant may join in discussion of an issue; the members however, who have chosen to build their homes together, are the ones who, by their inaction, have not made rabbis a set institution within HaKibbutz HaDati.

SUMMARY AND CONCLUSIONS

How has this study of selected periodical literature during the years 1967-1973 contributed to an understanding of the characteristics of a specific subgroup within the Israeli dati community? Does this subgroup speak with a unified voice, or is there a wide range of differing opinions present within it? Does this subgroup find historical role models for its view within Israel's short history? What issues does this subgroup wrestle with during the period studied? Finally, what are the clearly shared values which might merit the definition of this subgroup as not only observant [dati], but also as modern? An attempt has been made to answer these questions by analyses of the relevant contributions to three journals published during the period under study, i.e. Amudim, Deot, and Mahalachim. We will now summarize and draw our conclusions from this material with the goal of answering the first of the questions posed above through an examination of those subsequent.

It should be clear that there is no unified voice or opinion which would easily enable identification of a subgroup within the dati camp of Israeli Judaism at the time, or at least one which would term itself modern observant Judaism. The myth of the monolithic nature of Israeli orthodoxy is just that, a myth. Moshe Samet[1], in his two lengthy articles clearly demonstrated that the historical development of

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[1] Moshe Samet, "Religious Judaism in Modern Times", Parts I and II, Mahalachim 1 and 3, (1969 and 1970).

Orthodoxy precluded it from being anything other than a political grouping in religious terms. What Samet believes, and attempts to prove, is that Orthodoxy is not what most people are inclined to perceive it as. He contributes significantly to an explosion of the myth of Orthodox univocality in his first article by analyzing the historical roots of Orthodoxy. Samet concludes that Orthodoxy truly blossomed as a defensive reaction intended to preserve the Ashkenazic Jewish society during the last decade of the 18th century. Orthodoxy became petrified, ensconced in its own conception of what Judaism should be, refusing to value any part of modern culture whatsoever.

If we accept Samet's thesis, as we are inclined to do given the thorough historical analyses which support them, we would conclude that any group which holds decidely modern values would thus, by definition, not be Orthodox. This is not merely a matter of semantics, it is rather a crucial component in understanding a subgroup of Israeli religious Jews. Jewish tradition is not of a uniform nature, opposing views being consistently represented in those works which form the foundations of religious faith, i.e., the Babylonian Talmud and some of the subsequent codes. Thus one reaction to the realities of modernity, which enabled individuals to maintain a religious existence outside of the previously well-defined religious communities was a protective withdrawal into the shell of legalism. Nothing within the traditional system of

law could be changed except by extraordinary measures. Jews were expected to live according to the existing framework without questioning its basis, whether historical or ideological.

The willfull re-examination of the bases of tradition with an eye towards the possibility of re-interpreting them became a forbidden activity to orthodox Jews. By engaging in just such activity, the group whose contribution have been studied here define themselves, to our thinking, as outside the set boundaries of Orthodoxy. This does not, however, take them wholly outside the Jewish religious tradition of over two thousand years of debate and controversy, nor does it truly exclude them from the category of religious Jews. It sets them apart from, and actually in opposition to, official Orthodoxy in the Jewish state, which brooks no challenge to its authority. Thus Michael Rosenak can state that these leaders, either consciously or not, were demanding that Orthodoxy retain the character it had prior to the Emancipation in Eastern Europe. It drew the boundaries between datiim and non-datiim, considering only those who accepted its authority as truly religious.[2] This yields a negative definition of who the writers in these journals are, at least when they challenge the frozen halachic system supported by the Israeli rabbinate - they are non-Orthodox.

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[2] Michael Rosenak, "Thoughts Before Dialogue with the Conservative Movement" Deot 34 (Summer 1967): 249-161.

Just as Orthodoxy is in essence a spectrum of observance, from the Zionist leadership of the National Religious Party and Agudat Yisrael to the fanatical, anti-Zionist extremists [some charedim], so too does this non-Orthodoxy have a broad range of voices. They are not always in agreement, and many of them are passionate and eloquent about the views they hold.

The seemingly ever-present problem of determining a person's Jewish identity, the "who is a Jew?" controversy, was certainly alive and well during the late 1960's and early 1970's. Itzchak Englard brought his legal expertise to bear on this issue[3], and concluded that it is not one which the law courts were adequately equipped to deal with, nor should they ever have been constrained to. He believes that the concept of Jewish nationality, which is part of what was disputed, has no essential need for Jewish religion in its definition. As an observant Jew however, he would personally feel a great loss if Judaism, as both a religion and a nationality, were to be stripped of its element of faith and belief in God.

The same journal which published Englard's opinion also served as the forum for a range of opinions solicited of "chachmei Yisrael" by then Prime Minister David Ben-Gurion.[4] Of these, Ephraim Elimelech Urbach's response stands out as one which can be identified as both concerned with a modern

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[3] Itzchak Englard, "V'shuv Mi Hu Yehudi?", Mahalachim 5, (1969): 25.

[4] "U'v'chein Mi Hu Yehudi?", Mahalachim 5, (1969): 27.

solution to the problem, as well as one which belies the observant character of the writer. Urbach too sees the inappropriateness of Israel's Supreme Court deciding the question of "who is a Jew?"[5] Furthermore, he is very wary of diluting the worth of Judaism by knuckling under to secularist demands for registration of children of non-Jewish mothers as Jewish, as in the Shalit case. Judaism, Urbach feels, stands to lose much more than it could gain by such a decision. No clear consensus is thus apparent as far as a proposed resolution of the issue itself is concerned. Both Englard and Urbach evidently feel that the adjudication of one's Jewish identity is, on the one hand, a very serious matter with long-ranging religio-national implications, and on the other, a question which must find a viable political solution within Israel.

It is not only on the pages of the journal of the Movement for Torah Judaism, Mahalachim however, that we find keen interest in the workings of Israel's legal system, which so often overlaps areas of religious interest. In Amudim, the organ of HaKibbutz HaDati, we note Eliezer Goldman's critique[6] of Menachem Elon's book Chakikah Datit.[7] His main point in

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[5] Ibid.

[6] Eliezer Goldman, "The Halacha in the Law of the State", Amudim 266 (March 1968): 192-4.

[7] Menachem Elon, Chakikah Datit, b'Chukei Medinat Yisrael u'v'Shfita shel Batei Mishpat u'Vatei HaDin HaRabaniim, HaKibbutz HaDati (1968).

reviewing this seminal work is that Elon makes very clear how the application of a law depends on the individual who applies it. A judge may very well be impartial on a subjective level, but objectively, s/he may act in direct opposition to the will of the framer of the legislation s/he is applying. This certainly is a valuable coment on the entire legal procedure of the State of Israel, especially when we consider that some of the legislation regarding dinei ishut was originally propounded centuries ago. Simcha Raz, another member of HaKibbutz HaDati, also treats Elon's book, albeit with a somewhat different emphasis.[8] He seeks to find tools which will better enable him to coordinate the needs of halacha with the facts of modern Israeli society. Raz believes Elon provides these tools, but that they are difficult to implement, i.e. takannot and new halachic solutions or interpretations of current laws. His task is mostly descriptive - what is done with this information will not be done by him.

Still within the range of issues which touch on the relationship between State and Religion in Israel, we come to Rabbi Menachem HaCohen's article in Mahalachim.[9] It is clear from the title of this piece that HaCohen stands firmly on the

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[8] Simcha Raz, "Religious Legislation: on Professor Elon's book", Amudim 292 (April 1970): 302.

[9] Rabbi Menachem HaCohen, "Separation of Religion from State - halacha l'ma'aseh", Mahalachim 5 (September 1971): 59-67.

side of separating religion from state in Israel, but the reasons behind this are what led us to include him in a study of modern observant Jews. HaCohen fells that coercing observance of the halacha on all Israel's citizens only exacerbates the tensions between the chiloniim and the datiim and distorts the nature of the halacha. Furthermore, coercion is only partially effective. We have ample evidence of the possibility of buying pork products in Israel, desite legislation which prohibits the raising and selling of pork within the borders of the state. His conclusion is that if we were to make a clear division between the civil and religious agendas we would benefit in two ways. First, we would find many more Jews who willingly observe commandments, and thus a much better relationsip than currently exists between the dati and chiloni sectors of Israeli society. Second, the halacha could return to its original form and intention as a framework for religious life, rather than being pressed into service of Israel's quasi-religious legal system.

HaCohen deals with the implications such a separation would have on religious versus civil marriage in Israel, and concludes that two separate authorities should be instituted, each to deal with only one kind of marriage and divorce, thus obviating the need for those who were married civilly to arrange for a religious divorce, as is currently the case. Here we begin to move into the realm of halachic theory, or characterization of the halacha, which various contributors

have attempted to deal with.

David Flusser tackles a very painful problem, which we suspect is shared by others in the modern observant camp.[10] He identifies the clash of a personal sense of ethics with some aspects of the halacha, a situation he feels uncomfortable expressing. The political climate of Israel is such that all those who hold personal opinions about religion which are different from those held by religious leadership, i.e., the rabinate, are constrained from publishing these, for fear of being misunderstood. These individuals are caught between respect for the chain of tradition which binds them to generations of religious Jews, and their own consciences, which rebel at the application of religion by the Israeli rabbinate. This is a most cogent appraisal of the dilemma under which many members of the modern observant group operate. They find great meaning and insight in modern scholarship and technology, but cannot effectively interweave this with a religious lifestyle on any level other than the most private, because to do so would invite attack from mainstream Israeli Orthodoxy. Flusser's only hope has not yet been realized and does not seem to be forthcoming, i.e. that modern religious leaders will come to the fore who will be able to influence the general dati community to be more sympathetic to a modern approach to Torat Yisrael.

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[10] David Flusser, "Religious Authority Today", Deot 35, (Winter 1967/68): 332-333.

Flusser is joined by Meir Roston in his consideration of the questions which modern technological and scientific advances pose for those who live halachic lifestyles.[11] Roston feels that the halacha much be brought into sync with modernity if religious Jews are to continue to feel some integration between their intellect and their religious consciousness. He contends that the true character of religious existence is existential struggle, which is born from the impact of a person's awareness of the absurdity of the world of things and events, while her/his heart is yet drawn to the idea of her/his meaningfulness in God's eyes. Regaining this is no easy taks, but is the only real challenge facing truly religious Jews. He uses far-fetched examples to demonstrate how we are called on to integrate our religious sensibilities with scientific situations, and concludes that the one can reinforce the other. He calls for an adaption of the halacha to fit modern circumstance, yes, but on a deeper level he points to the greater loss of religious meaning in the life of any Jew who refuses to grapple with the essential nature of faith.

Abraham Korman responds to Roston's article in a manner which belies his very different understanding of Judaism.[12] Korman is a traditionalist who is content with his idea of

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[11] Meir Roston, "Ambition for a False Synthesis Between Religion and Science", Deot 36, (Winter 1968/69): 31-3.

[12] Abraham Korman, "In the Margins of Professor Roston's Article", Deot 38, (Fall 1969): 200-1.

normative Jewish faith and is not interested in engaging in a struggle of the soul such as Roston advocates. He tries to portray Roston as a mechanist who sees the world as populated by robots, and then proceeds to show that this is essentially not a religious perspective at all. Although Korman goes to great lengths to prove his point, he misses Roston's altogether, concluding that he believes in Jewish religious faith because it is true, rather than because he has somehow struggled with the necessary conflict of empirical data and religious ideals. He does not take modernity into account at all, and thus may best be described, not as modern observant, but rather as Orthodox.

Meir Roston replies to Korman in an effort to clarify his original meaning.[13] He attempts to show how wrong Korman is in thinking that he, Roston, is a mechanist. If Roston believed that people were mere robots without souls, how then would these entities engage in existential struggle which involves conflict between one's internal ideas of meaning and the contradictions these meet in the external world's workings? Unless one is both religious and modern, one could not even begin to think in these terms, and it is clear that while Roston is both, Korman is neither.

Roston does not have the last word on the subject however, and it is Amos Chacham who attempts a final elucidation of

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[13] Meir Roston, "Concerning a False Synthesis", Deot 39, (Spring 1970): 257.

Roston's original words and intent.[14] Chacham focuses on the concept of the soul, and how it might be affected by modern medical technology. He concludes that even if medical science were to be successful in transplanting brains, even grafting heads onto bodies, this does not need to result in a conflict of religious faith. Just as we pray for God to restore our souls during the morning service, so too can we conceive of God maintaining that soul, even though our physical condition be changed drastically. For Chacham, there is no philosophical conflict between empirical science and religious faith, only practical, legal difficulties to be surmounted. He agrees with Roston that struggle is necessary, but expands this concept so that it becomes only the first step in the process of formulating personal resolutions. We are not meant to struggle and grope for meaning endlessly, but rather to act so that our struggle should lead us towards an integration of faith and fact in our lives.

The subject of integration of a different sort is handled by Dr. M. Z. Sola in his article on "Ethics in Judaism".[15] Sola sets out to define Judaism as an indivisible concept, composed of many integral parts which are seemingly able to be dissected from it. The values within Judaism however, are not imported into it; they are an organic product of its

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[14] Amos Chacham, "Yet More on the Synthesis Between Judaism and Science", Deot 40, (Winter 1970/71): 313-5.

[15] Dr. M. Z. Sola, "Ethical Values in Judaism", Amudim 278, (March 1969): 197-200.

development. Does this mean that the Jews have always lived up to the highest ethical standards in every age, because it is in the nature of the religion that they do so? Certainly not, as witnessed by the presence of the prophets, who decried the behavior of the Jews of their time and urged a return to the original demands of Judaism: social justice and equity. Rather than describe the general Israeli society of his time as ethical or not, Sola prefers to remain on the level of theory, and within the framework of HaKibbutz HaDati.

Shlomo David Goldfarb[16] casts his net much farther, appealing on a practical level to any religious Jew sympathetic with the phenomenon of modernity. His main point has to do with the intransigence of the rabbinate in its refusal to consider the clearly changed realities of life which affect Jews today. They are unwilling to institute any changes in the halacha which belie progressive tendencies, even though we are now a people with its own State and autonomy. Rather than a balance between political power and religious considerations, the situation today is one of coalitional coercion and disenfranchisement of modern religious Jews from religious/politicial leadership, i.e. the Rabbinate.

Goldfarb is joined in his disappointment with the facts of religious leadership in Israel by David Flusser, in his

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[16] Shlomo David Goldfarb, "The Halacha and Life's Problems" Deot 40, (Winter 1970/71): 324-5.

article "Torat Yisrael, Musar u'Politika".[17] The question which Flusser poses is: 'what is the real historical process for deciding questions of religious import?' The historical meaning of Torat Yisrael leads him to conclude that the petrifaction of halacha as is current in Israel is not optimal. The halacha was meant to leave certain questions up to the individual to decide. Thus, whether or not we demonstrate for the cause of blacks, or against the war in Vietnam is our choice; our heritage allows us great flexibility. But we should be wary of disassociating ethics from religion - such a path is misleading and dangerous. Religion has built into it a sense of ethics, and ethical values find their origin in God. The politicization of the religious decision-making process sometimes obscures this interwovenness, but it is there nonetheless, and it would therefore be absurd to renounce ethics for the sake of religion, or vice versa. In essence then, Flusser reiterates the point made earlier, that individual Jews must take responsibility for working within the halachic system to find answers to the modern realities of being a religious Jew. If we are theocentric, we lose the possibility of flexibility in answering new questions which the religion has never encountered before, and for Flusser, this is too high a price to pay.

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[17] David Flusser, "Torat Yisrael, Musar u'Politika", Deot 40 (Winter 1970/71): 272-3.

The last person to express his views on how the halacha is meant to operate, at least in its best theoretical sense, is Ephraim Elimelech Urbach.[18] Urbach once again complains of the lack of rabbis who are suited to answering the new kinds of questions generated by living in the modern state. The Rabbinate is unresponsive and the public is therefore discouraged from initiating questions. What is the answer to this stalemate? The locating of new rabbis who are not products of the yeshiva, and whose world view is more in line with the majority of modern Jews. These rabbis are not to be found at present because the training of rabbis has not proceeded along modern lines. If we are to renew the halacha as a force to be reckoned with in Israeli society, we must somehow find ways to train rabbis who will be not only keepers of the tradition, but also the one to carry it forward.

We move now from theory to actuality, from a consideration of how the transition of Judaism from past modes to future ones might be accomplished, to actual attempts at just this. The essential component all members of the modern observant camp feel is needed in order to best effect change within Judaism is a new kind of rabbi. The innovation which this kind of rabbi would embody would be produced through a different sort of educational process than that which currently exists. Rabbi Moshe Munk (z"l) offered one model

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[18] Ephraim Elimelech Urbach, "The Halacha's Authority in Our Day", Mahalachim 5, (September 1971): 3-10.

for such a process, one which makes a distinction between education and training.[19] Rabbi Munk sees the yeshiva study which rabbis presently engage in as the educational component in their preparation to serve as religious leaders. This alone, however, is not enough to meet the needs of modern Israeli society. He does not suggest that rabbis forego such study completely, because it forms the necessary basis for their ability to make halachic decisions. But a rabbi must have other skills in order to best serve the community. A rabbi must be a spokesperson, a teacher, an administrator, a role model and even an amateur psychologist/sociologist, in addition to being a decisor of Jewish law. This requires additional training, practical courses in techniques which will prepare him to bring vibrancy to his rabbinate, and dynamism to the religion which he represents.

The actual problems which religious Jews, both laypeople and rabbis, encounter by virtue of their living in the State of Israel are myriad. The approach taken by the writer of the articles in chapters 4 and 5 of this thesis is what sets them apart from other religious Jews in Israel, and thus binds them together into a single group. Each of the contributors to the journals examined isolates one aspect of halacha or Jewish religious life which s/he feels needs to be answered differently than it has been in the past. Some advocate a

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[19] Rabbi Moshe Munk, "How to Educate Rabbis in Israel", Amudim 300, (August 1971), 392-3.

return to more ancient forms of observance, whether it be the RaMBaM's method of providing tz'dakah, or the Biblical system of tithes. Others uphold the need to effect radical change within the legal framework of Israel, which walks a very fine line between upholding the spirit of halacha while yet allowing personal autonomy for the individual who does not observe Jewish law. Their motivations are all similar however; each feels pressed to look within religious Judaism for the answers, rather than disassociate themselves from it completely. Nowhere is this clearer than on HaKibbutz HaDati, especially when we examine the painful wrestling they engage in over the question of rabbis on their settlements.

The dilemma all modern observant Jews in Israel find themselves in, at one time or another, is ongoing. Their internal sense of justice and right, which has been molded to a certain extent by their existence as modern people, demands that their religious faith change its form, but not its essence. They are steeped in the Jewish tradition, and are very much inclined to respect the teachers and transmitters of this, yet they do not find the Israeli religious establishment is inclined to take their thinking into account. As a result, they feel excluded from the process of shaping modern Judaism in Israel because they have no spokespeople for their views, and thus no voice for the establishment to hearken to. As religious Jews **but not rabbis**, they are constrained from taking the initiative in adapting the halacha in any way.

Their wish is to restore that vitality and dynamism which once characterized the Jewish people as a religious group, as a community of faith, within what was once a spiritual homeland, and is now more and more politicized, nationalist, superficially religious Jewish state.

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