

**Ideas of Rabbinical Authority
In American Reform Judaism**

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Digest:

This thesis explores the development of the concept of rabbinical authority from its roots in rabbinic texts to its present-day expression in American Reform Judaism.

Chapter 1 gives a brief history of the rabbinate from ancient to modern times, with particular attention to the development of the rabbinate in America.

Chapter 2 traces the roots of rabbinic authority in traditional *halakhic* sources. The *halakhic* sources are important for two reasons. First, they contain claims that establish the authority of the early rabbis. Second, after the end of ordination of rabbis in the Land of Israel, the direct chain from Sinai was considered to have been broken and rabbis needed a different rationale for their authority.

Chapter 3 is a theological-halakhic consideration of how Reform rabbis work out their own conception of authority. The chapter explores texts written by Reform rabbis speaking in some sort of “official” capacity. These texts include the official platforms of Reform Judaism, responsa, the CCAR *Code of Ethics*, the CCAR *Guidelines for Rabbinical-Congregational Relationships*, essays in Reform rabbinical publications, and other writings.

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Introduction

In the days of the Talmud, a rabbi's authority was regarded as God-given. Ancient *semikhah*, or ordination, was considered to confer upon the recipient the status of a biblical judge, making him a link in a chain of Torah transmission that began with Moses. Those who had received *Semikhah* were entitled to declare the authoritative interpretation of Torah to all Israel and to rule upon all matters of law; furthermore, they were empowered, at least in theory, to enforce their decisions even on the unwilling.

This *semikhah* disappeared long ago. A form of *semikhah* arose in Ashkenazic lands during the Middle Ages. But as Moses Isserles wrote in the 16th century, “the purpose of the ordination commonly practiced these days is to inform the community that the student has attained the requisite knowledge to rule on matters of Jewish law and that he does so with the permission of the rabbi who has ordained him.”¹ While a rabbi was ordained by other rabbis, giving him the right to use the *title* of rabbi, he achieved the *position* of rabbi only through appointment by a community. Unlike in Talmudic times, the authority of a rabbi's rulings was based solely upon the willingness of the community to abide by them.

In modern American Reform Jewish life, the issues surrounding rabbinical authority have become still more complex. In traditional Judaism, the rabbi performs something of a judicial function. Since *halakha* is considered binding, the rabbi's role is to interpret the *halakha* to the community that regards itself obligated to live by its

¹ SA, YD 242:14.

dictates. But Reform Jews no longer consider *halakha* to be binding, and they tend not to accept the rabbi's rulings as "law." Both laypersons and rabbis consider personal autonomy to be important. If the individual is empowered to make all relevant religious decisions, this raises the question whether the rabbi has any "authority" at all. On the other hand, our clergy continue to be called by the title "rabbi," and we do speak of "rabbinical authority" as a substantive, meaningful concept.

This thesis first explores the history of the rabbinate and the ideas of rabbinical authority that are found in the *halakhah*. It then explores the development of the ideas of rabbinical authority that are found in the writings of American Reform rabbis from the founding of the movement through contemporary times.

Chapter 1 – Brief Overview of the Development of the Rabbinate.

1. *The Biblical period.*

Most American Reform Jews would likely say that they could not imagine Judaism without rabbis. Moreover, it might seem to them that there must have been rabbis for as long as there were Jews. So perhaps it would come as a surprise that the word “rabbi” is not found anywhere in the Hebrew Bible.² The people were lead and judged by Moses, Joshua, and the elders, while Aaron and his descendants conducted the sacrificial cult. In the time of the prophets, judges and then kings ruled the people, and prophets spoke in God’s name. Jews of later generations considered Moses and the prophets to be rabbis, but they did not carry that title.³

2. *The Rabbinic Period*

Community leaders were first identified by the term “*rav*” in Mishnaic literature, which began in the 1st century BCE. Initially, “*rav*” is used with the meaning of “master.” Later it is used as a title for Sages. The word “*rav*” was likely inflected; the term “rabbi,” meaning “my master,” came into use, but later the meaning of the suffix was forgotten and “rabbi” was used to connote a scholar learned in the Law.

But not every scholar could claim the title “rabbi.” A rabbi was an *authorized* scholar of the Law; that authorization came through the process of *Semikhah*, or ordination. Those who were ordained were the only ones entitled to pronounce the law.

² The ideas and information in this chapter are drawn largely from Schwarzfuchs, *A Concise History of the Rabbinate*, with the exception of material on American Judaism as noted below.

³ In later writing, Moses is referred to as “Moses rabbeinu,” but this expression does not appear in the Tanach.

The Talmud says, “They decreed then that a student cannot teach unless he has taken permission from his master.”⁴ Ordination occurred when an already ordained master decided to confer the status on a disciple judged fit to receive it.

Semikhah involved the laying of the master’s hands on the disciple. The origin was said to have begun with Moses laying his hands on Joshua (Num 27:23). Joshua was filled with a spirit of wisdom, because “Moses had imposed his hands upon him, and the Israelites listened and obeyed him.” (Deut 34:9) Additionally, Moses assembled 70 elders to help him; part of God’s spirit was conveyed to them (Num 11:24-5). Jewish tradition considered that this was the beginning of a legal succession that began with Moses and continued to the present. The first chapter of the Mishnah tractate *Pirkei Avot* sets out the rabbis’ version of this chain of succession from Moses to the rabbis of the first century CE:⁵

1. Moses received the Torah from Sinai and transmitted it to Joshua; Joshua to the elders; the elders to the prophets; and the prophets handed it down to the men of the Great Assembly. ...
2. Shimon the Righteous was one of the last survivors of the Great Assembly. ...
3. Antigonus of Socho received the Torah from Shimon the Righteous. ...
4. Yosi ben Yoezer of Tzeredah and Yosi ben Yochanan of Jerusalem received the Torah from them. ...
6. Joshua ben Perachyah and Nittai the Arbelite received the Torah from them. ...
8. Judah ben Tabbai and Shimon ben Shetach received the Torah from them. ...
10. Shemayah and Avtalion received the Torah from them. ...

⁴ Sanhedrin 5b.

⁵ We do not have any independent confirmation of the existence of something called the “Great Assembly;” this account is not considered historical.

12. Hillel and Shammai received the Torah from them. ...⁶

Thus the rabbis established their claim to be the only authorized interpreters of Torah; moreover, the Law was not to be separated from its authorized interpretation. Among the areas of purview of those ordained were included the judging of civil suits, cases involving corporal punishment and fines, and the annulment of vows.⁷ The formula for ordination found in the Babylonian Talmud reflects these functions: “*Yoreh yoreh; yadin yadin; yatir bekhorot, yatir.*”⁸ “Can he pronounce the law? He can pronounce the law. Can he judge? He can judge. Can he allow firstborns [i.e., first-born animals] [to be exempt from sacrifice on the grounds of blemish]? He can allow [them to be exempt].

This system of ordination of rabbis was, according to the tradition, in existence even before the destruction of the Temple. After the destruction of the Temple, ordination became “an essential institution which maintained the unity of the Jewish tradition.” The Roman Emperor Hadrian understood this and forbid ordination, with the penalty that ordainer and ordinees would be put to death and the city where ordination occurred would be razed.⁹ In spite of this, ordination continued for some years on a limited basis. The date when *Semikhah* ceased is a matter of scholarly dispute. Schwarzfuchs maintains that it disappeared altogether from *eretz Yisrael* sometime

⁶ *Pirkei Avot*, Chapter 1.

⁷ Note that cases involving capital punishment were not included; these cases could be decided only by priests, Levites, and Israelites who could marry their daughters to priests (i.e., Israelites of “pure” descent).

⁸ Sanhedrin 5a.

⁹ Sanhedrin 14a.

during the 4th or early 5th century.¹⁰ An article in the *Encyclopaedia Judaica* sets a wider range of possible dates:

majority opinion favors the latter part of the fourth century during the time of Hillel II. According to Nachmanides,¹¹ this happened before the permanent fixing of the calendar by Hillel in 361 C.E. Others set the time as late as 1062 with the death of Daniel b. Azariah, the *Gaon* of Palestine. Still others cite proof that this traditional ordination continued until the time of Maimonides.¹²

Since there was no ordination outside the Land of Israel, this meant the end of ordination.

Although there were no ordained rabbis, Jewish communities found ways to establish institutions that permitted scholars to serve as judges. In Babylonia, the Exilarch established the *reshut*, the license to judge, which was given to scholars deemed worthy of it. Later, judicial responsibilities were shared with the *Geonim*, who eventually replaced those with *reshut* altogether. In *eretz Yisrael*, the ‘Yeshivah of the Holy Land’ granted authorization to scholars who used the title of *Haver*; these scholars then served as religious heads of their communities.

3. *The Middle Ages*

Little is known about the history of Western Judaism between the fall of the Roman Empire in the 5th century and the emergence of Jewish communities in France and Germany in the 10th century. In the 10th century, ordination was unknown. But Christian authorities ruled that any disputes between Jews were to be resolved within the Jewish community, and initially the notables, the ‘seven good men of the city,’ served as

¹⁰ Schwarzfuchs, 3.

¹¹ Cf. his notes on Maimonides, *Sefer ha-Mitzvot*, no. 153.

¹² Rothkoff, Aaron. (2007). “Semikhah.” In Skolnik, Fred (Ed.), *Encyclopedia Judaica* (Second Edition, Vol. 18, 275). Detroit: MacMillan Reference USA.

the community's judges. In nearly all ordinances of this period, those who decide cases are notables and learned men, not rabbis.¹³

In the 11th through the 13th centuries, the increasing complexity of business life and the growth of the communities led the members of these communities to engage scholars of Jewish law to settle their disputes. They were likely chosen by consensus rather than by a formal election, and had only local authority. They came to be called *ha-Rav*, the rabbi, resurrecting the title of the Talmudic sages. In Egypt, Tunisia, and Spain the rabbinate is believed to have begun around 1040 after the end of the Gaonate.¹⁴

The rabbis existed alongside the lay leaders, who still acted as judges but who would turn to the rabbis in matters where great Talmudic expertise was called for. There was often friction between the lay leaders and the rabbis. Certain areas were clearly the purview of one side or the other. The lay leaders, for instance, would not intervene in purely ritual matters, while the rabbis had almost no say regarding taxation. But the two sides clashed on other issues, especially around the issue of who could impose a *Herem Beit Din* or ban – the primary method of social control – on a member of the community.

As mentioned above, each rabbi had authority only in his own community – but within that community the authority of an appointed rabbi was not to be infringed upon by any other rabbi, even one living in the same community. This gave rise to the notion of *Mara de-Atra*, 'the master of the place.'

¹³ Schwarzfuchs, 8.

¹⁴ As reported by Ibn Daud, Abraham, *The Book of Tradition (Sefer Ha-Qabbalah)*, ed. trans. Gerson D. Cohen (Philadelphia, 1967), p. 67 (trans. 63-4). As cited in Schwarzfuchs.

In addition to rendering judgments in disputes and deciding religious matters, rabbis were also expected to teach the Law. In larger communities they would establish *yeshivot* to which they recruited students. Having a group of men with proficiency in Talmud enhanced the reputation of the community, and the community often provided material support to the students. But the *yeshivah* was seen as belonging to the rabbi rather than to the community.

Initially, rabbis received no pay for their services. They were seen as merely doing their duty; i.e., teaching the Law of God. But communities, sensitive to their reputations, wanted rabbis who would remain with them, bring them honor, and who would not be so busy earning their livelihood that they did not attend to their duties. Therefore, they began to look for ways to support their rabbis. At first, this was accomplished by giving presents, by charity, and by exempting them from taxes (though taxpayers sometimes resisted this last method). In the 12th century Maimonides strongly condemned exempting rabbis from taxes and the practice of granting a salary. In his commentary on Mishnah Avot he explains the passage, “Rabbi Zadok said: ‘Do not fashion it [the Torah] into a crown with which to magnify yourself, nor into a spade with which to dig:’”¹⁵

[This] is to say, do not consider it an implement with which to earn a livelihood. ... [The sages of old] did not allow themselves to request money from people. They understood that taking it was a profanation of the Name in the sight of the multitude, inasmuch as they would think that the Torah is merely another trade through which a man may earn a livelihood, and it would be despised in their sight.¹⁶

¹⁵ Mishnah Avot 4:5. Translation found in Twersky, Isadore, *A Maimonides Reader*, 397.

¹⁶ Maimonides, Commentary to Mishnah Avot 4:5, as found in Twersky, op. cit., 397-399.

But by the end of the 13th century Asher ben Yehiel, the *Rosh*, ruled in favor of a rabbi who had negotiated a salary with a community in return for teaching them the Law.¹⁷ It became common for rabbis to accept a salary. Many rabbis, however, accepted salaries only reluctantly. Rabbi Yehuda, son of the Rosh, wrote

It was very difficult for me to accept a salary from a small community, and even from a great and holy community such as Toledo. Therefore, it is painful for me to be compelled to accept a salary. Had I been able to do without, I would not have taken it. But what can I do, as I have such great expenses? ... With reluctance they give me what they give, and in my own eyes I have become dependent on other people's tables. May the Lord help me and I will pay my debts. Maybe I will then be in a position to exist without a salary ...¹⁸

Furthermore, with salaries came a loss of prestige; the lay leaders came to view themselves as the rabbis' employers, and their supervisors as well. Rabbis who were independently wealthy, or who supported themselves by means of a business other than the rabbinate, therefore had an advantage over rabbis who derived their living from their rabbinic activities.

The tension between the rabbi and the lay leaders led to the development of rabbinic contracts which clearly set forth the duties and prerogatives of the community rabbis – and the limitations of their authority. A sample contract from the German community of Friedberg, dated 1575, contained clauses concerning the term of contract (4 years); salary; remuneration for performing weddings, drawing up *gittin* (divorce contracts), presiding over a court, and the like; and a prohibition on issuing a warning or

¹⁷ Asher ben Yehiel, *Responsa*, 6:17.

¹⁸ Republished in Israel Abrahams, *Hebrew Ethical Wills*, (Philadelphia, 1948), 182 and 194-5. See also Richard Rheins' thesis, *The Development of the Professional Rabbinate* for more on this topic.

ban unless the members of the board of the community request him to do so.¹⁹

Schwarzfuchs points out that the contract shows that the rabbinic office was not highly regarded; his authority was limited and he needed to supplement his salary by receiving fees for services. But while the rabbi generally had to submit to the lay leaders, he was also to be honored by them; for instance, he received an *aliyah* to the Torah on Shabbat and on holidays. But despite these outward signs of respect, the regard for most rabbis was low. A commentator of *Pirkei Avot* 1:10 wrote, “Hate the rabbinate, better humiliate yourself and work for a living.”²⁰ A few rabbis who were heads of important *yeshivot* achieved prestige such that lay leaders could not publicly oppose them, but they were a tiny minority.

The rabbi of the Middle Ages had to serve as a judge and a notary. Over time, the office of the rabbi evolved, and he became the one person that was trusted to solve the practical and religious problems of his community. For example, he was responsible for licensing and supervising the *shochtim* who provided kosher meat. Eventually the rabbi decided all matters of ritual law and all family matters. Although Jewish law had not previously required a rabbi to perform a wedding, in 1186, Maimonides wrote in a *teshuva*: “no marriage or divorce is valid in these villages unless performed by the authority of the Rabbi.”²¹ By the High Middle Ages the presence of a rabbi at a wedding was considered obligatory in Europe. Similarly, divorces came to be under the sole purview of the rabbi. Although a few rabbis may have preached and some served

¹⁹ *Proceedings of the American Academy for Jewish Research*, XVII, 1947-8, 45-6.

²⁰ *Mahzor Vitry*, ed. S Horowitz, (Frankfurt, 1923), 471.

²¹ Maimonides, Resp. 156. (Freiman edition, Jerusalem, 1934), as translated in the Dissertation of Zuroff, Abraham N., “*The Responsa of Maimonides*,” 1967.

additionally as Hazan, these roles were not generally required of rabbis in Ashkenazic lands during this time. But the rabbi who served as Hazan was to respect the local customs with regard to prayer; indeed, *minhag ha-makom* was to be observed generally by the rabbi who was hired by the community. The Friedberg community added to the contract cited above a clause that “The head of the court shall make no change in the community’s custom in any matter whatsoever without the authorization of the community board.”²² In Sephardic lands the rabbi of smaller communities was required to fulfill all the duties of his northern counterpart and in addition to serve as cantor at services, where his presence was regarded as indispensable.

There is insufficient record regarding how communities chose their rabbis during the early years of the institution of the rabbinate. It is clear that there were more scholars with the title of rabbi than there were rabbinic positions; some rabbis supported themselves instead through commercial activity. The community rabbi aimed to be the sole religious authority of his community, but the concept of the *Mara de-Atra*, the sole religious authority of a place, was not immediately accepted and rabbis sometimes faced challenges from other rabbis.

Ordination, as has been mentioned, was a phenomenon that was limited to *eretz Yisrael* and had disappeared sometime between the 4th century and the 11th century. It seems that the title *Morenu ha-Rav*, our teacher the rabbi, had never entirely disappeared, even without ordination. But ordination reappeared in France in the second half of the 14th century, perhaps as a way of regulating who could claim the title *Morenu ha-Rav*,

²² *Proceedings of the American Academy for Jewish Research*, XVII, op. cit.

and of making clear who had *Hatarat Horaah*, the right to teach and therefore to decide cases. Although called *Semikhah*, scholars were careful to point out that this was not the same as the ancient *Semikhah*:

... today, when there is no *Semikhah* outside of the Holy Land, the rabbinic court or the elders of the community can write . . . an ordaining letter for one of the students who are worthy of receiving ordination or an appointment. This does not matter, because it does not resemble the [ancient] *Semikhah*. **This is absolutely not a *Semikhah*, but only a semblance and a memorial of the *Semikhah***, so that the students will adopt the ways of the Sages, and will climb slowly in the ranks and degree of wisdom and its uses.²³ [emphasis added]

Moses Isserles,²⁴ the Ashkenazi Rabbi who wrote the *Mapah* to the *Shulkhan Arukh*, wrote following R. Yitchak b. Sheshet Perfet (Rivash):²⁵

... the purpose of the ordination commonly practiced these days is to inform the community that the student has attained the requisite knowledge to rule on matters of Jewish law and that he does so with the permission of the rabbi who ordained him.²⁶

Since the rabbi who was thus ordained could not presume direct inheritance from Sinai – unlike those with ancient *Semikhah* – he was judged on his intellectual qualifications and his conduct. Not all who obtained *Semikhah* were equally qualified; in the 15th century Israel Isserlin complained, “The ordained are many, the scholars are few.”²⁷ The status of the ordaining scholar was of great importance; some rabbis even

²³ Judah Ben Barzilai, *Sefer ha-Shetarot* (Berlin, 1898), 133.

²⁴ Born in 1530, Rav Isserles served as the Rosh Yeshiva of Cracow. His most famous work is the *Mapah*, a commentary on the *Shulkhan Arukh*, and he also authored the *Darchei Moshe*, a commentary on the *Beit Yosef* of Rav Yosef Caro. He is the main halachic authority for Ashkenazic Jewry. He passed away in 1572.

²⁵ R. Yitchak b. Sheshet Perfet (Rivash) was a 14th c. rabbi in Spain and North Africa.

²⁶ SA, YD 242:14.

²⁷ Isserlin, *Pesukim u-Ketavim*, 255.

obtained ordination certificates from more than one teacher in an effort to show their excellence.

The same Israel Isserlin who complained that so few of the ordained rabbis were scholars himself issued at least one ordination certificate; it is the earliest such certificate that we have. It dates to roughly the middle of the 15th century; excerpts follow:

Let it be known to everybody that my colleague, Isaac son of Joel ha-Levi has studied with me many days. For years he has kept himself busy with the intensive study of the Torah. He has investigated the Talmud and its meaning until he grew to be fit and worthy to preside, judge and instruct. ... he shall have the power and the license to sit first in the Yeshivah [i.e., to lead it] wherever he may want to do so. He shall be called to the Torah with the title *Morenu ha-Rav* ... He shall give instruction and he shall judge [*yoreh yoreh yadin yadin*²⁸] and he will deal with divorces, weddings and *Halitsot*. He will have the authority to authorize the woman whose husband has disappeared to remarry. Beyond these matters he shall have the powers of a leader, a judge and an instructor in Israel.²⁹

The certificate states the scholarly qualifications of the ordained, gives him permission to lead his own Yeshivah, to use the title of rabbi, and to judge cases. Issues surrounding marriage and divorce are mentioned specifically, but it is clear that the rabbi is authorized to judge more broadly. This text remains the basis for traditional rabbinic diplomas.

The certificate awarded the candidate the title of rabbi, but did not award a specific office. There were occasionally certificates that granted permission to a rabbi to serve a particular location; in some cases the people of that community may have already requested that that candidate serve as their rabbi. Eventually, this kind of certificate

²⁸ "*yatir bekhoret, yatir*" no longer applies, as rabbis do not exempt first-born animals from sacrifice, since there are no longer any sacrifices; therefore it was dropped from the formula found in *Sanhedrin* 5a.

²⁹ Isserlin, Israel. As quoted in the *Leket Yosher*, II, 38.

disappeared; it was recognized that even the best qualified rabbi could serve a community without their agreement.

The rabbi needed approval of the Jewish community he served and had to negotiate a contract with the lay leaders of the community, who then often saw themselves as his superiors. In many cases the rabbi was subject to yet another authority: the Christian ruler of the land. The rulers of the cities and countries where the Jews resided wanted to assert their authority over the Jews (among the reasons they wished to do so was in order to collect community taxes), and one way of doing this was to appoint the rabbi who was to serve the community. It may have been that the appointment by the prince was a mere confirmation of the rabbi who had been selected by the community. But this was not always the case. In some cases, the rabbi appointed by the ruler as chief rabbi was inadequate as a scholar and teacher, but the community had little recourse. On occasion, communities did reject a rabbi who had been appointed by the local ruler, as was the case in early 15th century in the Italian communities of Messina and Palermo.³⁰

Rivash³¹ wrote during the 14th century that the king's appointment of the chief rabbi in France was legitimate "on condition that the candidate's rabbinic knowledge warranted it." He also wrote, "...the laws of the Kingdom allow the Kings of the nations to appoint judges in their country, but it is clear that none can accept the King's

³⁰ B. and G. Lagumina, *Codice diplomatico di Giudei di Sicilia* (Palermo, 1990), I, no. 26, 23-30 and no. 123, 166-7. As cited in Schwarzfuchs.

³¹ Rivash, or Rav Yitzchak the son of Sheshet Perfet, was born in Barcelona in 1326. He fled to Algiers in 1391 to escape widespread massacres. It was in Africa that he was appointed to be Chief Rabbi, a position recognized by the Algerian government. He wrote some commentary on the Talmud, which is preserved today in citations in *Shittah Mekubetzet*, as well as many responsa which are still extant. His teachers included *Ran* and Rav Peretz HaKohein, and among his students were Rav Shem Tov HaLevi and *Rashbatz*. He passed away in 1407.

appointment without the agreement of the communities.”³² Later, he himself was appointed as *Dayyan* in Algiers. Others disagreed with him, rejecting his claim that *Dina de-Malkhuta Dina* (“the law of the land is the law;” this principle is cited four times in the Talmud³³) was applicable in the case of the appointment of a rabbinic judge by a non-Jewish ruler. Rashbatz,³⁴ his contemporary, argued that this appointment gave the appointee a judicial monopoly that no other rabbinic judge enjoyed, and that this opened the door to abuse.³⁵ Furthermore, Christian rulers were not guided by considerations of learning and character when they made appointments. They were often motivated by the fees which candidates paid them in order to become rabbi of a region. So it is no surprise that Jewish tradition seems to have sided with Rashbatz, opposing the appointment of chief rabbis by state authorities.

The rabbi’s authority, then, came from his ordination, from his appointment by the community, and, in some cases, from his appointment by state authorities. In some cases, when his authority and position were not respected by the lay Jewish leadership, he appealed to state authorities to intervene. An 18th century rabbi of the Sephardic Jewish community in Bordeaux wrote the following letter to the representative *intendant* of the king:

³² Rivash, *Responsa*, no. 271.

³³ It is found at Nedarim 28a; Gitin 10b; Bava Kama 113a-b; Bava Batra 54b-55a; see chapter 2 for a discussion of this principle.

³⁴ Rashbatz was Rav Shimon ben Tzemach Duran. He was born in Majorca, Spain in 1361. In 1391, in the face of massacres in Spain, he fled to Algiers, where he ultimately succeeded Rivash as Chief Rabbi. His most famous work is his responsa, known as Tashbetz, which discuss all aspects of Jewish life. He was succeeded by his son and student Rashbash.

³⁵ Rashbatz, *Responsa*, I, 158.

If his Grace, the *Intendant*, would be so kind as to take the trouble to make a small reprimand to the heads of the Portuguese nation about the lack of respect and deference that they have for their Rabbi, all and sundry would be all the more thankful for his kindness in view of the resulting law and order.

Since the life of his greatness is far above that of the suppliant, he will know what means to take and what pretext to use without making the reprimand appear to be solicited.³⁶

It is worth noting that although communities appointed rabbis, they were not required by *halakha* to do so until quite late. In the earliest Talmudic literature, every community is required to establish a synagogue and provide a *sefer Torah*; later, the Talmud adds to this that communities must provide a teacher for children and a physician as well. The Shulkhan Arukh codifies these requirements.³⁷ But these sources do not stipulate that a community must appoint a rabbi. The reason for this is that initially, rabbis were not professionals who were hired for their services. As was previously explained, they came into a locale of their own accord and served the community of their own free will; they were not paid for their services and thus could not be hired. This changed over time, as rabbis began accepting fees for their services. But there was no *halakhic* requirement for a community to hire a rabbi until Moses Sofer, who lived in the late 18th and early 19th c, declared that in addition to acquiring a *Sefer Torah* and building a synagogue, members of a community are obligated to appoint a rabbi.³⁸ In Valladolid, Spain, prior to the expulsion of 1492, the following resolution was passed:

Wherever live forty or more householders, they shall do all their best to maintain between themselves a *Marbits Torah* [i.e., a community rabbi] who shall teach them the legal and aggadic texts of the Talmud. They will support him in a

³⁶ Malino, Jerome R., "Vineyards of the Lord," in Stevens, *Rabbinic Authority*, 6.

³⁷ SA YD 245:7 (teacher for children).

³⁸ Sofer, Moses, Responsa Orach Hayyim 206; see Chapter 2 for a discussion of this Responsum.

reasonable way and do it with the best part of the income of the [kosher] meal and wine tax, or with the income of the Talmud Torah appeal, so he need not go and beg for his upkeep, or appeal to any [wealthy] members of the community ... in order that he may chasten and reprimand them in all matters concerned with the service of the Creator...³⁹

The *marbits Torah* of the smaller communities were expected to fulfill many roles: rabbi, teacher, ritual slaughterer, *mohel*, and service leader. The resolution makes clear that the rabbi had a difficult time obtaining a decent livelihood from his community.

By the 18th century, then, each Jewish community hired an ordained rabbi who served as a judge and teacher for that community. Disputes within the community – which had autonomy from the secular state – were resolved by the rabbi. He had oversight of ritual matters including marriage, divorce, and the production of kosher meat. Some rabbis, depending on local custom, led worship services and preached, but the rabbi was connected to the community rather than to the synagogue. Larger communities might have additional rabbis to serve as assistants, but there was one chief rabbi.

4. The Modern Period.

The system of local rabbinic judicial authority disintegrated after the French Revolution in 1789 and Napoleon's subsequent conquest of Europe at the turn of the 19th century. Starting in 1791 in France, Jews received emancipation and became citizens of the state rather than members of a nation within the state. With this change came the end of communal autonomy and compulsory membership in the community. Rabbis and

³⁹ Baer, F. *Die Juden im Christlichen Spanien* (Berlin, 1936), II, 283, as cited in Schwarzfuchs, 69.

rabbinic courts no longer had authority over the Jews who lived in their locales; civil and criminal cases were now under the jurisdiction of state courts.

The Jews of France felt that even though their autonomous communal life had ended, their religious life continued as before. In 1792, however, France enacted a law that made marriage a civil matter. Jews could now marry Christians without converting to Christianity and without fear of reprisal from the Jewish courts. The authority of rabbis was thus seriously eroded. In 1804, the leaders of the Metz Jewish community suggested forbidding “all the members of the nation [i.e., the Jewish community] ... to celebrate any wedding or to slaughter any livestock intended for their use, without the permission and delegation of authority of the rabbi.”⁴⁰ Apparently, weddings and ritual slaughter had been taking place without rabbinic oversight.

In the face of such chaos, Jewish leaders attempted to reorganize their communities. Three major changes to the rabbinate developed as a result. First, they insisted that rabbis be able to speak one European vernacular. This would allow better communication both with the Jewish community (many of whom had abandoned Hebrew and Yiddish for the languages of the surrounding culture) and with secular leaders. Second, they suggested the establishment of rabbinical seminaries. These seminaries would be different from the traditional yeshivot that were closed during the Reign of Terror that followed the French revolution in that they would teach in French or in another modern language. Third, the rabbis’ duties would be limited to leading prayers,

⁴⁰ Schwarzfuchs, 77.

including for the health of the emperor and the imperial family, and performing religious weddings and divorces. A religious wedding or divorce could be performed only on the condition that it had been preceded by a civil wedding or divorce. The rabbis would not have the right to exclude any Jew from the community; they no longer had any power of excommunication. The rabbi would give instruction regarding doctrine and belief, but only when asked to do so.

Eventually, the changes proposed by these leaders became law. Napoleon, in an effort to control the Jewish population, convened in 1806 first an Assembly of Notables, comprised largely of lay leaders, followed by a “Sanhedrin” whose members were rabbis. Among the 12 questions posed to the Notables were included inquiries as to the election of rabbis and their jurisdiction to police the people. Napoleon was seeking to insure that Jews would not have a judicial system that would compete with that of the state. The Notables responded that since the Revolution rabbis were appointed by a majority vote of the community. They admitted that the rabbis had no police jurisdiction over the members of their community; the rabbinic tribunals (*b'tei din*) which had existed in the Diaspora at the will of the governments under which the Jews had lived were no longer required. Rabbis were now busy preaching and dealing with matters of personal status; the Notables assured Napoleon’s commissioners that rabbis were “confined to the preaching of morals within the Temples, the blessing of weddings and the performing of divorces.”

Napoleon then decided that in order to bestow religious sanction on the answers of the notables, he would convene a “Great Sanhedrin” composed of rabbis to endorse the

conclusions of the Notables. As a result, Napoleon reorganized the Jewish community into departments (these corresponded for the most part with the communities that existed before the Revolution), each with its own chief rabbi; local synagogues were subordinate to the department or “consistory.” There was a Central Consistory, composed of three rabbis and two laymen who were appointed by the Emperor; it was responsible for appointing rabbis in the consistories. Thus, the state once again had control over the rabbinate. Napoleon’s decree also stipulated that only French-born or naturalized French Jews could become rabbis in France, and rabbis had to speak French. The decree also defined the rabbis’ functions, which included teaching religion, teaching the decisions of the Sanhedrin, preaching in the synagogues, and performing marriages and divorces for those who gave proof of their prior civil marriage or divorce. Additionally, the rabbis were to remind Jews in all circumstances to obey the law, to teach that military service was a sacred duty (and that during military service they were exempt from observances that could not be reconciled with it), and to recite prayers in the synagogue for the Emperor and his family.

The change in the rabbi’s role was monumental. No longer was he a judge; he could not compel anyone to answer his summons nor he could pronounce a ban of excommunication. His authority was purely moral; he could give advice to his congregants, but only those who asked for his advice were inclined to heed it. Furthermore, except for the chief rabbis of the consistory (whose positions were largely administrative), the rabbi no longer was rabbi of a region; rather, he was the rabbi of a particular synagogue.

The changes in the rabbinate that occurred in France spread throughout Western Europe. As the general Jewish population began to attend secular schools and universities, the yeshivot system declined. There arose a need for rabbis who spoke in the vernacular and who had studied secular subjects as well as Talmud. The first school that sought to provide rabbis with a broad education opened in Padova, Italy in 1829. Its establishment was necessitated not only by internal changes in the Jewish community, but by an edict by Austrian Emperor Francis I that forbade the appointment of rabbis who could not show a serious knowledge of the secular sciences.⁴¹ Students were admitted only after they had completed their secondary studies. The curriculum centered on Talmud, codes, and responsa, but also included homiletics, history, commentaries, and theology. One of the most renowned instructors at the school, Samuel David Luzzato, translated the prayerbook into Italian and did scholarly work in *Wissenschaft des Judentums*, reconciling religion and science. In France, prospective rabbinical students needed to be proficient in Latin, and the curriculum included, in addition to rabbinic texts, Hebrew language, Bible, French, Latin, logic, the rules of eloquence and oratory, the history of the Jews until modern times, the history of France, and geography. One of the articles of the by-laws read:

The professor who will teach Talmud must explain in his class the Sanhedrin's decisions and make known the authors on whose authority they are based; he will show the harmony which exists between our dogmas, the laws of the State and obedience to the King.⁴²

⁴¹ A.F. Pribam, *Urkunden und Akten zur Geschichte der Juden in Wien*, II (Vienna and Leipzig, 1918), 305-6 (22 January 1820). As cited in Schwarzfuchs.

⁴² Bauer, *L'Ecole rabbinique de France (1830-1930)* (Paris, no date), 7. As cited in Schwarzfuchs.

Their new rabbinic seminaries were national seminaries; their graduates were trained to have national as well as Jewish interests. In 1931 France began to provide state funding for rabbinical seminaries and for rabbis (France was already funding Christian schools and clergy); this could only have served to create greater fidelity to the State. Rabbinic seminaries were established in other countries as well; Schwarzfuchs reports that “the graduates of the national school became the equivalent of a trade union, which monopolized the available rabbinic positions.”⁴³

In Germany, three rabbinical seminaries were established in the 19th century; all incorporated some level of modern study but differed in respect to outlook regarding reform. In 1854, Zacharias Frankel opened a seminary in Breslau that was based on the principle that complete faith in the historic expression of Judaism, supported and studied by exact scholarship, would guarantee the religion’s future. In 1872, the *Hochschule für die Wissenschaft des Judentums* opened in Berlin which had as its primary purpose the promotion of the scientific study of Judaism while also training rabbis and teachers. The school did not officially identify with any particular trend in Judaism, and was open to non-Jews as well as Jews. The most traditional of the three seminaries was established last (in 1879) by Azriel Hildesheimer in an effort to counter the reformist trends in Germany that were reflected in the other two seminaries. Hildesheimer, an Orthodox rabbi who possessed a PhD, established a seminary that retained the yeshiva’s emphasis on Talmudic study and traditional observance but which also taught subjects such as Semitic languages, mathematics, and Jewish history. In order to withstand competition

⁴³ Schwarzfuchs, 89.

from other rabbinical seminaries, Hildesheimer made sure that the leading faculty members were academic scholars. In Hungary, two rabbinical seminaries were established: one for the extremely Orthodox and one for those who were more liberal. Thus, rabbis in these countries had allegiance not just to Judaism *per se* and to the nation in which they lived, but to a particular ideology within of Judaism.

5. *America*

Just as the history and character of Judaism in America differ tremendously from the history and character of Judaism in Europe, so, too, is the American rabbinate different from its European counterpart. American Judaism began when 23 Sephardic Jews arrived in the city of New Amsterdam (later to become New York) in 1623. By the time of the American Revolution, there were between 1000 and 2500 Jews in the colonies.⁴⁴ They were concentrated in five cities and had built synagogues in New York and Newport, Rhode Island. Where there was no synagogue they congregated for worship in rented spaces or homes – but in no case did any American Jewish community have the services of a rabbi. The first ordained rabbi in America, Rabbi Abraham Rice, did not arrive until 1840. Thus American Judaism existed for 217 years without the presence of rabbis.

Generations of American Jews did not know a rabbi. They also did not know the persecution experienced by their European counterparts. While there was some discrimination, the United States, as opposed to some of the original colonies, was

⁴⁴ Sarna, *American Judaism*, 31. Information in this chapter about American Judaism and the American Rabbinate is drawn largely from this work.

founded as a nation without a state religion. Jews were never “tolerated” as they were in the other countries of the world; they were citizens from the beginning of the new nation. By the time of the revolution, Jews no longer referred to themselves as members of the Jewish “nation” but rather as members of a “Jewish society” or “religious society,” copying the language of their Christian neighbors. In a country where individualism reigned, religious affiliation was a voluntary matter. Whereas in Europe, Jews were members of the local Jewish community as a matter of birth, in America, Jews could choose to join the community or not. Many lived in remote areas where there were no synagogues, but even in the cities many Jews were unaffiliated. In 1850, only 35% of the nation’s 50,000 Jews could even be accommodated within synagogues – and many of the available seats in synagogues were typically empty.⁴⁵

Furthermore, America was a land of religious pluralism. Jews lived among Protestants who multiplied denominations and Catholics whose German, Polish, French, and Irish communities each established and worshipped in their own churches. Thus community unity was less valued. Just as German and Polish Catholics worshipped and lived apart in the New World, German and Polish Jews tended to establish separate synagogues to worship in the styles in which they were comfortable. In New York there were at least five competing rites. Additionally, some synagogues split into two over issues of reform or because of dissatisfaction with the leadership of an old guard. While many Jewish leaders decried this situation, some Jews praised it. One immigrant from Bamberg wrote to his relatives back in Germany, “The Israelites living here come from

⁴⁵ Engelman, “Jewish Statistics,” 129.

various countries. Everybody can choose freely where or in which synagogue he wants to be enrolled.”⁴⁶

Even for those enrolled in synagogues, community control was weak. First, whereas in Europe prior to the French Revolution religious authority extended to all areas of life, in America even as early as 1700 Judaism had authority in the synagogue while civil authorities ruled over commercial and civil areas of life. Additionally, even in synagogue matters, authority was weakened due to the voluntary nature of membership. This weakness can be seen from a draft constitution proposed in 1798 by Congregation Mikveh Israel of Philadelphia. The leadership of the congregation wanted to take action against out-of-town Jews who attended on holidays or on occasion, but who did not contribute to the support of the synagogue. Initially, the proposed draft read that such a Jew would have his name erased from the congregation’s books; he would not be interred in its cemetery, and no officer or member would be allowed to assist at his burial. These sanctions were amended, however, to be more in keeping with the narrow sphere of the congregation’s real authority. The new version read that such a person “would not be entitled to any mitzvahs [religious honors], provided notice thereof be first given him.”⁴⁷

Prior to the arrival of rabbis, American synagogues engaged the services of educated laypersons as readers and service leaders. Often these leaders would carry the title “Hazan.” Many came from Europe, but some were native born. One of these, Hazan Gershom Seixas of Congregation Shearith Israel in New York, also took the title of “Minister,” a title that was recognized by his Christian contemporaries and by state law.

⁴⁶ Blau and Baron, *Jews of the U.S.*, 810.

⁴⁷ Marcus, *American Jewry – Documents*, 129-130.

In 1789, press accounts listed him as one of fourteen ministers serving New York City at the time of the inauguration of George Washington. Even without rabbinic ordination, Seixas achieved prominence in the new country.

But the position of the Hazan was ordinarily not an exalted one. The authority of European rabbis was curtailed by the community lay leaders who employed them and acted as their superiors; how much lower must have been the status of the American lay service leader who reported to his congregation's leaders. Isaac Leeser, the German born and educated Hazan hired by Philadelphia's Mikveh Israel in 1829, recalled that among his obligations to the congregation he was to perform life-cycle rituals "with the permission of the congregational officers."⁴⁸ Leeser, who became a major figure in American Jewry,⁴⁹ did much to upgrade what he called the "Jewish ministry," but was treated as a common subordinate by the parnas (president) of his congregation. Ultimately this led Leeser to resign his position with the congregation. Leeser was a traditionalist; his reformer counterpart, Isaac Mayer Wise,⁵⁰ fared no better. Wise arrived in the U.S. from Germany in 1846; he later recalled that the parnas at that time "was an autocrat in the congregation ... He was the law and the revelation, the lord and the glory, the majesty and the spiritual guardian of the congregation." Wise had several dramatic confrontations with his parnas in Albany, and ultimately lost his job there.⁵¹ Whether

⁴⁸ Sussman, *Isaac Leeser*, 61-62.

⁴⁹ Among Leeser's accomplishments was the publication of an English translation of the Bible. He also published a widely read journal titled *The Occident*, championed the strengthening of Jewish education, and published numerous religious works in English.

⁵⁰ Wise, although he published under the title "Reverend Doctor," did not likely possess formal ordination.

⁵¹ Wise, *Reminiscences*, p. 158.

traditional or not, the lay congregational leadership controlled the synagogue, while the lay religious leader was treated as a lowly subordinate.

Thus, when America's first ordained rabbi, Rabbi Abraham Rice, arrived from Germany in 1840 he found a different Jewish world from the one to which he was accustomed. Individualism was valued, and community allegiance was weak. Observances varied widely from Jew to Jew and from synagogue to synagogue; there was no central control either by Jewish authorities or by state government.⁵² Many Jews had abandoned Shabbat observance and *kashrut*. Even Jews who were traditional sought Americanization of their worship; sermons in English were added to the service and rules were introduced to promote solemnity and order. Isaac Leeser had tried to establish a religious union with a three part program designed to counter the "great downfall of religious observance and the want of proper religious education," but his plan was condemned as "wholly inconsistent with the spirit of American liberty."⁵³

The ordained rabbi Abraham Rice fared no better than Leeser in trying to enforce observance of Jewish law. Rice lashed out at those who did not adhere strictly to the tradition, chastising Jews for sins ranging from intermarriage to abbreviation of prayers to mixed dancing. He complained in a letter to his teacher in Germany: "The character of religious life in this land is on the lowest level" and wondered "whether a Jew may live in a land such as this."⁵⁴ Rice took pride in refusing to accommodate to American

⁵² While it is true that there was also reform in Germany, and assimilation as well, Jewish communities were territorially based, government recognized, hierarchic, and overseen by communal boards that defined the limits of normative Judaism. In England and France there was also central power that determined the shape of Jewish life.

⁵³ Moise, *Isaac Harby*, Columbia, S.C.: R. L. Bryan, 1931, 83-89.

⁵⁴ Sarna, 94.

custom; he felt he had a “rabbinic responsibility ... to teach the right path of our religion, regardless of the consequences.”⁵⁵ His congregants at Baltimore Hebrew Congregation did not share his convictions, however; and as the laity was accustomed to wielding power over religious “personnel” Rice resigned his position in 1849, becoming a merchant in order to support himself and his family.

Isaac Leeser, Abraham Rice, and other traditionalists sought to curb the reform that was taking hold in the new country by appointing a chief rabbi. Rice was interested in holding this position, but the efforts to appoint a chief rabbi failed. Jews, like other Americans, did not trust central authority; they feared that should a central authority be established, minority rights would be trampled. The position of chief rabbi did not materialize,⁵⁶ and congregations retained their autonomy.

Other rabbis from Europe came to American shores during the 1840s. Most did not cling to the old ways as did Rice. Some, like Rabbi Morris Raphall, favored a modernized, accommodationist Orthodoxy. Others brought German-style Reform to the Jews of the United States. Most notable among these was Rabbi David Einhorn, who espoused what he called “Radical Reform Judaism.” Thus, the newly emigrated rabbis represented as broad a spectrum of observance as did the Americans they came to lead.

As much as they valued autonomy, many Jews – and many of their religious leaders – yearned for unity. While rejecting the idea of a central religious authority, they thought that an overarching assembly, or “synod,” might be possible. Isaac Mayer Wise

⁵⁵ *Ibid.*

⁵⁶ Orthodox Jews in New York did succeed in importing a chief rabbi from Vilna in 1888. See below for this story.

initiated a conference in 1855 to discuss issues and to promote *Shalom Al Yisrael*, peace among the Jews. The conference, which took place in Cleveland, was attended by Wise, Leeser, and 15 other clergy and lay representatives. They arrived at two resolutions, one affirming the Bible as divinely revealed and the standard of the Jewish religion, and the other affirming the Talmud as containing the proper interpretation of Biblical laws. But this attempt at compromise came under fire from both Orthodox and Reform camps. The Orthodox felt that any discussions with proponents of Reform compromised the integrity of Orthodox Judaism; Leeser was criticized for his very civility toward Reformers. David Einhorn, a more strident reformer than Wise, opposed compromise on principle. He objected the conference's resolution accepting the authority of the Talmud, and rejected the idea of a "synod" as repugnant to religious freedom. Others responded similarly, holding that each synagogue should decide religious issues for itself. American Jews were split over issues of observance, and were not going to compromise or to submit to a central authority.

Still, Wise hoped that American Jewry would ultimately move towards Reform and would become united. In 1857, he published a Reform prayer book with the hopeful title, *Minhag Amerika*. By the 1870s, Reform's embrace of modernity was dominant in America – but there persisted a loyal Orthodox minority, with one or more traditional synagogues in every major Jewish community. Lithuanian immigrants during this period bolstered the ranks of the Orthodox.

In 1873, Wise succeeded at having lay leaders⁵⁷ establish the Union of American Hebrew Congregations. The UAHC was to be an umbrella organization for all Jewish congregations, and initially a wide spectrum of congregations participated, including some Orthodox ones. The Union began with three goals: to establish a rabbinical seminary, to publish books for religious schools, and to prescribe a small set of rituals that all Jews might consent to observe. The third goal was quickly abandoned, and the organization focused on the goal of promoting Jewish education by training English-speaking rabbis and teachers. In 1875, Hebrew Union College was opened in Cincinnati. It was to be the first successful rabbinical school on U.S. soil.⁵⁸ In an attempt to serve all Jews, its curriculum focused on classical texts and avoided issues of doctrine that could be decisive. For a time it seemed that the college would be successful at training rabbis for both traditional and Reform Jews, but in 1883, at the first ordination the Orthodox Jews took offense when shellfish were served. Wise insulted the Orthodox attendees further by asserting that the dietary laws had lost their validity and by calling observance of *kashrut*, “kitchen Judaism.” Wise gave up the idea of a union of all American Jews, and became a proponent of Reform Judaism. The UAHC and Hebrew Union College became specifically Reform institutions.

In 1885, eighteen Reform rabbis met in Pittsburgh, Pennsylvania in order to formulate a Reform Platform. The Platform was worded to proclaim not what “Reform Judaism” was; rather, it put forth ideas about what “we” believed Judaism to be. But it

⁵⁷ Lay leaders had an easier time than clergy in smoothing over religious differences.

⁵⁸ Maimonides College was established as a rabbinical seminary in Philadelphia by Isaac Leeser in 1867, but it foundered after Leeser’s death in 1868 and collapsed a few years later.

was clearly a manifesto that declared to the world the stance taken by Reform Judaism, and it marked Reform's final break with Orthodoxy. The platform was never turned into an ideological litmus test; Reform Judaism always included members who disagreed with some of its eight planks.

In 1889, Wise established the Central Conference of American Rabbis, which became the rabbinical association for the Reform movement. During the first two decades of its existence, the CCAR struggled with questions of whether to establish a creed and whether to establish a synod.⁵⁹ A creed would have authority with respect to belief, a synod with respect to practice. Most rabbis agreed that a creed would be problematic for two reasons: first, it would prove divisive, and second, it would prevent Reform Judaism from remaining fluid. The synod, favored by Wise and his disciples, would have both rabbis and laymen and would have broader authority than either the CCAR or the UAHC. It would establish binding norms for such matters as conversion and burials. The establishment of a synod would also establish Judaism⁶⁰ as a religion rather than a nation, countering the Zionists. But many rabbis objected to the idea of a synod; they preferred religious independence to a strong central authority. Lay leaders of the Reform movement also lacked enthusiasm for the idea. No synod was ever formed. American Reform rabbis and their congregations retained their autonomy.

The most successful attempt at unity in the Reform movement was perhaps the publication of *The New Union Prayer Book*, the first edition of which appeared in 1892.

⁵⁹ Material in this paragraph and the following one is taken from Meyer, *Response To Modernity*, 278-279.

⁶⁰ Reform Judaism at the turn of the 20th century was not the only form of Judaism in the U.S., but Hyman Enelow, the chair of the CCAR, apparently spoke as if it was.

The prayer book, written in both Hebrew and English, appealed to a wide spectrum of Reform Jews and was adopted by most Reform congregations. Some congregations, however, continued to use other prayer books. Autonomy of synagogues and of rabbis still reigned.

After the split with Reform at the ordination banquet of 1883, traditional Jews began to take action themselves. They were fueled by mass migration from Eastern Europe and motivated by the concern that many were ceasing to be observant. Orthodox Jews in New York tried to improve the anarchy within traditional ranks by importing a chief rabbi from Vilna in 1888. There was no longer hope of curbing the Reform movement; they hoped rather to “improve Orthodoxy.” But the chief rabbi, Jacob Joseph, was expected on the one hand to improve the regulation of Jewish dietary, divorce, and marriage laws and to lead the “battle” against influences that led the young to abandon Jewish practice; and on the other hand to improve Orthodoxy itself, “to create an intelligent orthodoxy, and to prove that also in America can be combined honor, enlightenment, and culture, with a proper observance of religious duty.” But this proved to be an impossible combination of tasks. Furthermore, his sermons sounded old-fashioned to American listeners. When consumers and producers balked at the increase in the cost of the kosher meat he supervised, his salary and his position disappeared. There were others who briefly attempted to be “chief rabbi,” but this idea just was not workable on American soil.

Orthodox Jews also began to establish their own institutions. In 1887, traditional Jews founded the Jewish Theological Seminary. Initially it served a broad range of traditional Jews; the first sentence of its constitution announced that it was to serve “Jews

of America faithful to Mosaic law and ancestral tradition.” But critics, especially among the immigrant community, considered the seminary insufficiently Orthodox. In 1898, in an attempt to promote unity among the traditional forces and to refute Reform, some of the leaders of JTS joined with leading East European Jews to form the Orthodox Jewish Congregational Union of America (later to be known as the Orthodox Union). It published a platform that was essentially a refutation of the Reform Pittsburgh Platform, and was seen to be the non-Reform counterpart to the UAHC. The alumni founded an association (later to become the Rabbinical Assembly) that was parallel to the CCAR. There were now two branches of American Judaism, Reform and tradition, each with its union of synagogues, its rabbinical seminary, and its rabbinical organization.

But the dissatisfaction of the more stringent Orthodox with the Orthodox Union and JTS resulted in 1902 in the founding of the Agudath ha-Rabbanim, a group of strictly Orthodox rabbis who went so far as to exclude graduates of JTS from its membership. They promoted the Rabbi Isaac Elchanan Theological Seminary (RIETS) which had been founded in 1897 by associates of Rabbi Jacob Joseph. It was a thoroughly traditional school on American soil. But even this bastion of tradition was pressured by its students to allow them to study secular subjects as well as Talmud, and to obtain training in homiletics. Eventually RIETS and the Orthodox movement became somewhat more Americanized, but they now stood separate from the Conservative movement.

American Judaism continued with three movements for over half a century. In 1968, followers of Mordecai Kaplan’s Reconstructionist thinking established the Reconstructionist Rabbinical College in 1968. This truly American movement also established a congregational union, the Federation of Reconstructionist Congregations

and Havurot, as well as an association of rabbis, the Reconstructionist Rabbinical Association.

Each of the four movements in American Judaism has established its own seminary, congregational union, and rabbinical association (the Orthodox has several of each). None of these, however, has ultimate authority over Jews in its own movement, much less over American Judaism as a whole.

Chapter 2 – Traditional *Halakhic* Sources and Rabbinical Authority

1. *Why traditional halakhic sources are important to the question of rabbinical authority*

“*Halakhah*” has a number of meanings,¹ but will be used in this paper to refer to the entire body of traditional Jewish law. “*Halakhic* sources” include the Talmud² and other sources from the rabbinic period, as well as the laws that were expounded in various sources after the Talmud was compiled ca. 500 CE. The *halakhic* sources are important in regards to rabbinical authority for two reasons. The first is that we find claims embedded within these sources for the authority of the rabbi. As we saw in Chapter 1, the rabbis of the Mishnah made the claim that they were links in a chain of authority that went back to Sinai and the giving of the Torah to Moses.³ The chain is considered to have continued by means of ordination in *eretz Yisrael*.⁴

The second reason that the *halakhic* sources are important in regards to rabbinical authority is that after the end of ordination of rabbis in the Land of Israel,⁵ the direct chain from Sinai was considered to have been broken and rabbis needed a different rationale for their authority. The Talmud was considered to be the authoritative word of God. But the Talmud was difficult to understand. It contains many *makhlokot*, or disputes, and requires the interpretation of experts who were versed in both the text and the proper methods of interpretation. Rabbis in the post-Talmudic period who were

¹ See Elon, 93-94 for other meanings of “*halakhah*.”

² “Talmud” will refer in this chapter to the Babylonian Talmud, unless the *Yerushalmi* is specifically cited.

³ Pirkei Avot, Chapter 1.

⁴ Maimonides, *Yad*, Introduction. This will be covered in greater depth later in the chapter.

⁵ As mentioned in Chapter 1, the date for the end of ordination in *eretz Yisrael* is disputed; the majority favors the latter part of the fourth century, but opinions range from 361 C.E. to 1062 C.E.

qualified to interpret the Talmud then based their claims of authority on the authority of the Talmud itself.

In this chapter, I will explore the nature of the *halakhah* and the claims of the rabbis to be its interpreters.

2. Oral Torah and claims for its authority; claims for the authority of the rabbis who taught it

The traditional understanding of the *halakhah* is that it was directly commanded by God. The traditional teaching is that when God gave Moses the Ten Commandments on Mount Sinai, God gave also the entire Written Torah (i.e., the Torah, Prophets, and Writings) and the Oral Torah. The Oral Torah is also referred to as the “Oral Law.”

Menachem Elon defines it as follows:

The term “Oral Law” (Torah she-be-al peh) includes all of Jewish law that is not explicitly set forth in the Written law, i.e., in Scripture. Specifically, it includes all of the rules deriving from any of the legal sources of the *Halakhah*. In its broadest sense, it includes not only Talmudic *Halakhah*, i.e., the *Halakhah* found in the Mishnah, in the books of *halakhic* midrash, in the *Tosefta*, in the *baraitot*, and the two Talmuds – but also the entire corpus of the *Halakhah* in all its forms throughout its history.^{6,7}

⁶ Elon, I, p. 190.

⁷ Elon gives two reasons that the term “Oral Law” used to designate virtually the entire corpus of the *Halakhah*:

First, according to the beliefs of the halakhic authorities throughout history, the Oral Law was given to Moses at Sinai along with the Written Law, and included all the “subtleties of Biblical exegesis, and the new interpretations of the *soferim* (scribes), and everything that the *soferim* would later establish. (TB Megillah 19b) The *Halakhah* is the manifestation of this law that was given orally to Moses at Sinai. Secondly, the *Halakhah* was studied and transmitted orally from generation to generation, and up to a certain juncture it was forbidden to reduce it to writing for the purpose of public study. (Elon, p. 192)

This definition is, as Elon points out, the broadest sense of Torah *sheb'al peh*. There are many narrower versions as well. Some of the narrower definitions of “Oral Law” will be discussed later in this chapter.

Under special circumstances, the Oral Law is able to circumvent the written law.⁸ Maimonides, following the talmudic sages, ruled that “in an emergency any *bet din* may cancel even the words of the (written) Torah...

in order to strengthen religion and to prevent people from transgressing the Torah. They may order flagellation and punish for breach of law, but such a ruling may not be effected permanently. Similarly, if they see a temporary need to set aside a positive precept, or to transgress an injunction in order to bring many back to religion, or in order to save many Israelites from grief in other matters, they may act in accordance with the needs of the time; just as the physician amputates a hand or a leg in order to preserve the life, so the bet din may rule at some particular time that some precept of the Torah may be transgressed temporarily in order that it may be preserved.”⁹

Elon’s definition of Oral Torah quoted above is a broad one, giving the authority of heaven to all *halakhic* pronouncements. The Talmud itself makes a narrower claim; that is, that it and the Tanach were given by God at Sinai, citing Torah itself as the basis for this claim:

R. Levi b. Hama says further in the name of R. Simeon b. Lakish: What is the meaning of the verse: And I will give thee the tablets of stone, and the law and the commandment, which I have written that thou mayest teach them? (Ex 24:12) ‘Tables of stone’: these are the ten commandments; ‘the law’: this is the Pentateuch; ‘the commandment’: this is the Mishnah; ‘which I have written’:

⁸ Yer, Kid 1:2, 22d. “R Ishmael taught: “In three places the practical law supersedes the biblical text, and in one the legitimate interpretation of the text, [ignoring the rules of interpretation.” In Neusner, Jacob, trans. *The Talmud of the Land of Israel: A Preliminary Translation and Explanation. Volume 26: Qiddushin*.

⁹ Yad, Mamrim 2:4; based on Ketubot 83b, Sanhedrin 46a, and Brachot 54a.

these are the Prophets and the Hagiographa; ‘that thou mayest teach them’: this is the Talmud. It teaches [us] that all these things were given to Moses on Sinai.¹⁰

From a modern liberal standpoint, this passage demonstrates the Rabbinic strategy of interpreting the text of the Written Torah to mean what they want it to mean. The Rabbis themselves were convinced of the authenticity of the Oral Torah. From a traditional standpoint, the rabbis are merely reporting established fact (i.e., that Moses received the Tanach and the Talmud at Mount Sinai) and explaining how Scripture teaches us this fact.

The authority of the Oral Torah is intertwined with the authority of the rabbis who taught it. The rabbis established their authority to make such a report in Mishnaic times by claiming a chain of tradition from Moses to the rabbis of their own time (the relevant passage from *Pirke Avot* is quoted in Chapter 1 of this thesis). There is of course something circular in this reasoning.¹¹

There are additional passages in rabbinic literature that support the idea that the Talmud was revealed from heaven along with the Written Torah. The following passage from the Jerusalem Talmud makes the additional claim that any pronouncement by a sage, whether recorded in the Talmud or not, was included in the revelation at Sinai:

“Whatever a seasoned scholar [*talmid vatik*¹²] is destined to innovate [*l’horot*] before his master was already revealed [*n’emar*] to Moses at Sinai.”¹³

¹⁰ B. Berachot 5a

¹¹ Berger talks about circular reasoning; see below.

¹² The Sages use many different terms to refer to themselves. I will not distinguish between them in this paper (except to point out that ‘rabbi’ as a title was used only for those who had received *Semikhah* in the Land of Israel), but will consider the issue of their authority to cut across all of them. It is useful to note here that Berger defines the category of “the Sages” as consisting of all those scholars mentioned by name in Rabbinic literature. (Berger, p. 17)

This statement establishes both the authority of the *talmid vatik* and the perfection of the law that was already given at Sinai. There is nothing to “fix” in the law, and nothing to add to it. The scholar is not coming up with a new idea; he is merely telling us what the law would have us say. This is the classic claim for rabbinic authority: we are not making things up; it all came from Sinai.

The statement from the *Yerushalmi* quoted above would seem to be in accord with the broad definition of “Oral Law” given by Elon as quoted at the beginning of this section;¹⁴ that is, that all the pronouncements of the rabbis were revealed at Sinai as part of the Oral Law. There are other statements in Rabbinic literature that support the same definition. For example, in B. Megillah we read:

R. Chiya bar Abba said in the name of R. Yochanan: What is the meaning of that which is written: ‘And the writing upon them [i.e., the tablets] was in accordance with all the words that Adonai had spoke to you on the mountain.’ (Deut 9:10) This teaches that the Holy One, Blessed is He, showed Moses the fine interpretations of the Torah *vedikdukei sofrim* and the fine Rabbinic interpretations,¹⁵ *uma shehasofrim atidin l’chadeish* and what the Sages would innovate in the future.¹⁶

This Midrash uses a different way of stating what seems to come down to the same thing. It affirms that Sages do innovate (*l’chadeish*¹⁷), but what they innovate was already revealed to Moses at Sinai. It does leave open a role for the Sages other than

¹³ Yerushalmi, Pe'ah 2.4

¹⁴ At least through the rabbinic period.

¹⁵ Rashi says that this refers to the amplifications derived from the Mishnah – that is, from the formulations of the Oral Law established by their predecessors.

¹⁶ B. Megillah 19b

¹⁷ It is difficult accurately to translate *l’chadeish*; what is meant here is a legislative innovation rather than mere interpretation

merely repeating what they were told by previous generations, while maintaining the divine origin of their pronouncements. This Midrash provides a rationale for including *takkanot* and *gezeirot*, rules and prohibitions that were understood to have been authored by the rabbis themselves, under the category of Oral Law.

The role of the rabbi is then to pass along already received tradition (i.e., to teach what was received). Michael Berger points out in *Rabbinic Authority* that an additional role for the rabbi or sage is possible under this notion. The sage makes links between the oral and the written Torah.¹⁸ In the Talmud, the question, “*Minayin?*” “From where [in Scripture do we know this]?” is frequently asked. It is the job of the Sages to elucidate the Biblical source for the law. A charming story in the Midrash supports such a view. It asks how Moses could have learned and remembered all the laws of both Written and Oral Torah, and provides an answer that supports an expanded role for the rabbis in the development of the law:

Another explanation of ‘And He gave unto Moses.’ R. Abbahu said: All the forty days that Moses was on high, he kept on forgetting the Torah he learnt. He then said: ‘Lord of the Universe, I have spent forty days, yet I know nothing.’ What did God do? At the end of the forty days, He gave him the Torah as a gift, for it says, ‘And He gave unto Moses.’ Could then Moses have learnt the whole Torah? Of the Torah it says: The measure thereof is longer than the earth, and broader than the sea (Job 11, 9); could then Moses have learnt it all in forty days? No; but it was only the principles [*Kelalim*] thereof which God taught Moses
...¹⁹

According to this Midrash, the Oral Law that was handed down to Moses was comprised of a base (presumably the Written Torah) and the rules of interpretation for deriving the

¹⁸ Berger, p.23.

¹⁹ Ex. Rabbah 41:6.

Oral Law. Thus, the Sages do not merely repeat the law as they received it; rather, their role is to use the principles that God provided to derive the Oral Torah from the Written. Having access to the proper rules of interpretation (as well as a thorough familiarity with the Written Law) is then what provides the basis of their authority. Those rules which they derive are still from heaven, but by a different mechanism than a verbatim transmission of every law.

The rabbis found another ground in Scripture for their authority to issue *takkanot* and *gezeirot*, the decrees and prohibitions which were not based on interpretation of Scripture or of prior law. This interpretation of a passage in Deuteronomy bypasses the issue of Oral Law altogether.²⁰ In Deuteronomy 17 we read:

If a case is too baffling for you [i.e., judges in a court of law] to decide ... [you shall] appear before the levitical priests, or the magistrate [*ha-shofet*] in charge at the time, and present your problem. When they have announced to you the verdict in the case, you shall carry out the verdict that is announced to you from that place that the LORD chose, observing scrupulously all their instructions to you. You shall act in accordance with the instructions given you and the ruling handed down to you; you must not deviate from the verdict that they announce to you either to the right or to the left. Should a man act presumptuously and disregard the priest charged with serving there the LORD your God, or the magistrate, that man shall die.²¹ [emphasis added]

From this passage, the rabbis derived that

You must hearken to the words of the sages, even if they tell you that left is right and right is left; whoever the judge may be, good or bad, has the same authority as Moses.²²

²⁰ Except insofar as the interpretation in Sifri might be accepted as *miSinai*.

²¹ Deut. 17: 8-12.

²² Sifri to Deut. 17:11. [Sifre, Deut. 153-154 [ed. Friedmann, pp. 104b-105a]]

Berger points out that the identification of the Sages with the term “the judge” (*ha-shofet*) in the passage from Deuteronomy is problematic. He writes that

It [*ha-shofet*] is, on all accounts, an ambiguous term: it may refer to a single judge, a group of judges, or a judicial institution. What is logically unavoidable is that the Sages themselves cannot be authorized to interpret this word, for it is that very authorization which we are seeking. For the Sages to claim that the passage refers to them is both circular and self-serving.²³

Given the ambiguity of the term *ha-shofet*, this passage seems to support the authority of any appointed official, whether or not they are in the chain of authority from Moses through which the Sages claim their own authority.

The Talmud cites the same passage in Deuteronomy to make the case for the authority of the present-day sages, as opposed to those in the past. In *Masekhet Rosh Hashana* we read,

Scripture says also: “And thou shalt come unto the priests the Levites and to the judge thou shall be in those days.” (Deut 17:9) Can we then imagine that a man should go to a judge who is not in his days? This shows that you must be content to go to the judge who is in your days. It also says; Say not, “How was it that the former days were better than these?” (Eccl. 7:10)²⁴

The same passage suggests that even the weakest leader is to be accorded the same authority that is accorded to the strongest:

the Scripture places three of the most questionable characters on the same level as three of the the most estimable characters, to show that Jerubaal in his generation is like Moses in his generation, Bedan in his generation is like Aaron in his generation, Jephthah in his generation is like Samuel in his generation, [and] to

²³ Berger, p. 35. But if the Sages believed that the *shofet* was the “judge” who possessed *semikhah*, then the Sanherdrin (which includes Hillel, Shamaï, and the *beit din* of Yavneh and perhaps beyond) are arguably included within the rule. Then, there would be no logical problem.

²⁴ B. Rosh Hashanah, 25b.

teach you that the most worthless, once he has been appointed a leader of the community, is to be accounted like the mightiest of the mighty.²⁵

The inferences drawn from Deuteronomy 17 might be used to support a claim that Jewish leaders appointed throughout the ages have equal authority to those of the rabbinic period, and that their writings have equal authority to the Mishnah, Talmud, and other writings of the time. This understanding would accord with Menachem Elon's broad definition of "Oral Law" cited at the beginning of this chapter. But this is not the standard traditional Jewish view. The Babylonian Talmud is considered to be the last universally binding work of Jewish law. Maimonides adopts this idea in the Introduction to his *Mishneh Torah*. There, he lays out the transmission of the Oral Law, beginning with Moses and continuing through the generations, much as the authors of the Mishnah did in *Pirkei Avot*. But unlike *Pirkei Avot*, which leaves the chain open-ended, Maimonides closes the chain after 40 generations, the last of which included Rav Ashe, whom he credits with the writing of the Talmud.²⁶ Maimonides writes that the Talmud is authoritative in all later generations, in all places:

whatever is in the Babylonian Talmud is binding on all of the people of Israel; and every city and town is forced to observe all the customs observed by the Talmud's scholars and to enact their restrictive legislations and to observe their positive legislations.²⁷

The reason that the Talmud was considered binding was twofold. First, it was understood to have been accepted by the entire people of Israel. Maimonides reports, "all those

²⁵ *Ibid.*, 25b.

²⁶ *Yad*, Introduction, Preface, 23. Mechon Mamre edition, Jerusalem, 2004.

²⁷ *Ibid.*, 34.

matters in the Talmud received the assent of all of Israel.”²⁸ He asserts that the Sages of the time were largely unified in their understanding of the law. The second reason for the universally binding status of the Talmud was that it was composed by those who had the authority of the unbroken chain going back to Moses: “it was they who received the traditions of the Oral Law concerning the fundamentals of the whole Law in unbroken succession back to Moshe Our Teacher.”²⁹ Thus the Talmud’s authority came both from the bottom up (the approval of and acceptance by the people) and from the top down (from the heavens to Moses and down through the chain of Sages).

Under this view, *Torah she-b’al peh*, Oral Torah, ends with the Talmud. Maimonides writes that after the time of the Talmud, the Israelite people dispersed and the study of Torah declined; still, there were a few in each city who “understood all the works of the Sages, and knew from them the correct way of the Law.”³⁰ But the understanding of the later learned men did not mean that their rulings were universally to be accepted as law. Unlike the Talmud, the rulings of the leaders of one place were not ratified by all the people, and furthermore, “the members of the court of any particular town were just individuals”³¹ – that is, they were not part of the chain of Oral Torah and thus their words did not have the authority of the Sages of the Talmud and earlier writings.

²⁸ *Ibid.*, 35.

²⁹ *Ibid.*, 35. The chain was preserved for some of the rabbis of the Talmud (but not all) through *Semikhah*, or ordination. This will be treated in a separate section below.

³⁰ *Ibid.*, 31.

³¹ *Ibid.*, 32.

It followed that the judicial experts who lived after the Talmud were thus considered to have only local authority: “So a town's residents are not forced to observe the customs of another town, nor is one court told to enact the restrictive legislations of another court in its town.”³² Furthermore, the judges of one generation could override the judges of a previous generation, if they believed them to have rendered an incorrect judgment: “So too, if one of the *Geonim* understood that the correct way of the Law was such and such, and it became clear to another court afterwards that this was not the correct way of the Law written in the Talmud, the earlier court is not to be obeyed, but rather what seems more correct, whether earlier or later.”³³

The authority of rabbis after the time of the Talmud was not based on their receiving the Oral Law through a chain of transmission from Moses. Their authority, like the authority of the Talmud itself, had two bases. The first was the acceptance of the people. Even during the rabbinic period, the people were still considered to have some say in who exactly might lead and judge them, as is evident from the following passage from the Talmud:

R. Isaac said: We must not appoint a leader over a Community without first consulting it, as it says: See, the Lord hath called by name Bezalel, the son of Uri. (Ex 35:30) The Holy One, blessed be He, said to Moses: Do you consider Bezalel suitable? He replied: Sovereign of the Universe, if Thou thinkest him suitable, surely I must also! Said [God] to him: All the same, go and consult them. He went and asked Israel: Do you consider Bezalel suitable? They replied: If the Holy One, blessed be He, and you consider him suitable, surely we must!³⁴

³² *Ibid.*, 33.

³³ *Ibid.*, 33.

³⁴ B. Berachot 55a.

So even in rabbinic times, when authority was considered to come from Sinai, there was still an element of acceptance by the people. After the Talmud was completed, this acceptance was to become more prominent in importance.

The people accepted the law, from the time they said “*na'aseh v'nishmah*,” “we will do and we will listen” at Sinai. After the completion of the Talmud, it was the Talmud itself that became the authority for proper living. But as Maimonides points out, it is difficult to understand the Talmud. Thus the second source of rabbinic authority was knowledge of the Talmud and other *halakhic* sources. Acquiring this knowledge was not easy; Maimonides wrote that it would

require a broad mind, a wise soul, and considerable study, before one can correctly know from them [i.e., Talmud and other rabbinic writings comprising the Oral Torah, plus later *halakhic* writings of the *geonim*] what is forbidden or permitted and the other rules of the Torah.”³⁵

Maimonides here was leading into his rationale for producing the *Mishneh Torah*, his guide to the *halakhah*. But his point may be taken more generally, that a man’s authority to be a judge for the people would rest on his scholarship in the *halakhic* writings, particularly in the Talmud. We have a minhag of having scholars who interpret the law for us.

3. Ordination in rabbinic and later times

As has already been discussed in the first chapter, *Semikhah*, or ordination, was first practiced in the Land of Israel before the destruction of the Second Temple and lasted only a few hundred years. It could not be done outside the land of Israel; the

³⁵ *Ibid.*, 40.

permission to judge was granted by other means in Babylonia and elsewhere. Ancient *Semikhah* testified that a student had permission from his master to teach,³⁶ and gave him the authority to judge civil suits, cases involving corporal punishment and fines, and the annulment of vows. The Talmud gives the formula for ordination, “*Yoreh yoreh; yadin yadin; yatir bekhoret, yatir.*”³⁷ Also in the first chapter we learned that ordination involved the laying of the master’s hands on the disciple. The source for this practice is also found in the Talmud, where we learn that *Semikhah* requires that three judges place their hands on the one being ordained (this passage occurs in the context of a discussion of the way that hands are laid upon a bull before it is sacrificed).³⁸ But the same passage of Talmud goes on to say that in fact, the ordination is effected by three judges conferring the title “Rabbi” upon the candidate and giving him the permission to adjudicate cases involving penalties.³⁹

Semikhah in ancient Israel placed the one being ordained in the chain of authority that transmitted Oral Torah as part of the chain from Sinai. This practice died out. But in the Middle Ages a new kind of ordination came into practice. This ordination did not bestow upon the receiver the authority that came with being part of the chain from Sinai. The *Shulkhan Arukh* explained that “the purpose of the ordination commonly practiced these days is to inform the

³⁶ B. Sanhedrin 5b.

³⁷ B. Sanhedrin 5a.

³⁸ *Ibid.*

³⁹ B. Sanhedrin 13b. There follows a discussion whether three judges are required or only one; it is not clear that a conclusion is reached in this matter.

community that the student has attained the requisite knowledge to rule on matters of Jewish law and that he does so with the permission of the rabbi who has ordained him.”⁴⁰

4. *Disputes between rabbis*

Despite the tradition’s assertion that all of Oral Torah was received by Moses at Sinai, the rabbis who taught it often had differing opinions regarding the Law. These differences were not repressed or censored; the Talmud is filled with accounts of disagreements between rabbis. But there had to be a way of resolving these disputes. There were statements as early as the Mishnah about how to settle differences in judgments between courts:

No court may set aside the decision of another court unless it is greater than it in wisdom and in number. If it was greater than it in wisdom but not in number, in number but not in wisdom, it may not set aside its decision.⁴¹

There was a hierarchy among courts. Clearly, the Great Sanhedrin (comprised of 71 members) could overrule the decision of a *beit din* of three.

The Talmud contains several passages regarding differences between individual rabbis. First, if a person consults a sage who gives him a negative judgment, he may not seek out another sage to give a positive one:

Our Rabbis taught: If one consulted a sage who declared [the person or article] as unclean, he should not consult another sage who might declare it as clean; if one sage declared as forbidden, one should not consult another sage who might declare as permitted.⁴²

⁴⁰ SA, YD 242:14.

⁴¹ Mishnah Eduyot 1:5.

⁴² B. Avodah Zara 7a.

Thus, if one receives a more stringent judgment, one may not then seek a more lenient one. The passage does not address the question of whether it is acceptable for a person who had received a less stringent judgment (i.e., that an article was clean or permitted) to seek another opinion, perhaps because it was thought that no one would want such a judgment overruled.

There are at least three other passages in the Talmud that make this same point:

We can understand that if he declared clean they should declare unclean, because this would be more stringent. But how was it possible that they should declare clean what he declared unclean, seeing that it has been taught: If a Sage has declared unclean, his colleague is not permitted to declare clean?⁴³

Has it not been taught: 'If a Sage has declared aught unclean his colleague may not declare it clean, or if he has declared aught forbidden his colleague may not permit it'?⁴⁴

Yaltha once brought some blood to Rabbah b. Bar Hana who informed her that it was unclean. She then took it to R. Isaac the son of Rab Judah who told her that it was clean. But how could he act in this manner, seeing that it was taught: 'If a Sage declared [aught] unclean another Sage [lit., his colleague] may not declare it clean; if he forbade anything his colleague may not permit it'?⁴⁵

One may not first ask one sage, then seek another opinion. And, once one sage has issued an opinion, another sage may not overrule him, at least not to permit something that was forbidden. But sometimes, two opinions are presented at once. Later in the passage from Avodah Zara quoted above, instruction is given regarding what to do when two conflicting opinions have been received:

⁴³ B. Berachot 63b.

⁴⁴ B. Chullin 44b.

⁴⁵ B. Niddah 20b

If of two sages present one declares as unclean and the other as clean, one forbids and the other permits, then if one of them is superior to the other in learning and in point of number [of disciples or followers] his opinion should be followed, otherwise, the one holding the stricter view should be followed. R. Joshua b. Karha says: In laws of the Torah follow the stricter view, in those of *Soferim* (Scribes) follow the more lenient view. Said R. Joseph: The *halachah* is according to R. Joshua b. Karha.⁴⁶

Interestingly, there are conflicting opinions regarding how to decide between conflicting opinions. The first opinion is complex; it distinguishes how to decide (a) between sages who are unequal in learning and (b) between sages who are equal in learning. The second opinion bases the decision on whether the law is a law of Torah (*d'oraita*) or a law of the Scribes (*d'rabbanan*). This passage illustrates a number of points. First, there are many parameters according to which the law may be decided. Second, there are apparently not only standards for making decisions about the law, but also for making decisions about the meta-issue of how to decide what standards of decision should be used in which cases. We must presume that these, too, are part of Oral Law and thus handed down at Sinai. Third, the *halakhah* is in the end decided by whether the issue is “a law of Torah or of the Scribes” shows the importance of this distinction.⁴⁷

5. *Limitations on a rabbi's authority*

We have seen in the previous section two limitations on a rabbi's authority. The first is that he has to follow certain rules in reaching his decisions. For example, as cited above, if the law is *d'oraita*, a law derived from Torah, he is to take the more stringent

⁴⁶ B. Avodah Zara 7a.

⁴⁷ A different way of interpreting the decision to use this as the deciding factor is to say that it is ‘clearer and cleaner;’ deciding according to the superiority or inferiority of the sages’ learning could lead to needless dissension and hurt feelings.

view in matters of factual doubt. He does not have the authority to depart from this Toraitic law (unless, of course, there was another ruling that trumped this one; but then he could not depart from the established hierarchy of rulings). The second limitation is that he cannot offer a “second opinion” when a ruling has already been made by another sage – at least not if the ruling had been a more stringent one than he was inclined to make. It is in part for this reason that the *Amoraim* never overrode the rulings of the *Tannaim* (although they might qualify them by means of interpretation); the Mishna and *baraitot* were accepted as Law.⁴⁸ While both these limitations might appear to diminish the authority of the individual rabbi, they in fact strengthen the system in two ways. First, the people cannot “go shopping” for an opinion they like; what the rabbi says is law. Second, while rabbis might disagree among themselves, having one “final answer” to present to the people serves to strengthen their claim that their authority is from heaven, as one would not expect heaven to be “of two minds.” Thus what in some respects limits the rabbi’s authority ultimately strengthens it.⁴⁹ It should be noted that before the Talmud had been completed, a sage did not offer a ruling that differed from any prior sage in any geographic location. Babylonian sages expressed deference to their *Eretz Yisrael* colleagues. But after the completion of the Talmud and the dispersion of

⁴⁸ In his *Kesef Mishneh* to *Yad, Mamrim* 2:1, R. Yosef Karo asks if this is the only reason the *Amoraim* never override the *Tannaim*. Given that Rambam believes that legal conclusions derived interpretation (the 13 *midot*; see Rambam ad loc.) may be reversed by a subsequent court, it follows that the *Amoraim* should have had the authority to dispute the *Tannaim*. Yet they never do this, unless they can cite the support of some other *Tanaitic* source. Karo posits that there must have been some sort of agreement (*kiyemu vekiblu*) among the *Amoraim* at the time the Mishnah was redacted that they would accept the *Tannaim* as binding.

⁴⁹ Additionally, there is the consideration of stability in the law. Given the possibility of multiple interpretations, there has to be some mechanism for bringing disputes to resolution.

the peoples, a judge had only local authority, and could make rulings that differed from those that had been made in other places.⁵⁰

Another source of limitation of the rabbi's authority is found in the community of people he judges. We saw earlier in this chapter that a leader could not be chosen without the approval of the people.⁵¹ Once chosen, he may not make rulings that the majority will not accept. The Talmud states, "We do not impose on the community a hardship which the majority cannot endure."⁵² This statement was made in regards to the eating of meat and the drinking of wine after the destruction of the Temple; some scholars wanted to eliminate them entirely in mourning, but were told that although they were prepared to do without them, it would be too hard for the majority of the community – and therefore, they could not rule that people must abstain from them. An easier set of observances was devised, such as not completing the stucco on a house, putting ashes on the forehead of a groom, and other such rituals.⁵³

The prohibition on making a ruling too difficult for the community is so important that it may occasionally cause an existing ruling to be overridden, as is related in the following story from Avodah Zara:

How, then, was it possible for R. Judah the Prince to permit [the use of heathen oil] that was forbidden by the ordinance of the disciples of Shammai and Hillel, seeing that we have learnt: A Court is unable to annul the decisions of another Court, unless it is superior to it in wisdom and numerical strength! ... Our masters sat and made investigation concerning [the use of heathens'] oil [and found] that

⁵⁰ *Yad*, Introduction.

⁵¹ Even a person who is otherwise disqualified to be a judge may be chosen by the litigants to serve in that capacity (Mishnah, Sanhedrin 24a and *Yad*, Sanhedrin 7:2).

⁵² B. Bava Batra, 60b.

⁵³ *Ibid.*, 60b.

its prohibition had not spread among the large majority of Israelites; they accordingly relied upon the dictum of Rabban Simeon b. Gamaliel and R. Eliezer b. Zadok who declared: We make no decree upon the community unless the majority are able to abide by it.⁵⁴

In this case, the majority in the community were in fact not following an existing law. It was preferable in the eyes of R. Judah haNasi to annul a *gezeirah* to allow the forbidden practice rather than to have the people disregard the prohibition.

A rabbi's authority is limited by the rules of the development of the Oral Law, by rulings of other rabbis, and by the people. These might be considered internal limitations, as they come from within Jewish law and community. His authority is also limited externally by the civil authority that rules the land where he lives.⁵⁵ This limitation is expressed repeatedly in *halakhic* sources as the principle *dina demalkhuta dina*, "the law of the land is the law;" i.e., it is valid in Jewish law. In the Talmud this idea is found in tractate Gittin, which quotes the Mishnah:

All documents which are accepted in heathen courts, even if they that signed them were gentiles, are valid [for Jewish courts] except writs of divorce and emancipation.⁵⁶

In the Talmud's treatment of this mishnah, Shmuel states the principle *dina demalkhuta dina* with regard to the validity of documents that are processed in a court of law where the witnesses who signed the documents are idolaters. Even in cases where a document effects the transaction, such as in the giving of a gift (as opposed to cases where the document is merely evidence of a transaction, as in a sale), the transaction, which

⁵⁴ B. Avodah Zara 36a.

⁵⁵ This would of course not apply for the brief period of Jewish sovereignty in the Land of Israel (142 – 63 B.C.E).

⁵⁶ B. Gittin 10b.

presumably followed the law of the State, is valid under the principle that the law of the State is the law.

The principle *dina demalkhuta dina* is also found in Bava Batra⁵⁷. Shmuel is also quoted here, this time in regard to property that is momentarily ownerless as it passes from a non-Jewish seller to a Jewish buyer. The king had decreed that “one cannot acquire land except with a document;” in the moments when the seller has received payment for the property but the buyer does not yet have a document in hand, the property is technically ownerless on the basis of the king’s decree – and *dina demalkhuta dina*. Rashbam, in his commentary on this passage, explains the principle *dina demalkhuta dina* by saying that the residents of the community “willingly accept the king’s laws and statutes upon themselves.” Rambam, in the Yad, also attributes the validity of the laws to the fact that the people have willingly accepted (*hiskimu alav*) the king's jurisdiction. His language differs from that of Rashbam in that he refers to the people's agreement that "he will be their master (*adoneyhem*) and they will be his servants (*avadav*)."⁵⁸

According to both Maimonides and the *Shulkhan Arukh*, the principle *dina demalkhuta dina* applies primarily to civil matters, including monetary ones.⁵⁹ Marriage and divorce “are deemed spiritual matters in which the law of the state does not apply.” Where does this quote come from?

⁵⁷ B. Bava Batra 54b.

⁵⁸ *Yad*, Gezeilah 5:18.

⁵⁹ Monetary laws set by a gentile government are binding according to Jewish law (*Rambam, Hil. Zechiyah* 1:15; see SA Choshen Mishpat 369:8-10).

The external limitation placed on the authority of the rabbis by rulings of the state became, in effect, an internal limitation through the acceptance of the principle *dina demalkhuta dina*. Additional limitations on the rabbis came from lay leaders, as was set out in Chapter 1 of this thesis. Additionally, there were, of course, truly external forces on Jewish authority, but these fall outside the concern of this thesis.

6. *The requirement that a community hire a rabbi*

It was explained in Chapter 1 that there was no *halakhic* requirement for a community to hire a rabbi until Moses Sofer, who lived in the late 18th and early 19th c, declared that in addition to acquiring a Sefer Torah and building a synagogue, members of a community are obligated to appoint a rabbi.⁶⁰ Sofer believed that a community without a rabbi would lapse into chaos. Sofer reasons that since a community can require itself to hire a hazzan, and a good rabbi was preferable to a hazzan, so much the more so should the community be able to require of itself that it hire a rabbi. The Shulkhan Arukh requires a community to hire a rabbi and so, *kal v'chomer*, there is an obligation on the community to hire a rabbi.⁶¹

Sofer notes that the Magein Avraham writes that any individual is legally entitled to protest: I do not want *ploni* to be a *hazan*, so long as he had not already agreed to his serving in that role. The leaders of the community have to recognize the individual's objection to be a good one. Any citizen is entitled to protest against any appointment, even *marbitz Torah*. However, this applies only when this individual who is making the objection has another candidate in mind. The individual does not have the power to

⁶⁰ Sofer, Moses, Responsa Orach Hayyim 206.

⁶¹ *Ibid.*

prevent you from appointing anybody. In order to prevent endless objections to candidates, the Magein Avraham notes that, “nowadays we make a decision by majority of vote of taxpayers. And there are places that they appoint 11 or 13 people, upstanding citizens” so that there should not be unlimited disputation. In these situations, no attention need be given to lone objector.⁶²

Hatam Sofer continues that you appoint people to have communal responsibility for the hiring of a rabbi. In such a case, an individual would not have the power to say no. But if the minhag is that we don’t have such a group, then every member of the community has to be asked. In such a case, the individual can say, I don’t want this one, I want the other one.⁶³

7. The authority of the rabbi in issues of marriage and divorce

The Talmud makes the following statement regarding marriage and divorce in two places:

Anyone who does not know the laws of divorce documents and *kiddushin* [marriage] should have no dealings with them.⁶⁴

With regard to divorce, this could be interpreted as meaning that someone who is ignorant should not draft a get. But what "dealings" do they mean in the case of marriage? Rashi (on 6a) says that it refers to a *dayan* - i.e., one should not presume to render legal judgments on these matters unless one is an expert in them. The Tosafot says it refers to the *mekadesh* himself (i.e., *the man who wishes to marry*) - one shouldn't

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ B. Kiddushin 6a and 13a

talk to women about the subject of *kidushin* unless one is sure what he is doing - lest he end up being married to them by mistake!

It is not until later that *halakhah* actually required a rabbi to preside at weddings as *mesader kiddushin*. Maimonides rules in a responsum that “no marriage or divorce is valid in these villages unless performed by the authority of the Rabbi.”⁶⁵

⁶⁵ Maimonides, Responsum 156 (Freiman edition, Jerusalem, 1934), as translated in the Dissertation of Zuroff, Abraham N., “The Responsa of Maimonides,” 1967.

Chapter 3 – The idea of rabbinical authority in the American Reform Rabbinate.

A. How Reform Jewish rabbis build upon – or depart from – the ideas developed in the *halakhah*.

1. Introduction to the differences between grounds for rabbinical authority in traditional and Reform Judaism

We saw in Chapter 2 that the nature of rabbinical authority in *halakhah* was a complex topic. Initially, the rabbis' authority was, like Oral Torah itself, *miSinai*, directly from heaven, having been transmitted down a chain by means of *Semikhah*. With the end of *Semikhah* and the completion of the Talmud, rabbis could no longer claim the authority of heaven except through the Talmud. It became their knowledge of Talmud and other *halakhic* writings, as attested to by 'modern' ordination, which gave them one of the bases for their authority. The other base of their authority came from the people. Their authority was expressed by making judgments based on their interpretation of the Talmud and other *halakhic* texts for the communities who chose them.

For American Reform Jews, the issues surrounding rabbinical authority have become still more complex. In traditional Judaism, the rabbi performs something of a judicial function. Since *halakhah* in the traditional system is considered binding, the rabbi's role is to interpret the *halakhah* to the community that regards itself obligated to live by its dictates. But Reform Jews no longer consider *halakhah* to be binding, and they tend not to accept the rabbi's rulings as "law." What, then, is the nature of authority for Reform rabbis, and what are the grounds for that authority?

Interestingly, the grounds for authority of the Reform rabbi still share certain common elements with the grounds of authority for the traditional rabbi. Knowledge, as

attested to by ordination, is one factor that is shared; election by a group of people is another. And despite Reform's rejection of the claim of divine authority for Oral Law and subsequent decision that *halakhah* is not binding, it is still possible to argue that *halakhah* does play some role in the authority of Reform rabbis.¹ In contrast with these traditional grounds, some recent writers have suggested that Reform rabbinical authority is based additionally or instead on human relationship and presence, or on being a "symbolic exemplar." In this section, I will explore these ideas for the grounds of rabbinic authority.

2. *The beliefs of early American Reform rabbis about rabbinical authority*

The earliest of the Reform rabbis in America (who were all European born and educated) twice came together to author statements of principles. These statements provide a logical starting point for an examination of the rabbis' conception of their own authority. The earliest of these statements was the *Philadelphia Principles*, composed in 1869; the second, which the authors called a "continuation of the work begun in Philadelphia," was the *Pittsburgh Platform* of 1885. Neither document explicitly mentions rabbis. However, the fact that the *Philadelphia Principles* were authored by 13 rabbis and the *Pittsburgh Platform* by 14 rabbis, with no involvement of lay people in the creation of either document, indicates that the rabbis saw themselves as having the authority to speak to and for the people. Their tone is certainly authoritative, particularly

¹ According to Michael Meyer and Gunther Plaut, early Reform Judaism aimed not to discard *halakhah*, but to remake it in accord with the demands of modernity; over time, however, "the concept and terminology of *halakhah* disappeared from the vocabulary of Reform," reappearing after World War II. Meyer, Michael A. *The Reform Judaism Reader*, page 117.

in the *Philadelphia Principles*, where in six of the seven articles they set out their beliefs as fact. For example, Article 1 reads:

The Messianic goal of Israel is not the restoration of the old Jewish state under the son of David, nor the continued separation from other nations, but the union of all men as children of God acknowledging His unity, and the oneness of all rational beings and their call to moral sanctification.²

The rabbis of the Principles do not talk about their own authority, they assume it. Only Article 2 begins with a less strident, “We do not consider ...” The *Pittsburgh Platform* does begin each article with “we recognize,” “we hold,” and so on; while less strident than the flat-out declarations of the *Philadelphia Principles*, the tone is still one of authority.

That no lay people were involved in the formulation of either document is particularly striking given that (1) Reform was initially lay-inspired and conceived³ and only later were rabbis involved, and (2) as we saw in Chapter 1, lay leaders wielded tremendous power in congregational life. In the case of the *Pittsburgh Platform* (but not the earlier document), the rabbis identified themselves as “representatives of Reform Judaism.”

The *Philadelphia Principles* do not explicitly mention *halakhah* or Jewish law. But they clearly break from *halakhah* on a number of issues. They deny several tenets that underlie traditional Jewish thought: i.e., that the messianic goal of Israel is the restoration of the Jewish state under a descendant of David; that the sacrificial cult should

² Source: *Protokolle der Rabbiner Konferenz abgehalten zu Philadelphia (Nov 3-6, 1869) (New York, 1870)*, 7ff., in Meyer and Plaut, *The Reform Judaism Reader*, 196-197.

³ Meyer, Michael, A. *Response to Modernity*, 122 (in Europe) and 236ff. (in America).

be restored; that the descendants of Aaron should have any role or status different from other Jews; and that bodily resurrection will occur.⁴

The *Pittsburgh Platform*, in contrast to the *Principles*, explicitly rejects any *halakhic* rulings that “are not adapted to the views and habits of modern civilization.” Specifically, they reject “Mosaic and rabbinical laws” that “regulate diet, priestly purity and dress.” But the Reform rabbis did not discard all traditional laws. They wrote that they “accept as binding only the moral laws, and maintain ... such ceremonies as elevate and sanctify our lives.”⁵

It would seem, then, that the early Reform rabbis considered their authority to be based on their ability to make pronouncements on what parts of the written and oral law they did and did not accept. Their conception of the Talmud and *halakhic* writings differs from that of traditional Jews, but they base their authority nevertheless at least partly on their knowledge of those writings and their role as interpreters of those writings for their own day (although interpretation in their case might mean outright rejection).

At least one of the prominent early American Reform religious leaders appealed to the tradition as the source of the rabbi’s authority. Isaac Mayer Wise addressed the first convention of the Central Conference of American Rabbis (CCAR) in 1890. In this address he asserts the right of the newly formed conference of rabbis to issue decisions for the Jews of America:

The united Rabbis of America have undoubtedly the right – also **according to Talmudical teachings** – to declare and decide, anyhow for our country, with its peculiar circumstances ... which of our religious forms, institutions, observances,

⁴ *Protokolle der Rabbiner Konferenz*, 196-197.

⁵ Meyer, *Response to Modernity*, 387-88.

usages, customs, ordinances and prescriptions are still living factors in our religious, ethical, and intellectual life and which are so no longer and ought to be replaced ... It is undoubtedly the duty and right of the united rabbis to protect Judaism against stagnation ...⁶ (emphases mine)

It is unclear what Wise's grounds are for his assertion that the united rabbis "undoubtedly"⁷ have the right to decide issues of religious observance.⁸ It is also unclear which Talmudic teachings he has in mind when citing them. But what *is* clear is that Wise wants to claim strong authority for the conference of rabbis,⁹ and that he still attributes some kind of authority to the teachings of the Talmud.

Note that this address occurs long after Wise's early attempts for unity among reform-minded and traditional Jews. In 1855 he was willing for the sake of compromise to assent to the resolution that "The Talmud contains the traditional, legal, and logical exposition of the biblical laws which must be expounded and practiced according to the comments of the Talmud."¹⁰ By the time of the 1890 CCAR conference, however, he had dismissed the laws of *kashrut* as "kitchen Judaism"¹¹ and had participated in the creation of the *Pittsburgh Platform*, which expressly rejected the laws of *halakhah* that were not in accord with modern views. His address to the 1890 conference, then, indicates that even rabbis who stood behind the *Pittsburgh Platform* and championed the

⁶ Wise, Isaac M., "Historical Oration," *CCAR Yearbook I* (1890-1891), 19-21.

⁷ Note that Wise uses "undoubtedly" twice in this statement. Perhaps he "doth protest too much."

⁸ I suspect that Wise chose to say "undoubtedly" in an attempt to discourage the question of the grounds for his statement.

⁹ It is clear from his address that he sees a need to defend the authority of both individual rabbis and of the collective from charges from outside the Reform movement by those objecting to Reform.

¹⁰ Adopted at the "national conference" in Cleveland initiated by Wise in 1855. Sarna, 108-109.

¹¹ At the famous "trefe banquet" following the ordination of the first class of rabbis at Hebrew Union College.

need for change in specific Talmudic rulings would nevertheless on occasion appeal to the Talmud's authority.

Early responsa written by American Reform rabbis did not focus on *halakhic* precedents. Kaufman Kohler was the first chair of the Responsa Committee, serving from 1908 until 1922. Walter Jacob, in his introduction to the volume *American Reform Responsa*, writes the following about Kohler:

Kaufmann Kohler ... was interested primarily in the theological overtones of the questions. Thus, his discussion of Bar Mitzvah (Vol. 23, 1913) ... dealt with the idea of progress, the equality of men and women, and the psychology of the congregant. ... Bible and Talmud were cited, but rarely any later authorities.¹²

3. Beliefs of mid-20th century American Reform rabbis about rabbinical authority

In 1937, the CCAR adopted and published a new platform. This platform, known as the *Columbus Platform*, is titled "Guiding Principles of Reform Judaism." The word "Guiding" is echoed in the introductory paragraph, which states that the CCAR presents the principles "not as a fixed creed but as a guide..." This suggests that the rabbis not only recognized but were willing to state publicly that while they may have had the authority to speak for and to the people, their authority was limited to issuing statements of guidance; they had no power to compel.^{13,14}

Like the *Philadelphia Principles* and the *Pittsburgh Platform*, the *Columbus Platform* does not discuss the role of the rabbi. But unlike the earlier declarations, the

¹² Jacob, Walter, *American Reform Responsa*, xvii.

¹³ The reality of the situation of the earlier rabbis was also that they could not compel, but their statements never acknowledged this.

¹⁴ Meyer, *Response to Modernity*, 388-91.

Columbus Platform does make one explicit mention of rabbis. Its opening statement sets out who is speaking, and for what purpose. It reads:

In view of the changes that have taken place in the modern world and the consequent need of stating anew the teachings of Reform Judaism, the Central Conference of American Rabbis makes the following declaration of principles.¹⁵

The Platform does not discuss the rabbi's authority, but it makes an implicit claim of authority in the act of issuing principles for the movement. These principles are intended not as truths to which all must subscribe, or as judgments which all must follow, but rather "as a guide."¹⁶ The rabbis who issued this Platform see their authority in terms of providing guidance rather than in terms of commanding behavior.

The Platform includes three passages which appear to diminish rabbinical authority (or at least, these passages do not give rabbis any grounds for authority). The first is found in the section "Judaism and its Foundations" under the subheading "Torah." There, the rabbis speak of God's revelation as "a continuous process, confined to no one group and to no one age."¹⁷ The rabbis of the *Columbus Platform* clearly relinquish any claim to special knowledge of the divine. Their statement is in opposition both to the idea that revelation ceased after Sinai, and to the idea that the law was handed down from sage to sage, giving the sages a special authority based on privileged knowledge of divine revelation. Any authority possessed by the rabbis of the *Columbus Platform* cannot be grounded in direct or received revelation that could not be received by any other Jew — or, according to their universalist stance, any one professing any another religion.

¹⁵ *Ibid.*, loc. cit.

¹⁶ *Ibid.*, loc. cit.

¹⁷ *Ibid.*, loc. cit.

The other two passages that seem to undercut rabbinical authority are found in the section “Religious Practice.” First, the Platform gives prominence to the importance of the home as “a stronghold of Jewish life.” The text gives the home equal importance to the synagogue, education, and prayer. Insofar as rabbis have a greater say in what transpires in the last three, giving prominence to the home (it is even listed first of the four factors) can be read as diminishing the rabbis’ own importance.¹⁸

The second passage that seems to undercut rabbinical authority concerns the synagogue. The Platform proclaims the synagogue to be “the most democratic institution in Jewish life.”¹⁹ In a totally democratic institution, all people are considered to be equal and each person has just one vote. But perhaps what the rabbis who wrote the *Columbus Platform* had in mind are democratic institutions in which people elect leaders (who, once elected, have special authority). The people can also elect them out – but still there are leaders. Even this model seems at odds with rabbinical authority. Democratically elected leaders do not necessarily need to hold any special expertise. The only legal requirements to become president of the United States are that one be a native-born citizen of at least 35 years of age. Nor do democratically elected leaders have any special status or authority other than that which attaches to their office; once the leader’s term of office ends he or she is an ordinary citizen like everyone else. While it is true that rabbis are elected by their congregations and can be “elected out,” their authority stems from

¹⁸ I will admit that the inclusion of the home may be read very differently from the way I read it. One could argue that the home IS important in Judaism, whether or not this is said, and by including it in their Platform the rabbis are implicitly bringing it under their purview to some extent – thus increasing rather than decreasing the scope of their authority.

¹⁹ *Ibid.*, *loc. cit.*

something more than simply happening to have won a vote, and one can argue that they have some kind of special status or claim to authority even after they are no longer the rabbi of a particular congregation. So the word “democratic” cannot be interpreted to mean that the CCAR was giving up on the concept of rabbinical authority entirely. Marriage and conversion, for example, were still under rabbinical purview, and all rabbis believed in “freedom of the pulpit.”

The authors of the *Columbus Platform* include several passages which can be seen as providing means to diminish rabbinical authority. But they also have included passages which allow some grounds for building claims of authority for rabbis. Like the earlier Reform rabbis, they do recognize a role for traditional sources. Although they state that both written and oral Torah are products of history, and that some of the laws have therefore “lost their binding force,” they give a special place to oral Torah, along with written Torah, as “the dynamic source of the life of Israel.” The placing of the traditional texts in the center means that those who have expertise in understanding and explaining the texts have a certain authority. In American Reform Judaism, it is the rabbis who possess this authority regarding the texts. Additionally, the Platform calls for “faithful participation” in the synagogue, in learning, and in prayer. All these areas fall under the rabbi’s purview (the issues raised above about the democratic nature of the synagogue notwithstanding); their inclusion in the Platform provide some basis for claims of rabbinical authority.

There were four chairmen of the CCAR Responsa Committee during the middle years of the 20th century: Jacob Lauterbach, Jacob Mann, Israel Bettan, and Solomon B.

Freehof. Jacob Lauterbach served from 1923 until 1933. According to Walter Jacob, Lauterbach

used the responsa for thorough studies of the entire rabbinic past. His responsa presented normative material as well as other avenues. His historical approach emphasized the underlying principle which could be discovered in the developing tradition. [One example] ... presented material from the Bible, the Apocrypha, the Talmud and responsa, as well as modern studies.²⁰

Jacob Mann was chairman from 1934 to 1939. His responsa were brief, including a handful of citations but not developing lengthy discussions of either principles or historical background.²¹

Israel Bettan chaired the committee from 1940 to 1954. Walter Jacob, in his introduction observes that Bettan

sought to address himself only to the question at hand and supplied virtually no references. ...even [his responsum] on euthanasia (Vol. 60, 1950) contained only one post-Talmudic citation. This approach is interesting when we remember that he wrote his doctoral dissertation on the struggle over Reform in both Orthodox and Reform Responsa literature.²²

This lack of reliance on *halakhah* will be evident in Bettan's responsum on euthanasia at the end of this section.

Solomon Freehof chaired the Responsa Committee from 1955 to 1976 and authored many responsa during his tenure. Jacob observes that his responsa continued the pattern set by Jacob Lauterbach, but with less emphasis on detail. His responsa

²⁰ Jacob, Walter, *American Reform Responsa*, xvii.

²¹ *Ibid.*

²² *Ibid.*

are often lengthy and provide ample background, but they do not become learned essays. ... Through his citations, he opened the pages of tradition as well as the responsa literature to many colleagues.²³

In 1946, not quite a decade after the publication of the *Columbus Platform*, Rabbi Solomon B. Freehof published an article on the importance of *minhag* in the development of Jewish law. In this article, Freehof states clearly that Reform has broken from traditional *halakhah*, which he calls an “ossified system.” Yet he places great importance on the traditional sources. He suggests studying them to determine the prevalence and role of *minhag*:

It would be a fascinating study to go back through the notes of Isserles to the *Shulchan Aruch* and the *Tur* and to list all the instances in which he says, “This is our custom,” or “This is not our custom,” or “It is our custom to do thus and thus.” It would be revealed that a large bulk of Jewish law was derived spontaneously, creatively, and anonymously from the life of the people of Israel. This *minhag* was more basic to the development of Jewish law than the law itself has ever acknowledged.²⁴

In pointing out the importance of *minhag* to the law, Freehof accomplishes two related goals. First, making this point allows him to argue that since the conditions that led to the original *minhag* have changed, it makes sense to abandon the law that was based on this *minhag*. Second, the point paves the way for him to argue that the law has always been built from *minhag*, and it is to *minhag* that we must return to “build up the content of Torah.” By “content of Torah” Freehof means “those observances which, inspired by the past, are accepted by Israel in the present, or become acceptable to Israel.”

²³ *Ibid.*

²⁴ Freehof, Solomon B. “Slow Growth,” in *The Growth of Reform Judaism*, ed. W. Gunther Plaut (New York: World Union for Progressive Judaism, 1965), 239-41, as found in Meyer and Plaut, eds., *The Reform Judaism Reader*, 118-119.

Freehof writes that building up the content of Torah is accomplished “on the basis of the material which we find in Jewish literature.”²⁵

Building up Jewish observance (or the “content of Torah”) based on Jewish literature is a job for rabbis. Freehof writes, “On the basis of material we find in Jewish literature, we are developing practices which we present before our people.”²⁶ Clearly, the “we” who are developing practices based on literature are rabbis. Thus the rabbis have authority in shaping Jewish observance, and this authority is based on their knowledge of Jewish literature.

It is not clear to me what Freehof means when he says that “we present [the practices we have developed] before the people.” Does that mean that they are presented as a *fait accompli*; that the rabbis have decided them *for* the people and this is how the people are now to act? Does it mean that the rabbis will present their ideas to the people for a vote (perhaps at a UAHC meeting)? Or does it mean that the rabbis will present the ideas to the people by trying them out, synagogue by synagogue, and seeing how well they ‘take’? His emphasis on the importance of *minhag* that arose “spontaneously, creatively, and anonymously from the life of the people” would seem to give weight to the third possibility. On this view, rabbis have the authority to create observance, but the people have the power to accept or reject what the rabbi creates – not by casting actual ballots, but by “voting with their feet.”

While rejecting the authority of the old laws of Orthodoxy, Freehof presents the observances to be developed by Reform rabbis as “God’s command.” This may seem

²⁵ *Ibid.*

²⁶ *Ibid.*

surprising, given that one would expect Freehof to assent to the declaration in the *Columbus Platform* that characterizes the oral and written Torahs to be “products of historical processes” rather than of divine legislation. But that Platform also says that they “enshrine Israel’s every-growing consciousness of God and of the moral law.” Thus, the observances that the rabbis are to develop might be understood to be God-given in the sense that they arise from the rabbis’ God-consciousness. Although according to the *Columbus Platform* all people – not just rabbis – have access to revelation from God, the presentation by the rabbis of the observances they develop as “God’s command” would certainly lend an air of authority to their pronouncements.

Freehof also authors a responsum on the subject of the authority of rabbis to officiate at weddings. In his 1955 responsum, “Rabbi’s Prerogative to Officiate at Weddings,” he answers the question, “May cantors perform Jewish marriage services without an ordained rabbi presiding over the ceremony?”²⁷ Freehof goes to great lengths to give the history of officiation at weddings, seemingly giving weight to the authority of the *halakhah* by the very fact of his attention to the details of it, and by extension, giving weight to his own authority as rabbi for his knowledge of the *halakhic* tradition. He explains that in Ashkenazi lands the tendency was strong, for reasons of professional privilege and technical ability, to restrict officiation of marriages to ordained rabbis, and ordinarily to the chosen rabbi in the locality. He concludes his discussion of *halakhic*

²⁷ Current Reform practice is to consider cantors as full clergy, granted permission along with rabbis to officiate at weddings.

precedents by saying that “it is clear that only the rabbi – or someone else, by his express commission in each specific ceremony – could officiate at marriages and divorces.”²⁸

Freehof then gives his opinion that in the Reform Judaism of his day, it is “correct ... in following the tendency of traditional law, and saying that the performing of marriages is professionally, technically, and spiritually the exclusive function of the rabbi.” A cantor might officiate at the ceremony only if the rabbi approves of a particular marriage but is unable himself to officiate. Freehof gives two reasons for his opinion. First, in regards to marriage, Reform rabbis are even stricter than the Orthodox with regards to instruction, inquiry, etc. This reason is based on the *halakhic* rulings that restrict authority for marriage to rabbis based on technical authority (these arguments are loosely based on the passage found in Kiddushin 6a and 13a). The second reason given by Freehof is that “This is no time in the history of marriage and morals for us to take any steps to lessen the solemnity, dignity, and impressiveness of marriage.”²⁹ This reason is not based on directly on *halakhah*, but is apparently based on Freehof’s authority as a rabbi to make a ruling.

In 1950, Israel Bettan, who chaired the CCAR Responsa Committee from 1940 to 1954, published a responsum on euthanasia which demonstrated a decidedly Classical Reform approach to *halakhah*:

Of course, we liberal rabbis have always claimed the right, in the interest of a progressive faith, to modify Rabbinic law and to remove what we regard as an obstacle in the advance of the spirit. And, indeed, we have eliminated many an old restriction which, though meant to safeguard Judaism, proved to obscure its

²⁸ Freehof, “Rabbi’s Prerogative to Officiate at Weddings,” in *American Reform Responsa*, 398-401.

²⁹ *Ibid*, 201.

essential nature. But we have never sought to nullify an effective Rabbinic implementation of a vital spiritual principle.³⁰

Bettan ends his comments on a discussion of the responsum with the following statement:

All your committee asks you to do is to reaffirm the traditional attitude. We as religious teachers ought to have the courage to say: This is where we have stood for two thousand years and this is where we intend to stand.³¹

4. Beliefs of American Reform rabbis in the 1970s and 80s about rabbinical authority

The realities of American Jewish life changed radically between the publishing of the *Columbus Platform* in 1937 and the 1970s. The Holocaust had destroyed Jewish life in Europe and had caused Reform Jews seriously to question their faith in God, their universalism, and their optimism about the world. The modern State of Israel had come into existence in 1948. American society was becoming increasingly diverse and accepting of diversity. All these were contributing factors to the decision of the leadership of the CCAR to issue a new platform in 1976. The Platform, adopted by the CCAR membership in San Francisco, was titled “Reform Judaism – A Centenary Perspective” in recognition of the founding of the UAHC and HUC a century earlier. Examination of the *Centenary Perspective* reminds us that this document was composed in the aftermath of the Viet Nam War and Watergate, when anyone in authority was suspect and a move toward egalitarianism had taken hold in the United States. The *Centenary Perspective*, while not explicitly discussing the issue of rabbinical authority, shows a marked move toward understating whatever authority its authors might have wanted to claim.

³⁰ Bettan, Israel, Responsum 78 “Euthanasia” in Jacob, ed., *American Reform Responsa*.

³¹ *Ibid.*

This platform, like the *Columbus Platform*, opens with a statement that establishes authorship and the nature of the authors' project in issuing the Platform. The Platform begins:

The Central Conference of American Rabbis has on special occasions described the spiritual state of Reform Judaism. [This ... seems] an appropriate time for another such effort. We therefore record our sense of the unity of our movement today.³²

It is striking that whereas the rabbis who composed the *Columbus Platform* set out principles, the rabbis who wrote the *Centenary Perspective* aimed to “describe the spiritual state.” While rabbis might be seen to have some authority in spiritual matters, merely describing the state of things does not imply the authority to determine religious principles and practices that is more often ascribed to rabbis.³³ An historian who was knowledgeable about spiritual states could address this topic with equal authority. On the face of it, a description does not even suggest, much less prescribe or legislate, how people are to live.

Much of the platform is descriptive, although one could argue that the authors of the platform sometimes use description in order to shape Reform Judaism to be what they wish it to be. For example, in the section of the platform titled “Our Obligations: Religious Practice,” they write:

³² Meyer, *Response to Modernity*, 391-394.

³³ Such a statement might carry the authority of a knowledgeable expert to describe, but when we speak of the authority of the rabbi we typically have in mind something other or something more than description. The rabbis of the Talmud did not simply describe the spiritual state of their day; they issued judgments about everything from how to pray to how much a person whose ox had been killed was owed. The rabbis of the *Columbus Platform* issued principles intended to guide.

The past century has taught us that the claims made upon us may begin with our ethical obligations but they extend to many other aspects of Jewish living, including: creating a Jewish home centered on family devotion; life-long study; private prayer and public worship; daily religious observance; keeping the Sabbath and the holy days; celebrating the major events of life; involvement with the synagogue and community; and other activities which promote the survival of the Jewish people and enhance its existence.³⁴

In a descriptive statement made in the passive voice, the rabbis who authored it manage to set out what could be interpreted as their charge to the Reform Jewish people to observe the aspects of Jewish living that the rabbis consider important. This statement and others like it indicate that the Reform rabbis of this generation did not exercise authority by issuing judgments or, like the authors of the *Columbus Platform*, by presenting principles to be used “as a guide.” Rather, they used their collective authority to influence people to act by issuing a description that is presented as historical fact.

As was noted above, the authors begin the platform by identifying the CCAR as the authors of the platform, and use the word “we” to refer to the rabbis of the CCAR. In the second paragraph, they give credit to Reform rabbis, writing that “We celebrate the role of Reform Judaism in North America ... [and] the great contributions of our membership to the dreams and achievements of this great society.”³⁵ Their use of “we” shifts in the course of the platform; in later passages “we” refers not only rabbis, but all Reform Jews or even all Jews. For example, under the heading “The People Israel” they write, “The Jewish people and Judaism defy precise definition because both are in the process of becoming. ... Born as Hebrews in the ancient Near East, we are bound

³⁴ *Ibid.*

³⁵ *Ibid.*

together like all ethnic groups ...”³⁶ (emphasis added) Clearly, the “we” of this passage is not the rabbis of the CCAR, but rather the entire people Israel. Perhaps this one example in itself is not significant, but much of the document is written in this way. More significant is the “we” in the concluding sentence of the Platform:

We dedicate ourselves, as did the generations of Jews who went before us, to work and wait for that day when “They shall not hurt or destroy in all My holy mountain for the earth shall be full of the knowledge of the Lord as the waters cover the sea.”³⁷ (emphasis added)

The rabbis are placing “we” parallel not to earlier generations of rabbis, but to generations of Jews. One could argue that by so doing, they are presuming to speak for the entire Jewish people and not only for Reform rabbis. Perhaps this will result in their audience – *i.e.*, Reform Jews and the wider Jewish readership – identifying with their statements and thus being more readily persuaded to accept their ideas. If this is correct, then their authority comes not from any special powers due them on the basis of their status as ordained rabbis, nor on their status as elected leaders. Rather, under this understanding their authority comes from their having the ability to persuade. Furthermore, the power of persuasion is exercised through passive statements in which the speaker is not emphasized throughout much of the platform.

In addition to the mention of the Central Conference of American Rabbis at the outset of the platform, there is one other place where “rabbis” are mentioned explicitly. In the section titled “Torah,” we read:

³⁶ *Ibid.*

³⁷ *Ibid.*

Torah results from the relationship between God and the Jewish people. The records of our earliest confrontations are uniquely important to us. Lawgivers and prophets, historians and poets gave us a heritage whose study is a religious imperative and whose practice is our chief means to holiness. Rabbis and teachers, philosophers and mystics, gifted Jews in every age amplified the Torah tradition.³⁸ (emphasis added)

Here, lawgivers, by whom I believe are meant rabbis, are the authors of *halakhah*. The authors of *halakhah* are not ascribed the authority that derives from privileged access to revelation from Sinai; they are put on a level with prophets, historians, and poets. It is not surprising that the rabbis of the *Centenary Perspective* do not try to build the case for their own authority on the authority of the *halakhah*. On the other hand, their assertion that the study of the lawgivers, prophets, historians and poets “is a religious imperative ... whose practice is our chief means to holiness” does open the door to their making a claim to authority based on their expertise in all these texts. But just as lawgivers are placed on the same level as prophets, historians, and poets, rabbis are equated with teachers, philosophers, and mystics. No special authority is attributed here to the rabbi.

The rabbis who authored the *Centenary Perspective* declared, “We are ... committed to the full democratization of the Jewish community.”³⁹ The context of this statement is murky, but the emphasis on democracy rings true to the spirit throughout the document, a spirit that minimizes distinctions between leaders and followers and gives rabbis no special status.

As was mentioned above, authority was being challenged in America in the years following the Viet Nam War and Watergate. In the years following the publishing of the

³⁸ *Ibid.*

³⁹ *Ibid.*

Centenary Perspective, rabbis showed increasing interest in the issue of rabbinical authority. In 1982, six years after the ratification of the *Centenary Perspective*, the CCAR devoted its convention to a consideration of this topic. Two longer papers were presented, and twenty rabbis prepared two-hour courses on questions of rabbinical authority. The two longer papers along with papers developed from eleven of the shorter sessions were compiled in a volume titled *Rabbinic Authority* edited by Elliot Stevens and published by the CCAR. In this section of this thesis, I will consider the ideas set forth in the articles in this volume.

Many of the rabbis who contributed to *Rabbinic Authority* believe that knowledge of traditional sources is fundamental to rabbinical authority. In “Vineyards of the Lord,” one of the two major papers of the conference, Jerome Malino, a pulpit rabbi of forty-five years, writes:

Our authority does not derive from our ordination or our diploma but from the tradition in whose name we speak. ... If we take a strong position on a social issue and our people want to reject what we say, they should have to reject Amos and the full weight of the prophetic tradition as well.⁴⁰

Near the close of the article, Malino writes that the rabbi “measures himself (sic) by knowledge of Torah, and so do the people, although they may claim otherwise.”⁴¹

In the other major paper of the conference, titled “The Origin and Authority of the Rabbi,” Howard Saperstein agrees that knowledge is the foundation of rabbinical authority. He writes that “scholarly qualifications still remain the basis for the authority

⁴⁰ Malino, Jerome, “Vineyards of the Lord,” in Stevens, *Religious Authority*, 7.

⁴¹ *Ibid.*, 13.

of the contemporary rabbi.”⁴² He goes on to explain the nature of the scholarship necessary for the Reform rabbi, and in particular the role of *halakhah* as part of that scholarship:

No longer does [scholarship] imply mastery of the *halakhah*, which carries no compulsion for the liberal Jew. ... Not that *halakhah* can be ignored. But *halakhah* for us is the beginning, not the end. In Freehof's terms it must be for guidance, not for governance. And so *halakhic* mastery, which was the desired standard if not always the actual competence of the traditional rabbi, is no longer expected of, and need no longer be striven for by, the contemporary Reform rabbi.⁴³

If not *halakhic* mastery, then what is the nature of the scholarship needed by the Reform rabbi? Saperstein explains his answer to this question in the context of what Torah must be not only for the rabbi, but all modern Jews:

Torah for the modern Jew must be not *halakhah* alone but the total spectrum of Jewish values. It incorporates the unique perspective of the Jewish heritage. From this context the rabbi must be able to deal with the problems of life and society. He is the expert in Judaism. His understanding of Jewish history, literature, philosophy – his involvement in Jewish liturgy, and observance and life – must all be brought to bear in his guidance of synagogue activities, in his interpretation of Judaism, and his views of society.⁴⁴

Thus, for Saperstein, rabbinic authority rests on knowledge not only of *halakhah*, but also of Jewish history, literature, and philosophy.

Other authors included in *Rabbinic Authority* also saw rabbinical authority as based in knowledge of traditional sources. Peter Knobel writes in “Rabbi, Interpreter of Religious Experience” that “the source of rabbinic authority ... is Torah scholarship,

⁴² Saperstein, Harold I., “The Origin and Authority of the Rabbi,” in Stevens, *Rabbinical Authority*, 24.

⁴³ *Ibid.*, 24.

⁴⁴ Saperstein, Harold I., “Changing Role of the Rabbi,” in *The American Rabbi*, New York, 1977, 163.

which gives Jewish form and substance to Jewish lives.⁴⁵ Knobel sees the role of the rabbi as working towards both a new inner spiritual life through story and myth and a new *halakhah*. Torah scholarship is necessary for these tasks,⁴⁶ and it is through this that rabbis have authority.

Michael Stroh, in “The Authority of the Tradition for the Reform Rabbi” presents a philosophical treatment of the relationship between the authority of Reform rabbis and the tradition. Stroh agrees with the previous writers that “the authority of a liberal rabbi is based upon his knowledge of tradition,” adding that this is the case today for any rabbi whether liberal or otherwise.”⁴⁷ He goes on to make the stronger claim that “[t]herefore, the authority of the rabbis is equal to the authority of the tradition itself.”⁴⁸ It follows from this that the liberal or Reform rabbi has no authority unless the tradition itself has authority. “So,” Stroh writes, “the central question we must raise is: what is the authority of the tradition for Liberal Judaism?”⁴⁹

The answer to this question is of critical importance for Stroh. If the tradition has no authority over us, then not only does the rabbinate also lack authority, but

if any other authority can be discovered it will supersede Judaism and render the rabbinate a meaningless institution. If no source of authority whatever can be found, then we are doomed to nihilism, and a world we would not want to live in.⁵⁰

⁴⁵ Knobel, Peter, “Rabbi, Interpreter of Religious Experience” in Stevens, *Religious Authority*, 52.

⁴⁶ Especially, it would seem to me, the latter.

⁴⁷ Stroh, Michael S., “The Authority of the Tradition for the Reform Rabbi,” in Stevens, *Religious Authority*, 41.

⁴⁸ *Ibid.*, 41.

⁴⁹ *Ibid.*, 41.

⁵⁰ *Ibid.*, 46.

The stakes are high indeed. We have the strongest of reasons to find how the tradition holds authority for liberal Jews – not just as a foundation for rabbinical authority, but for the underpinning for liberal Judaism itself.

In order to succeed in our search for authority in the tradition, Stroh posits that “we must begin with the presupposition that the tradition does have authority over us, and our task is to discover that authority.”⁵¹ But this presupposition can be challenged, as Stroh himself points out.

Traditional authority is challenged by modernity. Stroh points out that since the Enlightenment, authority no longer rests outside the individual. Modern culture is characterized by autonomy, which places authority inside the individual. In Reform Judaism, “this appears ... as the freedom of the individual to believe and observe what is personally meaningful to him.”⁵²

Today’s individual has a multitude of choices, not only of actions and even beliefs, but of systems of belief. According to Stroh, technology⁵³ has made the modern person aware of what Peter Berger calls “a system of multiple plausibility structures.”⁵⁴ Stroh writes, “Once many structures seem plausible, doubt is cast on the truth and absoluteness of one’s own structure.” In Medieval times, most Jews lived in the

⁵¹ *Ibid.*, 46.

⁵² *Ibid.*, 41-42.

⁵³ I understand Stroh to be making the claim that television and like technology have led to relativism. But I believe that technology, while facilitating and accelerating the acquisition of awareness of multiple realities, is not necessary or the true cause of this phenomenon. It is, rather, living in proximity to people who have different systems of belief, people who, post-Enlightenment, we have to confront as equals. Also necessary to this new awareness is the ability to communicate with these “others” or to learn about them by some means (though I believe that direct contact is the most powerful teacher).

⁵⁴ Berger, Peter, *The Heretical Imperative*, Garden City: Anchor Press/Doubleday, 1979, 17.

confines of their own communities, and their belief in the tenets and the authority of the religious tradition they were taught was unquestioned. They were generally aware that competing systems existed, whether Christian or Muslim, and a few Jewish scholars even had correspondence with leading thinkers of the competing systems and were influenced by them.⁵⁵ But in Christian Europe especially, the vast majority of Jews had no more than the most basic commercial interactions with their non-Jewish neighbors; their worldview was that of their ‘received religion,’ which had unquestioned authority in their lives. The Enlightenment radically changed this situation; as Jews became citizens of the new democracies, they came into contact with competing world views and ideologies. This raised doubt not only about the particulars of this or that belief, but about whether *any* set of beliefs could be established as true in the face of competing sets of beliefs. The outcome of this doubt, according to Stroh, leads to relativism, and possibly to the abandonment of all metaphysical systems.⁵⁶

Stroh explains in his essay how the ideas of the Enlightenment, “when taken to their ultimate consequences may prove ultimately destructive.”⁵⁷ He suggests that “the reappropriation of tradition” will bring salvation, but that we must figure out how it is possible to do this. Going back to tradition by renouncing autonomy is neither desirable nor even possible. We do not want to give up democracy or the right to use our critical intelligence. And even if we wanted to, we could not, as “History does not move backward.”⁵⁸ Stroh suggests that we can regain authority for the tradition by recognizing

⁵⁵ I believe that this was most common in Spain during the Golden Age.

⁵⁶ Stroh, *op. cit.*, 42.

⁵⁷ *Ibid.*, 44.

⁵⁸ *Ibid.*, 44

that it is possible to accept the ideas of the Enlightenment partially, rather than totally accept or totally reject them. We do this by “reject[ing] the Kantian version of autonomy in which the human person is self-legislating and, therefore, self-sufficient.”⁵⁹ Stroh continues:

If there is any hope for a return to the transcendent in a Jewish sense, then God legislates and we listen. The tradition contains authority within it, but is not an absolute and infallible source of authority. ... However, the tradition is the only source of authority that we have; it is the only witness to God’s authority that we have as Jews. There must still be individual judgment and decision in interaction with the tradition as a source of nonunitary authority. Our decisions are not infallible.⁶⁰

Thus, Stroh believes that the source of the authority of tradition is God. Since he does not accept the traditional account of Oral and Written Torah being presented to Moses by God at Sinai and then handed down by the Sages, he must understand God to “legislate” by some other means, but he does not explain that here.

Stroh maintains that the tradition is one source of authority, and that each of us must interact with that authority by making judgments and decisions about it. He suggests that we have two approaches that we can use in approaching traditional authority. In one, “we bring to bear on the tradition our critical intelligence and all the tools of reasoning and scientific investigation we have developed until now as methods to understand the tradition as a source of authority.”⁶¹ We can use reason, as Abraham Geiger and the classical Reformers did, to understand “how [traditional] authority has manifested itself in the midst of historical change, and thus provide valuable insights into

⁵⁹ *Ibid.*, 44-45.

⁶⁰ *Ibid.*, 45.

⁶¹ *Ibid.*, 45.

our own period, and ways of ensuring the creative continuity of Jewish tradition.” We can “use ... intelligence to solve our problems.”⁶²

The second approach to traditional authority that Stroh suggests is that of Franz Rosenzweig. Rosenzweig sets out the following premises, which he asserts are necessary for us to affirm both the authority of the tradition and the realities of modern consciousness:

1. The tradition is authoritative;
2. It [the tradition] is authoritative in its entirety and not only in what can be comprehended rationally; and
3. In the modern age individuals must interact with the tradition and make personal decisions about what they can affirm and incorporate into their lives.⁶³

Stroh agrees that the first premise is necessary; as was mentioned above, he writes that we must begin with the presupposition that the tradition does have authority over us. The second premise departs from the standard Classical Reform practice of discarding whatever in the tradition does not accord with modern rational sensibilities. Stroh attributes to Rosenzweig the belief that “not everything can be comprehended rationally, neither in the realm of Jewish history nor in the realm of mitzvot.”⁶⁴ He writes that “Rosenzweig is well suited to speak to our postmodern sensibilities;” if by that he means that many of us have an affinity for the idea that there is value to be found in the non-rational, then I would tend to agree. The third premise recognizes the autonomy of the individual, giving the individual the right and responsibility to choose what of the

⁶² *Ibid.*, 45.

⁶³ *Ibid.*, 45.

⁶⁴ *Ibid.*, 46.

tradition ‘fits’ for them in terms of their own belief and practice. This seems paradoxical. The entire tradition is authoritative, yet we can and must “pick and choose.” Stroh writes that “Rosenzweig would never say that any particular mitzvah was meaningless; his response was that he did ‘not yet’ observe it.” Stroh points out that “the Reform movement now finds meaningful mitzvot that were once relegated permanently to the museum.” Stroh does not go so far as to say that Reform Jews should adopt Rosenzweig’s theology *in toto*; it seems to me that no Reform Jew is likely to say that the entire tradition – all of *halakhah* – is authoritative, and that there is no part to which he or she might not assent at some time in the future. While it is true that Reform Jews once rejected *kashrut* while now many embrace it, there are some laws (e.g., that women and deaf-mutes cannot serve as witnesses in court) that I believe Reform Jews will simply never accept. Rosenzweig is useful as an example of one way to reconcile accepting *halakhah* while retaining a measure of modern autonomy, but I do not believe that it can ever be our way as Reform Jews.

Stroh stops short of saying that Reform Jews should accept Rosenzweig’s approach, though he clearly finds it attractive. He does not offer an explicit alternative to Rosenzweig, but sets forth the more general assertion, challenging the Reform movement to find its own answer of how to interpret *halakhah* in such a way that it remains authoritative:

Somewhere between the idealists’ method for deciding with precision between the kernel and husk in the Jewish tradition and the existentialists’ lack of method, we must find our place.⁶⁵

⁶⁵ *Ibid.*, 46

Stroh believes that we must find our place in relation to the authority of the tradition or lose our own authority as rabbis. While many of the Reform rabbis who contributed essays to Stevens' volume write about rabbinical authority resting on the tradition (or more often, on knowledge of that tradition or on knowledge of a broader scope of Jewish learning), many choose to emphasize other foundations for rabbinical authority.

Community election is another factor in rabbinical authority. As we have seen, some element of assent of the community to be governed was operative even in Talmudic times. In the Middle Ages, authority rested on actual election to office. The elected rabbi of the medieval town in Europe was recognized as the *mara d'atra*, the master of the place. He had a contract negotiated with the elders of the town, and within that community the authority of an appointed rabbi was not to be infringed upon by any other rabbi, even one living in the same community. Many communities in Europe in the Modern period continued to have a chief rabbi. But by the time the first rabbis arrived in America in the 19th century, control was not exercised by the community but rather by individual congregations. Rabbis in America are elected as leaders by their synagogues, and their authority rests to a great extent on the authority granted by the people of the synagogue. As in Medieval times, ordination is the evidence that permission has been granted to the rabbi to judge and to teach; the authority to exercise these functions comes in modern times with appointment by a synagogue.

The authors found in the 1982 volume *Rabbinic Authority* do not dwell on necessity of election by a synagogue for the exercise of authority. I suspect that for many

of them it was simply a given. For others who were scholars teaching at Hebrew Union College and at other academic institutions it was simply not an issue of particular concern.⁶⁶

Some authors mention a factor related to community election, and that is the factor of the acceptance of people of the rabbi. Harold Saperstein, while maintaining that scholarly qualifications still remain the basis for the authority of the contemporary rabbi, remarks that in the absence of the sanction of divine origin, “the stress is now totally on voluntary acceptance.”⁶⁷ Because the authority of the rabbi depends “more than ever” upon congregational acceptance, it is not enough that the rabbi be an expert in Jewish knowledge. “Somehow he must transmit to his congregation respect for its values ... again and again we find the thesis that rabbinical influence and authority depend on the quality and the impact of the individual personality.”⁶⁸

Harry Roth, in his article “From Whence the Authority of the Rabbi to Comfort and Counsel?” agrees with Saperstein that the era when knowledge of the tradition was the basis for rabbinical authority. Roth, in fact, does not mention the rabbi’s learning as a

⁶⁶ I expect that faculty *qua* faculty see their authority to teach based first and foremost on academic credentials (in most cases, on PhDs). It would be interesting to learn if and how faculty see their authority as based in their ordination. (I am not thinking of Professional Development courses here, where field experience would contribute to authority, but in ‘academic’ courses. In certain cases, such as a rabbi teaching a course in Hebrew Bible at a non-Jewish institution, it would seem that rabbinical ordination would *not* contribute to authority, whereas for an instructor in Talmud at HUC, it might contribute.)

⁶⁷ Saperstein, Harold I., “The Origin and Authority of the Rabbi,” in Stevens, *Rabbinical Authority*, 24.

⁶⁸ *Ibid.*, 25.

basis of modern authority. He writes that with the emergence of the modern rabbi, “Often, perhaps too often, the authority of the rabbi is voluntary acceptance.”⁶⁹

Authors more frequently commented on other factors than election or acceptance as foundational to rabbinic authority. Several commented on the importance of the quality of the rabbi’s human relationships and presence. In “Rabbinic Authority: The Human Element,” Joseph Rudavsky writes that for him, the critical factor in rabbinical authority “is the human element caught in the biblical ‘*V’ahavta*, love thy neighbor as thyself.’ ... [Love] deals with relationship, dialogue, and encounter with the self and with other human beings.”⁷⁰ Rudavsky stresses the importance of humility and of being a *mensch*. He writes, “[Rabbinic authority] lies in human relationships, in concern, empathy, sensitivity to the needs of human beings. Authority comes from humanity, ‘*menschlichkeit*,’ this is the seed bed for all we preach and teach.”⁷¹

The quality of the rabbi’s relationships is an important factor in his authority for Rudavsky; his very presence, especially at times of illness and loss, is of critical importance as well. He writes,

... we must recognize that to this generation the rabbi achieves his authority by his presence. His handclasp to the sick and bereaved symbolizes Judaism's message of comfort and courage. ... How much Judaism loses, how meaningless become the very words of Torah that the rabbi speaks, how empty even his prayers, if the people are bereft of his personal blessings in their daily lives.⁷²

⁶⁹ Roth, Harry, “From Whence the Authority of the Rabbi to Comfort and Counsel?” in Stevens, *Rabbinic Authority*, 96.

⁷⁰ Rudavsky, Joseph, “Rabbinic Authority: The Human Element,” in Stevens, *Rabbinic Authority*, 38.

⁷¹ *Ibid.*, 40.

⁷² *Ibid.*, 40.

Rudavsky concludes that the authority gained through presence and personal relationship is the authority to influence:

... our authority is vested in our ability to influence, to mold, to direct. It is not automatic, not vested upon us with *semichah*, but through *semichah* we are vested with the challenge and opportunity to earn authority by what we are and what we do.⁷³

The rabbi's ability to influence is viewed as fundamental to rabbinical authority by several other authors as well. Harold Saperstein writes, "our authority is no longer imperative, it is influential."⁷⁴ The ability to influence can be based on different factors. As we have seen, evidence of the rabbi's Jewish learning has been a basis of influence for several authors. As mentioned above, Saperstein believes that rabbinical influence and authority depend not only on learning, but also on the quality and the impact of the individual personality. Saperstein continues,

By personality, I do not mean the possession of charisma and charm. What I mean is the sincerity and commitment, the caring ministry, which earn respect and admiration, yes, and affection and loyalty from the congregation.⁷⁵

David Polish never uses the word "authority" in his essay, "A Kind Word for the Sermon," but argues that it is through *divrei Torah* that a rabbi most effectively leads and influences his congregation. He believes that Torah study is important, both for congregants and for rabbis. He sees pastoral work, counseling, and person-to-person relationships as "an indispensable part of a rabbi's task," but categorizes them as serving

⁷³ *Ibid.*, 40.

⁷⁴ Saperstein, Harold I., "The Origin and Authority of the Rabbi," in Stevens, *Rabbinical Authority*, 24.

⁷⁵ *Ibid.*, 25.

the individual whereas “preaching” is how the rabbi leads the community. He writes that “The pulpit is where leadership can and should be exercised. ... [A rabbi] can awaken the collective will to live Jewishly from the pulpit.” Later he writes:

Where, over the years, a rabbi presents *divrei Torah* that make up a coherent view of Judaism and of life, he may see his congregation moving, not randomly through indecision or convulsively through frenetic projects, but teleologically. Where else can a rabbi declare his credo, where else can he call upon his people to take a stand of mind or conscience or action? Where else can the rabbi most vigorously assert one dimension of his total role which must not be eradicated, leadership?⁷⁶

Finally, Samuel Karff suggests in “The Subtleties of our Rabbinic Authority” that rabbis have authority as specialists in life’s meaning and defenders of the faith. He argues against the assertion by Milton Steinberg that a rabbi is a teacher of the tradition who differs from laypersons only by the extent of his education, that “He is a rabbi by virtue of his education; his ordination is graduation, his title an academic degree” and that the rabbi “does not possess spiritual powers ... which are unavailable to the laity.”⁷⁷

Karff writes that rather his authority

stems from having personally wrestled as a Jew with the issue of life’s meaning and having made a commitment to God based on an understanding of Judaism. In this context, my authority is related to my being a personal witness and defender of the faith.⁷⁸

Unlike some of the other authors in Stevens’ *Rabbinic Authority*, Karff does not believe that the authority coming from sources other than knowledge of *halakhah* is exclusively a modern phenomenon. He traces the roots of the rabbi as defender of the

⁷⁶ Polish, David. “A Kind Word for the “Sermon,” in Stevens, *Rabbinic Authority*, 100-101.

⁷⁷ Steinberg, Milton, *Basic Judaism*, 154-155.

⁷⁸ Karff, Samuel E. “The Subtleties of Our Rabbinic Authority,” in Stevens, *Rabbinic Authority*, 55-56.

faith back to the Talmud. He relates stories of rabbis whose faith was tested by the loss of their children and rabbis who defended the faith in polemical encounters with apostates and with those outside the faith. From these examples, Karff concludes that “the classic rabbi’s authority was not confined to judgment of matters of Jewish law but involved as well the proclamation of life’s essential meaning in covenantal terms.”⁷⁹

Similarly, Karff attributes to rabbis “a special ‘praying power’” for which there are precedents in classical rabbinic literature. He suggests that at least some of these ancient rabbis had healing powers as well. Karff agrees with Steinberg’s suggestion that “the authority (power) vested in the ancient rabbi was by virtue of his study of the Torah and his fidelity to its terms.” But Karff believes additionally that “this life of Talmud-Torah yielded not only *halakhic* but priestly authority.”⁸⁰

Karff writes that in modern times, while rabbis do not have the judicial authority of the early rabbis, they do still have authority as proclaimers of the faith, which he classifies as aggadic authority, and as special mediators of the healing power of God, which is priestly authority. Rabbis do not have this authority or power by virtue of their special immersion in a life of Torah study and observance. He writes that rather,

in more subtle indirect ways, we do mediate and release our congregants’ openness to the realm of the sacred. We can help them pray. We can put them in touch with God’s affirmation of human dignity and God’s forgiving love and, by virtue of our capacity to speak as persons who have “mastered” the faith and are vocationally committed to it, we possess special power to help people open themselves to the healing presence of God.”⁸¹

⁷⁹ *Ibid.*, 56-57.

⁸⁰ *Ibid.*, 57.

⁸¹ *Ibid.*, 59, 61.

Thus, the writers included in the volume *Rabbinic Authority* have a wide range of views about the basis of authority of the modern rabbi. Some focus more on knowledge of *halakhah* or of a broader range of Jewish thought. Others see rabbinical authority as based on personal attributes of the rabbis and on the quality of the relationships the rabbi forms. Still others look to preaching, healing, and being witnesses to the faith for the roots of rabbinical authority.

There are two responsa during this period that deal with marriage and which bear on issues of rabbinical authority. The first was written by Solomon Freehof, who wrote the 1955 responsum, “Rabbi’s Prerogative to Officiate at Weddings” discussed above. In 1974, Freehof addresses a different issue in “Wedding Without a License.” The questioner asked whether it was acceptable for a rabbi to officiate at the marriage of two people who wished to be married under Jewish law but not under state law. The motivation for their request was to avoid a reduction in their joint social security while having their union sanctified by a marriage ceremony. The questioner asks further whether the marriage is valid under Jewish law if a rabbi does officiate.⁸²

Freehof’s answer to the second question is that if the rabbi does conduct the wedding, then “of course” it is valid according to Jewish law. He writes, “Jewish marriage is not dependent on outside law.”⁸³ But Freehof is quick to point out the rabbi and the couple are also citizens of the United States and are subject to American law. While in some countries the state exercised no control over Jewish marriage and recognized the *ketubah* as sole evidence of a Jewish marriage, this is not the case in the

⁸² Freehof, Solomon B., “Wedding Without A License” in *Contemporary Reform Responsa*, 98.

⁸³ *Ibid.*, 99.

United States. From the point of the state, the rabbi may be breaking the law by officiating at a wedding without a valid marriage license; for that reason alone he should refrain from doing so, even though the marriage might be considered valid under Jewish law.⁸⁴

Freehof then returns to the question of whether the wedding is valid under Jewish law, given the context of the state. He appeals to the principle *dina demalkhuta dina*, the law of the state is the law. He points out that the principle of *dina demalkhuta dina* applies primarily to civil matters, including monetary ones.⁸⁵ Marriage and divorce “are deemed spiritual matters in which the law of the state does not apply.” As pointed out above, if a rabbi officiates at a wedding without a license from the State, the marriage is valid under Jewish law even if illegal under state law. But Freehof writes that even though marriage and divorce are deemed spiritual matters in which the law of the state does not apply, in practice, Jewish law “takes cognizance of civil law.” He supports this position by pointing out that in the U.S., a *get* is not granted by Jewish authorities unless the couple has first received a divorce from the state courts. It must be in light of this that Freehof objects to rabbis officiating at weddings in which the couple does not have a state license in states that expressly forbids clergy from officiating for couples without a state license. The rabbi would be acting illegally in the eyes of the State.

In the case of the couple who wishes to avoid losing social security income, Freehof holds that even from a Jewish point of view, the rabbi should not officiate. The couple is attempting to circumvent social security law, which is a civil matter. *Dina*

⁸⁴ *Ibid.*, 99-101.

⁸⁵ Monetary laws set by a gentile government are binding according to Jewish law (*Rambam, Hil. Zechiyah* 1:15; see SA Choshen Mishpat 369:8-10).

demalkhuta dina does apply here, and Freehof concludes that the rabbi should not aid the couple in avoiding the legal consequences of their union.⁸⁶

Unlike in his 1955 responsum, where Freehof bases his answer in part on *halakhah* and in part on his assessment of the needs of the time, Freehof's argumentation in this responsum is based solidly in the *halakhah* alone. Clearly, he is attributing authority to the *halakhah* here, and, it seems, basing his authority as a rabbi on that *halakhah* and on his knowledge of it.

In 1955, Walter Jacob became chair of the Responsa Committee. Four years later, Jacob and the Responsa Committee published the responsum, "A Layman Officiating at a Jewish Wedding." This responsum returns to the topic raised in the 1955 responsum of whether someone other than a rabbi could be authorized to conduct a Jewish wedding. The motivation for the question is the desire for a couple in Sioux Falls, South Dakota to have a Jewish wedding when there was no rabbi available for several hundred miles in any direction. The committee explains the three ways in which the Talmud says a marriage can be effected and points out that "the matter of who may actually conduct the ceremony was hardly discussed."⁸⁷ The responsum then traces what is known of the history of officiation from Talmudic times through the 14th century, when rabbinic officiation had become generally accepted. The responsum committee then writes that "it would be wrong to change that practice nowadays" and given the relative ease of transportation to locations where there is no rabbi, concludes that "a rabbi should be

⁸⁶ *Ibid.*

⁸⁷ "A Layman Officiating at a Jewish Wedding," in *American Reform Responsa*, 401-402.

asked to perform such weddings.”⁸⁸ The committee based its reasoning on first, the passage in Kiddushin 6a, which they translate “those who are not well acquainted with the *procedures* of weddings and divorce should not deal with them.”⁸⁹ (emphasis mine) The Hebrew reads, “*kol sh'eino yodeia b'tiv gitin v'kidushin lo y'hei lo esek imahem,*” which is more literally translated, “anyone who does not know well divorce and marriage, let him not deal with them.” Other translators generally understand this sentence to mean, anyone who does not know well the *laws* of divorce and marriage. It is unclear what the Talmud means by “deal with them.” In the case of divorce, it would seem to mean that someone who is not knowledgeable should not draw up a *get*. But in the case of marriage, which was a private contract between two individuals requiring only two witnesses, it is unclear – but it is unlikely that this is about the procedures for officiation. It is true, however, that this passage from Kiddushin 6a is used by later *halakhic* writers as support for the requirement that a rabbi officiate at marriages. The Responsa Committee interprets the sentence from Kiddushin 6a as meaning that one who deals with marriage should have

the ability to deal with all the ramifications of marriage, which include pre-nuptial counseling, as well as the ability to counsel afterwards. It would extend to assistance in the establishment of a Jewish home, which would be even more important in a remote area than in large Jewish centers. It would also involve, in such a location, more assistance with the ceremony itself and the nuances involved with weddings.⁹⁰

It is an unjustifiable stretch to interpret Kiddushin 6a as originally meaning all this. But it is clear, at any rate, that the committee is basing its decision on the *halakhah*, and, like

⁸⁸ *Ibid.*, 403.

⁸⁹ B. Kiddushin 6a, as translated by the Responsa Committee.

⁹⁰ “A Layman Officiating at a Jewish Wedding,” in *American Reform Responsa*, 403.

Freehof, the committee chaired by Walter Jacob intends to base its authority on the *halakhah* and on its knowledge of the *halakhah*.

Jacob is in fact intent on promoting *halakhah* in the Reform movement. He writes in the introduction to *American Reform Responsa*:

The fact that 57 responsa (approximately one third of the total) have been written by me during the last decade demonstrates the increasing interest in Jewish law within the Reform movement. These responsa ... all indicate vigorous *halakhic* developments within the Reform Movement.⁹¹

Jacob distinguishes between the Reform approach to *halakhah* and that of other groups:

We have looked at *Halakhah* in a different and, we believe, more creative way than other Jewish groups. We have not looked to the Orthodox for approval; rather our responsa and the guides which we have written have linked the past to the present and sought to make *Halakhah* meaningful to new generations.⁹²

While Jacob considers *halakhah* to be important for Reform Judaism, he maintains that the authority of the Reform Rabbinate and the Reform Responsa Committee lies not in the *halakhah* itself, but in ability of rabbis and of the Responsa Committee to persuade. The role of *halakhah* is not to provide authority, but as a guide to discussion:

The authority of the Central Conference of American Rabbis and its Responsa Committee lies in its ability to persuade and reach a consensus. *Halakhic* discussions will bring us closer to the consensus and agreement on basic principles. As often in the past, we will proceed inductively, and specific statements will evolve into general principles.⁹³

⁹¹ Jacob, Walter. *American Reform Responsa*, xviii.

⁹² *Ibid.*, 19.

⁹³ *Ibid.*, 18.

We have seen that during the middle of the 20th century through the 1980s most writers of Reform Responsa are committed to *Halakhah*, with room for creative interpretation and outright departure as needed (Israel Bettan is an exception). While most other Reform rabbis who write on the topic of rabbinical authority give at least lip service to the idea that their authority is somehow grounded in the tradition (a few in the *halakhah*, more in the wider expanse of Jewish knowledge), they place much more emphasis on other factors such as the interpersonal (Stroh, of course, is a notable exception).

5. Beliefs of American Reform rabbis in the 1990s to the present about rabbinical authority

The 1976 platform *The Centenary Perspective* was relatively short-lived. Many in the movement were moving toward more traditional observance, and they held sway in introducing a new platform. This platform, titled *A Statement of Principles for Reform Judaism*, was adopted by the CCAR in Pittsburgh in 1999.

The preamble of the platform begins with a paragraph giving the history of Reform platforms. The word ‘rabbi’ or one of its cognates appears five times in this paragraph; thus there are more occurrences of ‘rabbi’ in this paragraph than in all the previous four platforms⁹⁴ combined. The final sentence of the paragraph reads:

Today, when so many individuals are striving for religious meaning, moral purpose and a sense of community, we believe it is our obligation as rabbis once again to state a set of principles that define Reform Judaism in our own time.

⁹⁴ Technically, the *Philadelphia Principles* of 1869 are not considered a platform, but I include them in the count.

The rabbis who authored this platform give credit to the rabbis who authored preceding platforms and are clearly claiming the authority to make this statement of principles.

Like the authors of the earlier *Pittsburgh Platform* and the *Columbus Platform*, they set out principles. This seems to express a renewed confidence in their own authority after the rabbis who wrote the *Centenary Perspective* aimed rather to “describe the spiritual state” of the movement. The principles are meant to “define” Reform Judaism. This, too, seems to be a stronger assertion of authority than is found in the *Centenary Perspective*’s goal of providing “a guide, and not a creed.” The preamble closes however, by saying that the platform

acknowledges the diversity of Reform Jewish beliefs and practices. It ... invites all Reform Jews to engage in a dialogue with the sources of our tradition, responding out of our knowledge, our experience and our faith. Thus we hope to transform our lives through holiness.”⁹⁵

This last sentence acknowledges that lay people as well as clergy have knowledge and experience that matter in the pursuit of holiness, and indicates the possibility for a significant role for lay people in determining Reform Jewish practice.

The remainder of the platform does not mention rabbis at all. All but three sentences begin with the word “we.” In some places the “we” might be read as ambiguous, referring either to the rabbis who created or ratified the platform or to the whole of the Reform Jewish people. The first sentence of the first section, for example, reads, “We affirm the reality and oneness of God, even as we may differ in our

⁹⁵ “A Statement of Principles for Reform Judaism, Adopted by the Central Conference of American Rabbis at the 1999 Pittsburgh Convention May 1999 – Sivan 5759” (New York: CCAR, 1999), 2-6.

understanding of the Divine presence.” I think, however, that the “we” is better understood as representing all of Reform Jewry, especially as the principles are cast as defining Reform Judaism at that time. The “we” that begins the first sentence of the third section is unambiguously meant to refer to the Jewish people: “We are Israel, a people aspiring to holiness, singled out through our covenant ... We are linked by that covenant ... to all Jews in every age and place.” There is no apparent concern with rabbis or with their authority in any of the three sections following the preamble of this platform.

This platform more than any of the earlier ones is in accord with ideas found in *halakhah*. The titles and the order of the three sections of the body of the platform are telling in this regard.⁹⁶ “God, Torah, and Israel” have traditionally been considered the three fundamental theological concepts of Judaism. These do show up as subheadings of the 1937 platform, but only as three of five subheadings under the section “Judaism and its Foundations” (“Ethics” and “Religious Practice” are the other two sections).⁹⁷ The 1976 *Centenary Perspective* begins with two sections on the history of the movement and a section on diversity within unity as a hallmark of Reform. These are followed by seven numbered sections, the first three of which are God, The People Israel, and Torah. The places of the latter two have been switched, seemingly demoting Torah and raising the people.⁹⁸ The return to the traditional order of God, Torah, and Israel in the 1999 platform and the structuring of the platform entirely around these three concepts indicates

⁹⁶ I owe this point to Dr. Michael Meyer, who included it in his lectures in his History of Reform Judaism class in the fall of 2008.

⁹⁷ The 5 subheadings, in order, are Nature of Judaism, God, Man, Torah, and Israel.

⁹⁸ The remaining 4 sections are Our Obligations: Religious Practice; Our Obligations: The State of Israel and the Diaspora; Our Obligations: Survival and Service; and Hope: Our Jewish Obligation.

that tradition is becoming more authoritative for the Reform Rabbis who created this platform and for much of the movement as well.

There are other aspects of the platform that speak of a return to the authority of the tradition. Rather than speaking of “Our Obligations” as in the headings in the *Centenary Perspective*, the 1999 *Statement of Principles* refers to *mitzvot*, and makes the traditional distinction between *mitzvot bein adam la Makom*, between human being and God, and *mitzvot bein adam lachaveiro*, between a human being and other human beings. There is a use of Hebrew throughout that is new to this platform. The Hebrew is used to convey traditional ideas in traditional language, among them *ahavat olam*, God’s eternal love for the Jewish people (the platform adds, “and for all humanity,” which is not traditionally attached to this particular phrase); *kedusha*, holiness, and *tzedek*, justice and righteousness. The use of Hebrew and the return to traditional concepts can be seen in at least three ways: (1) a reflection of the realities of the movement; (2) a challenge to the people to expand their knowledge of the tradition and their practice of traditional ways; and (3) a claim to authority by the rabbis who, in the Reform movement, are more knowledgeable than the vast majority of their congregants in knowledge of Hebrew and of the tradition. Thus, even without the mention of their role after the preamble, and even when couched in “we” language that seems to equalize clergy and laity, this platform may be seen as subtly reinforcing the authority of the Reform rabbi.

As many Reform Jews turn increasingly to traditional ways, there is a growing awareness of *halakhah* in the movement. The introduction to the volume *Teshuvot for the Nineties* by Mark Washofsky includes a thorough consideration of the relationship

between rabbinical authority and the *halakhah*. Washofsky makes a strong case for basing rabbinic authority firmly in the tradition, specifically in the *halakhah*.

It is of no little significance that a rabbinate which describes itself as “modern” nonetheless produces so many responsa which, by their nature, are based upon ancient and medieval sources. Clearly, for all its modernity, our rabbinate understands itself as a “rabbinate” in the traditional sense of that term: as a body of scholars who exist to study and teach the sacred texts, whose task it is to probe those texts for answers to the questions their people ask. That Reform rabbis continue to write and read responsa testifies to the enduring importance of *halakhah*, of traditional Jewish law, as a resource with which we compose, explain, and express our religious lives as Reform Jews.⁹⁹

Washofsky acknowledges that some Reform Jews object to the idea of Reform responsa as somehow “antithetical” to Reform Judaism. The objections are based on three fundamental assertions. First, personal autonomy is a central principle of Reform Judaism, and responsa place limits on personal freedom, transgressing the individual’s freedom of choice. Second, responsa are grounded in interpretations of traditional sources whose values differ from contemporary values, and which were rejected by the founders of Reform. Third, even if “tradition” is to be considered as a factor in decisions, *halakhah* ought to be excluded as a basis for decision-making as *halakhah* is conceived as authoritative and commanding, whereas Reform Judaism is conceived of as prophetic. Furthermore, since responsa are a form of *halakhic* literature, Reform Jews ought not to be writing responsa.

⁹⁹ Washofsky, Mark. “Introduction: Responsa and the Reform Rabbinate,” in Plaut, W. Gunther, and Washofsky, Mark, ed., *Teshuvot for the Nineties: Reform Judaism’s Answers to Today’s Dilemmas*. New York: CCAR, 1997, xiv.

Washofsky counters that “contrary to the criticisms, we believe that the writing of responsa is a proper and desirable activity for liberal Jews, one that is absolutely consistent with the worldview of Reform Judaism.”¹⁰⁰ He bases his positions on three assertions that counter the objections of the critics of Reform *halakhah*. First, he asserts that autonomy is insufficient as a basis for religious decision-making. He points out that autonomy was not elevated to the status of theological doctrine until after the Second World War, and even then, “mainstream Reform Jewish thought has never regarded autonomy as the sole principle for determining action. ... our commitment to choice has always coexisted with other principles.” Washofsky cites the 1976 platform, the *Centenary Perspective*, which he calls “the most recent ‘official’ statement of Reform religious doctrine,” as evidence that Reform Jews do recognize that they have obligations that limit their freedom:

[The *Centenary Perspective*] on the one hand, makes a ringing endorsement of “the Reform principle of the autonomy of the individual”; at the same time, it declares that this freedom must not blur our affirmation of God, the people of Israel, and Torah. Moreover, the Perspective speaks openly of the “obligations” owed by Reform Jews toward the survival of the Jewish people, toward the state of Israel and the Diaspora Jewish community, and toward the necessity of religious observance. We believe in freedom, that is to say, but we also believe in responsibility. The autonomy of the individual Jew must be exercised within acceptable Jewish limits.¹⁰¹

Washofsky continues by pointing out that autonomy only gives us the power to choose between alternatives, but that those alternatives still carry differing moral values; we have the freedom to choose between right and wrong. In order to be a community, Reform Jews must have limits and standards; Washofsky sees “the real question” to be

¹⁰⁰ *Ibid.*, xvi-xvii.

¹⁰¹ *Ibid.*, xvii.

“how we liberals go about setting the limits that we must set, especially when we recognize no institutional authority with the power to set them for us.”¹⁰² His answer is that Reform Jews set limits through argument, and that this is at least in part because

according to rabbinic doctrine, the ruling conveyed in a responsum is not necessarily binding upon its recipient. The rabbi cannot simply demand that the reader “accept my opinion,” but must rather persuade the reader, with arguments the latter will likely find convincing, that “my opinion is correct, because it represents the best available interpretation of the sources that both you and I look to for Jewish religious guidance.” **If any such thing as ‘rabbinic authority’ exists, its basis lies not in the power of the rabbinate as an institution but in the ability of the rabbis to justify their rulings in the eyes of their fellow Jews.**¹⁰³ (emphasis added)

Thus Washofsky, while making the case for the importance of *halakhah* for Reform Jews, acknowledges that there is a fundamental difference between traditional and Reform Jews in how *halakhah* is conceived; for Reform Jews, it is not binding. It follows that the authority of Reform rabbis is in their ability to persuade. So Washofsky is in agreement at some level with writers in the previous section such as Rudavsky and Saperstein, who locate the authority of the rabbi in their ability to persuade. Washofsky, however, would place primary importance on the ability to persuade by means of argument as communicated through the written word, while Rudavsky and Saperstein focus on influence garnered through warm interpersonal interactions.

Washofsky continues his refutation of those who argue against the writing of Reform responsa by arguing for the indispensability of Jewish tradition. He believes that as Jews, our choices are valid to the extent that they are based in Jewish tradition. He

¹⁰² *Ibid.*, xx.

¹⁰³ *Ibid.*, xx-xxi.

rejects appeal to the Pittsburgh Platform, which denies significant positive value to the tradition, on the grounds that that platform has been “superseded by the Columbus Platform of 1937 and the Centenary Perspective of 1976, both of which assign a greater weight to historical religious tradition as a standard for our own decision-making.”¹⁰⁴ He acknowledges that Reform Jews do sometimes reject old observances and create new ones which “better express the mind and heart of a contemporary Jewish culture,” but affirms that tradition has a powerful influence upon our thinking and is a source of guidance in our practice.¹⁰⁵

Finally, Washofsky argues for the centrality of the *halakhah*. He writes that “once we affirm the importance of tradition as a factor in the making of our Jewish religious decisions, we accept as well the essential importance of *halakhah*, traditional Jewish law, as source material for our thinking.” He continues,

... If we wish to know how this tradition of sacred deed demands that we act, we have no recourse but to turn to the *halakhic* literature. There is, in other words, no “tradition” of Jewish practice without *halakhah*. If we desire a genuine connection to the Jewish heritage, then we cannot overlook the historical fact that this heritage is overwhelmingly a tradition of law. If we are serious in claiming “Jewish tradition” for ourselves, we must also assert our stake in the *halakhah*.¹⁰⁶

Washofsky concludes that

Reform Judaism may indeed have rejected the “rule of law,” the requirement that all questions be submitted to authoritative and final rabbinic decision, but it

¹⁰⁴ *Ibid.*, xxii. The volume in which this introductory essay appeared was published two years before the 1999 Pittsburgh “Statement of Principles,” which moved still farther in the direction of giving weight to historical religious tradition.

¹⁰⁵ *Ibid.*, xxiii.

¹⁰⁶ *Ibid.*, xxv.

retained much of the substance of the Jewish legal tradition. To put it differently, if the theology of Reform Judaism is “the faith of the Prophets,” its practice remains largely the religion of the rabbis.¹⁰⁷

Washofsky, then, is in substantial agreement with Walter Jacob and other mid-20th century chairmen of the CCAR Responsa Committee in affirming the importance of *halakhah* in Reform decision-making. Washofsky has given a more thorough explanation of the relationship between Reform Judaism and *halakhah* than any of his predecessors, and has made explicit the connections between the CCAR’s platforms and the project of Reform responsa writing.

There has been no volume published in Reform Jewish literature since the 1982 *Rabbinic Authority* edited by Elliot Stevens that focuses on this concept. Perhaps relatively little has changed in Reform Jewish thought on the subject since that volume was published. The focus in more recent writings seems to have shifted from questions of authority to the issue of leadership. Leadership is a matter of influence and would be based primarily on personal skills. Still, respect for the rabbi’s learning and for the tradition on which it is based contributes to the rabbi’s ability to lead. Perhaps this varies more by congregant than by rabbi. For some congregants, it is the office of rabbi that gives the rabbi the power to lead; for others, the rabbi’s learning; for others, the rabbi’s personal skills and presence; and for many (perhaps most), some combination of these three factors.

¹⁰⁷ *Ibid.*, xxvi.

There is no collected volume of essays on the subject of rabbinic authority since Stevens' volume. In fact, there have been very few writings published in the past 25 years which address this topic. A survey of CCAR Journals of the last two decades has yielded a mere handful of articles with some connection to the issue.¹⁰⁸ I will consider one of these here, and one in section C of this chapter.

In his 1993 essay, "A Meditation on Rabbinical Anxiety," Herbert Bronstein echoes themes found in the writings of Joseph Rudavsky and Samuel Karff. He does not speak explicitly in terms of "authority," but it is clear that for Bronstein, the rabbi's authority is based on personal attributes and on making judgments of value based on Torah. The importance of the rabbi for Bronstein lies in his or her representing in his or her person

some durable order of decency and meaning. Rabbis represent the worth of their people's own best aspirations. And that is why rabbis discover that a caring and, yes, competent, knowledgeable, and engaged rabbi means so very much at times of loss and rejoicing ...¹⁰⁹

Bronstein observes that anxiety about their position sometimes leads rabbis to turn to "fire-tricks" such as inserting Broadway show tunes into the Shabbat liturgy, and that in reaction against old-style patriarchal authoritarianism other rabbis refer to themselves as "facilitators." But Bronstein believes that these rabbis are misguided and fail to understand the true significance of the rabbinate. He writes,

¹⁰⁸ One of these articles was written by a Conservative rabbi, Hayim Herring, and although it was published in a *CCAR Journal* and contains relevant ideas I decided to omit it from this thesis, as the thesis focuses on the writings of Reform rabbis.

¹⁰⁹ Bronstein, Herbert, "Meditation on Rabbinical Anxiety," in *CCAR Journal*, Winter 1993, 49.

Rabbis were not ordained to “give the people what they want,” merely to satisfy stated needs, but to open them up to realms of significance, responsibility and substantial meaning; to make, in our own interpretation of *yoreh yadin*, judgments of value.¹¹⁰

Finally, I want to consider a responsum written in 2004 on the issue of marriage without a state license. As in the case of the 1974 responsum on this topic, the *she'lah* involves a retired couple who wish to have a ceremony “affirming their mutual love and commitment ... [and who wish] for their relationship to be validated in the eyes of our faith and also in the eyes of their family,” but who want to avoid losing social security benefits. They suggest as precedent the officiation by rabbis at gay and lesbian commitment ceremonies.¹¹¹

The Responsa Committee references the 1974 responsum at length, explaining how Freehof reaches his decision and affirming his decision. The committee adds that the justification for the principle *dina demalkhuta dina* in *halakhic* tradition that they find most compelling the theory found in Rashbam¹¹² that “the residents of the community willingly accept the king’s laws and statutes upon themselves.” The responsum continues,

... as citizens of the state in which we reside, we are the *malchut*, the state itself; its laws are *our* laws, which we as citizens have enacted by taking part in its democratic processes and which we have stipulated in advance to accept as valid and binding. Since we have participated in the establishment of Social Security legislation as well as the rules that enable the state to regulate the monetary aspects of marriage, it would be hypocritical for us to aid individuals or couples in the contravention of these laws.¹¹³

¹¹⁰ *Ibid.*, 48.

¹¹¹ “Commitment Ceremonies For Heterosexual Couples; Jewish Wedding Ceremony in the Absence of a Civil Marriage License,” Not Yet in Print (respona published by the Responsa Committee, but not yet in bound collections), no 5764.4.

¹¹² Rashbam, *B. Bava Batra* 54b; see chapter 2 for discussion.

¹¹³ *Ibid.*

Against the argument that rabbis might officiate at a purely “religious” ritual that is not recognized by the state, the authors of the responsum write that “the Jewish tradition that this rabbi represents does not make such a distinction between ‘religion’ and ‘state.’ In Judaism, the wedding is *both* a ritual and a legal ceremony, one that forges monetary bonds, as well as spiritual ones, between the couple.”¹¹⁴ These aspects of marriage are inseparable in our law; there is no such thing as a Jewish marriage that is valid ‘religiously’ but not ‘legally,’ that has spiritual but not material consequences. To suggest otherwise is to distort the essential content of Jewish marriage as well as to encourage couples to ‘marry’ while evading the law.¹¹⁵

The authors of the responsum then turn to the question of whether a rabbi might officiate at a “commitment ceremony” rather than a “wedding” for a heterosexual couple. The commitment ceremony would resemble that celebrated for a gay or lesbian couple, and, like that ceremony, not be registered with the state. But the responsum rules against this, arguing that the situation for the heterosexual couple who *can* be legally married is not analogous to the situation for the homosexual one. The argument here boils down to the same as the argument above: rabbis should not officiate at ceremonies which allow couples to be “married” in the eyes of everyone but the state, thus evading the law and the payment of taxes.¹¹⁶

¹¹⁴ See *Yad*, Ishut 12:1ff.

¹¹⁵ “Commitment Ceremonies For Heterosexual Couples; Jewish Wedding Ceremony in the Absence of a Civil Marriage License,” Not Yet in Print (respona published by the Responsa Committee, but not yet in bound collections), no 5764.4

¹¹⁶ *Ibid.*

From the standpoint of rabbinical authority, this responsum is consistent with the position set out by Mark Washofsky in his introduction to *Teshuvot for the Nineties*. There, as quoted above, he writes that the responsa issued by the Reform Responsa Committee accord a significant presumptive weight to the tradition and, when possible, to adopt and adapt Jewish tradition. The responsum just evaluated above bases its decision on careful consideration of the *halakhic* sources, going beyond what Freehof has already provided. Where no *halakhic* precedent exists, e.g., in the case of the commitment ceremony, the committee “adopts and adapts” the tradition, reasoning carefully from existing *halakhah* to evaluate the situation and to arrive at a decision. In their decision, they rule that a rabbi should not act counter to *halakhah*, which is the basis for the authority of the rabbi.

B. The relationship between rabbis.

In section A of this chapter I examined how Reform rabbis see their own authority, and how they do or do not see their authority as based in tradition or in *halakhah*. In this section I will consider what happens when the authority of one Reform rabbi intersects with the authority of another rabbi.

1. The CCAR Code of Ethics

The CCAR Code of Ethics, adopted in 1991 and last amended in 2008, includes among its topics a section titled “Rabbinic Relationships.” Item B under this section is “Relationships Between Rabbis Within the Same Congregation.” Item D¹¹⁷ addresses “Relationships Between Rabbis in Different Congregations or in Organizations.”

The section on relationships between rabbis within the same congregation includes two subsections. The first is a treatment of the relationship between rabbis who concurrently serve the same congregation. There is an assumption made that one of these rabbis will be “the” rabbi;¹¹⁸ this assumption is spelled out only within the subsection on the relationship between the rabbi and a rabbi emeritus: “... each congregation requires a single rabbi who is given both the authority and the responsibility of guiding it.” “The” rabbi occasionally referred to as “senior rabbi” throughout this document, but more often is referred to simply as “the rabbi.” Other rabbis employed in the congregation are

¹¹⁷ There is no item C.

¹¹⁸ I am aware that there are congregations that appoint co-rabbis, where status is equal between the two. I believe that most but not all of these co-rabbis are spouses.

referred to as assistants or associates.¹¹⁹ The Code of Ethics upholds that all rabbis within a congregation should maintain a collegial relationship; it includes the statements, “Rabbis in a congregation should treat each other as trusting colleagues, upholding each other in their work and encouraging each other in their ideas,” and “Rabbis should show due regard for each other, enhance and support each other’s work and standing, and avoid any activity which would foster congregational disharmony.”¹²⁰

But the senior rabbi has authority that the associates and assistants do not have. This is clear from item a, which states that “The senior rabbi should share rabbinic duties with the assistant/associate rabbi ... in such ways as to enhance opportunities for growth.” It is the senior rabbi’s prerogative to decide who on the rabbinic staff does what tasks. Furthermore, there is a direct statement about the authority of the senior rabbi: “If an assistant rabbi is named associate, the senior rabbi should recognize that this advancement implies a greater sharing of responsibility while the associate should show continuing respect for the authority of the senior rabbi.” In other words, the senior rabbi is still in charge.¹²¹

The authority that a senior rabbi has does not, however, infringe on the freedom of the pulpit held by the assistant and associate rabbis in the same congregation. In addition, the assistant and associate should be given the opportunity to take part in the

¹¹⁹ The terms “senior,” “associate,” and “assistant” are taken from professorial ranks at academic institutions, but they are used differently. An academic department at a college or university may have more than one full or senior professor; the head of the department is generally called “chairman” or “chair” in addition to the professorial title, and on occasion an associate professor may be chair of a department in which there are full professors.

¹²⁰ *Code of Ethics of the Central Conference of American Rabbis (Yearbook, C.C.A.R., 1976).*

¹²¹ *Ibid.*

decision-making process in the congregation, by serving ex-officio on policy making committees and by attending Temple Board meetings.¹²² These opportunities, it should be noted, provide a voice for the assistant and associate, but not a vote. The authority that an assistant or associate is limited indeed, and would have to operate on the basis of influence rather than on any true decision-making capability.

The second subsection of the section on relationships between rabbis within the same congregation focuses on the relationship between the rabbi and a rabbi emeritus. The Code of Ethics calls upon rabbi and rabbi emeritus to “accord each other honor and courtesy” but makes clear that authority rests with the current rabbi. For example, the rabbi emeritus may participate in leading a service or may preach “when invited to do so by the rabbi of the congregation.” Similarly, the rabbi emeritus may officiate at lifecycle ceremonies “with the agreement of the successor.” In these cases, the rabbi emeritus is to follow the forms of worship and the policies of the successor, unless “they agree otherwise.”¹²³

Section D sets out principles to govern the relationships between rabbis who serve in different congregations or organizations, including Hillel, the military, hospitals, and other organizations. The Code states that these principles apply also in the Reform rabbi’s relationships with rabbis outside the CCAR and with student rabbis. As might be expected, the rabbi of a congregation has authority over who will speak or officiate from the pulpit or within the congregation; any other rabbi “should occupy a colleague’s

¹²² *Ibid.*

¹²³ *Ibid.* I understand “they agree otherwise” to mean that the successor rabbi grants permission; the wording of the Code may be chosen to accord respect to the rabbi emeritus.

pulpit, officiate in the synagogue, or speak at any function of the congregation or of any auxiliary only at the invitation of the incumbent rabbi.” Additionally, rabbis should not render pastoral attention to members of other synagogues that might harm relationships between a rabbi and a member of his or her congregation. Less obvious, perhaps, is the provision that a rabbi who officiates at a lifecycle event for someone who is a member of another rabbi’s congregation must make sure that the rabbi of the congregation to which the person belongs is notified. Note that the ‘home’ rabbi does not have the authority to forbid the other rabbi to officiate, nor do the rules stipulate that a rabbi from outside the congregation should not officiate should he or she be approached for any reason. In the specific cases mentioned in the Code of Ethics, the situation has arisen because different participants in the lifecycle event belong to different congregations (e.g., in the case of the family of a bride belonging to one congregation and the family of the groom to another).

2. Responsa

Several responsa also deal with the issue of the relationship between rabbis. In the 1932 responsum, “Validity of Rabbinical Opinions,” Jacob Lauterbach addresses the question of whether a first opinion is legally and ethically binding on the one who asks a rabbinic authority. Was it possible to appeal to one of equal or superior standing? Lauterbach points out that after the destruction of the Temple, there was no longer a highest court in Jerusalem and thus no way to appeal a rabbinic decision to a higher power. Regarding appeal to an “equal” authority, Lauterbach points out that “to a certain degree the first opinion given by any rabbinical authority is ethically binding upon the

one who consulted the rabbinical authority. For if he had no confidence in his rabbi, he should not have turned to him with his question.” He cites the Talmudic ethical rule that “a person who received from the rabbi an opinion that a certain thing or act is forbidden should not go around to other rabbis seeking to find one who would permit it.”¹²⁴

Lauterbach’s first point, that there is no official higher court on a par with the Sanhedrin still holds today. The idea, however, that one should not consult with more than one authority, however, has long been set aside in American society. Whereas in 1932 one did not question the authority of the doctor but rather trusted his expertise absolutely, today it has become commonplace and even expected that one seek a second (and sometimes a third and fourth) opinion. We take the question of whether we should proceed with surgery very seriously, seeking to learn all we can before we proceed. Would that Reform Jews consider the weightier religious issues of their lives even half so seriously! Of course, it is possible – both in medicine and in religion – to seek additional opinions from a place of disrespect and mistrust. But it is equally possible in both to seek multiple opinions in order to learn and to be informed. The reality is that many Jews – Orthodox as well as Reform – seek out information from many sources, from the internet and from books as well as from rabbis. I would like to suggest that a rabbi who is open to a congregant who wishes to have the input from more than one resource take a positive view and use his or her influence to help guide the layperson’s search. Through this approach the perceived authority of the rabbi might in fact grow rather than be diminished.

¹²⁴ Avodah Zara 7a. This goes on to explain how to proceed if one does happen to receive two conflicting opinions. See chapter 2 of this thesis for a fuller treatment of this and related passages.

The responsum “Rabbinic Jurisdiction,”¹²⁵ published in 1986, asks about the prerogatives of a local rabbi regarding colleagues who wish to enter the community to officiate at life cycle events at which the local rabbi is unwilling to officiate. The responsum cites differing opinions from the past. In medieval times there was considerable disagreement among authorities as to whether it was best to allow competition between rabbis in the hopes of encouraging strong scholarly leadership, or to allow an appointed rabbi to protect his status in the community as both teacher and judge, and to protect his income from these and other sources as well. When in recent centuries the rabbinate became a profession, it was forbidden to trespass on another rabbi’s territory. The responsum cites the 1976 Code of Ethics of the CCAR:

the resident rabbi should be informed by the out-of-town visitor but need not have his consent. That is the official position of the Conference and governs our relationship with each other at the present time.

It is interesting that this passage has dropped out of the current Code of Ethics. Perhaps this was impossible to enforce. It is in any case difficult to understand how this would be implemented in large metro area with lots of rabbis; a visiting rabbi in Chicago could hardly be expected to notify every rabbi (or even every Reform rabbi) in Chicago when he or she arrived to officiate at a wedding of unaffiliated Jews.

The responsum concludes that

the jurisdiction of the rabbi is clear among all those who are directly affiliated with the congregation (*de jure*) and those who are indirectly served by him (*de facto*). In the broader community the jurisdiction is somewhat less certain. A visiting colleague, of course, has the obligation to inform the local rabbi, but in accordance with our current policy, need not obtain his consent.

¹²⁵ Jacob, Walter, *Contemporary American Reform Responsa*, 1-3.

The responsum “Rabbinic Jurisdiction” treats issues which arise when a rabbi from outside enters the “territory” of an established rabbi. “Rabbinical Autonomy and Collegiality” considers issues of conflict between rabbis who may be in geographically different locations yet whose spheres of influence intersect. The questioner asks whether he needs to honor the act of another rabbi when he disagrees on principle with that act. Specifically, the other rabbi (in a different town) has assigned a Hebrew name to a non-Jewish husband and father of a newborn. His wife wants the Hebrew name given to her husband to be included on the baby’s naming certificate. The rabbi asking the question is opposed to using a Hebrew name for someone who is not Jewish.

The responsum sets out what it calls “a classic conflict in Reform Jewish practice.” On the one hand, rabbis have personal autonomy and may set their own policies regarding religious observance (as noted above, this is done in cooperation with the congregation). On the other hand, rabbis are expected to behave collegially and to respect the actions of other rabbis. The responsum notes a long history of tension between rabbinical autonomy and communal consensus. Here, the need for balance between rabbinic freedom and the “reasonable expectations” of the community that the rabbi serves is the focus.

The responsum then shifts attention back to the need for balance between rabbinic freedom and the “reasonable expectations” of colleagues. The responsum asks, “Just what are those ‘reasonable expectations?’” The responsum answers that it is reasonable to expect that Reform rabbis, as such, will conduct themselves as members of that distinct and identifiable rabbinical community. This entails that Reform rabbis make every effort

to honor and respect the actions of other Reform rabbis. But Reform rabbis are expected to disagree among themselves over important issues of religious practice. So differences in practice between colleagues are to be expected.

The responsum turns to the Rabad's notion of *kushya mefursemet*, or long-standing controversy in the legal literature, to help distinguish where it is appropriate for one Reform rabbi not to uphold the decision of another. In an issue such as whether to officiate at a mixed marriage (which would be considered a *kushya mefursemet* in Reform Judaism, since Reform rabbis have disagreed over this issue for decades), a Reform rabbi who opposes that practice should not be expected to "fill in" for a colleague who does officiate in such unions. This is especially the case as both the CCAR and the CCAR Responsa Committee are on record as opposing the practice. The original *she'elah* concerning whether the rabbi who submitted the question should honor a colleague's granting of a Hebrew name to a non-Jew was judged by the responsum writers to be a similar case; the precedent set by the colleague was not seen as binding on the questioner.

On the other hand, if a person has converted to Judaism without *tevilah* because the rabbi who officiated at the conversion did not require it, other rabbis are bound to accept the conversion as valid even if they do require *tevilah*. The reasons given for this are that (1) there is a consensus within American Reform Judaism to accept converts without *tevilah*, even though rabbis are now urged by the movement to promote the traditional rites; and (2) a conversion has the status of a *ma'aseh beit din*, and "each

Reform rabbi is expected to give ‘full faith and credit’ to such actions performed by other Reform rabbis.”¹²⁶

The issue of conversion is also treated in the responsum, “Who Is a Rabbi?” Here, two issues are addressed. The first question is whether a conversion is valid if it was supervised by someone other than an ordained rabbi. The answer is that we accept the convert. This is because although it is highly preferable that conversion be supervised by a rabbi (in part because it is important that there be agreement in the community about “who is a Jew”), the tradition allows us to acknowledge conversions that took place under less-than-ideal conditions as valid nonetheless when we are confronted *bedi'avad*, after the fact, with such a conversion. The responsum advocates acceptance of the converts because

to reject the individuals already converted by [the layperson] would serve no purpose save to embarrass them, sowing the seeds of bitterness and divisiveness within the community. Out of concern for Jewish unity and communal peace, and in recognition of their evident sincerity, you should rather accept them as full-fledged members of the Jewish people.

The responsum goes on to consider the question, “Who is a rabbi?” The layperson who oversaw the conversion in this case was a student at the International Institute for Secular Humanistic Judaism. The responsum explains the difference between ancient *semikhah* and present-day ordination, as has already been described above, and asserts that “all rabbinical power today flows from the willingness of a

¹²⁶ “Rabbinical Autonomy and Collegiality” NYP no. 5761.3.

community to abide by the rabbi's rulings."¹²⁷ The responsum refers the reader to the responsum "Private Ordination," which cites the late 14th century Sephardic rabbi Rivash as asserting that "no organized body, rabbinic or otherwise, is entitled to demand that a community engage the services of only those rabbis who have received an 'approved' ordination." A footnote to that responsum notes that Sephardic communities did not practice ordination, as they insured the quality of their rabbis without it.¹²⁸

Returning to the responsum "Who is a Rabbi," we find that it sets out the theory that "a 'rabbi' is ... anyone who claims to possess some sort of ordination from a teacher, [and thus] we must recognize all such 'rabbis' as legitimate possessors of that title." The responsum immediately counters this theory with the reality of Jewish practice. Liberal and non-liberal communities have expectations that ordination attest to the recipient's successful completion of a rigorous and extended program of Torah study and professional training. In the case of Reform Judaism, the expectation is that rabbis have obtained ordination from HUC-JIR, or from another approved institution, or from an institution that passes an investigation into its quality. Those who received private ordination, or who received ordination from "lowly-regarded institutions" are not regarded as "true rabbis."¹²⁹ As congregations can and do hire them and call them rabbis, and since those who convert with them are considered converts, what does this mean in practice? The responsum says, "Your community is under no obligation to recognize the rabbinical credentials of those individuals ... the rabbis in your city are similarly under

¹²⁷ Who Is a Rabbi? NYP no. 5759.3

¹²⁸ "Private Ordination," in *Teshuvot for the Nineties*, 133-40.

¹²⁹ This is my terminology, not that of the responsum. Some might also use the expression, "real rabbi." I believe that these expressions accurately capture the sense of the authors' attitudes.

no obligation to accept these persons as colleagues and as members of your local rabbinical association.”

3. *Other writings*

The issue of relationships of authority between rabbis comes up in Lance Sussman’s 2006 article, “A ‘Delicate Balance:’ Interfaith Marriage, Rabbinic Officiation, and Reform Judaism in America, 1870 – 2005.” Sussman traces the history of intermarriage in America. The issue was a divisive one among Reform rabbis from the founding of the movement. David Einhorn, who convened the 1869 conference of Reform rabbis in Philadelphia, was fiercely against intermarriage and developed an anti-intermarriage philosophy that was “‘acceptable’ in the American ethos and religious sound from a Judaic perspective.”¹³⁰ Samuel Hirsch, also at the Philadelphia conference, opposed Einhorn. The movement has struggled ever since with the issue of whether and how to allow for autonomy of individual rabbis while expressing some kind of coherent philosophy as a movement. The issue of the relative power of the CCAR to set policy for its members versus the authority of individual rabbis has been addressed many times in the years since 1909, when the CCAR first took up this issue.

The long history of proposed CCAR resolutions and how they fared is of less interest in the context of this thesis than the underlying issues of rabbinical autonomy and authority. Sussman writes that in its 1909 resolution, which declared that “mixed marriages are contrary to the tradition of the Jewish religion and should therefore be

¹³⁰ Sussman, Lance, “A ‘Delicate Balance:’ Interfaith Marriage, Rabbinic Officiation, and Reform Judaism in America, 1870 – 2005,” in *CCAR Journal*, Spring 2006, 45.

discouraged by the American Rabbinate,”¹³¹ the Conference created a ‘delicate balance’ “between affirmations both of theological ‘chosenness’ and sociological distinctiveness and an expanded idea of the autonomy of the individual rabbi.”¹³² Sussman relates that even during World War II, when over 80% of Reform rabbis objected to intermarriage, “on both Talmudic and Americanistic lines, the need to protect the minority view prevailed within the Conference as a matter of principle.”¹³³

In 1947, a special committee of the CCAR chaired by Solomon Freehof presented a report on mixed marriage to the Conference. In its summary recommendation the report maintained “that we still must maintain the spirit of the resolution of 1909 ... surely it is sufficient if the Conference declares its unequivocal opposition to mixed marriages and calls upon its members to discourage them.”¹³⁴ The position is “unequivocal,” but the autonomy of the individual rabbi is still tacitly recognized. In discussion of the report, some wished to restrict that autonomy. Henry J. Berkowitz called “for ‘prohibiting’ rabbinic officiation.” Others disagreed; Jacob Rothschild suggested that “a question of this kind should be left to the intelligence and the integrity of the individual rabbi.” Two votes of those in attendance narrowly preserved the autonomy of individual rabbis to act as they saw fit in this matter.¹³⁵

The CCAR has taken up the issue of intermarriage on a number of occasions since 1947. While in recent years many in the movement have become more committed to

¹³¹ YCCAR 19 (1909), 170.

¹³² Sussman, “A Delicate Balance,” 48.

¹³³ *Ibid.*, 48.

¹³⁴ YCCAR 57 (1947), 161.

¹³⁵ Sussman, “A Delicate Balance,” 50-51.

bringing practice more in line with traditional halakha, and therefore more inclined not to officiate at intermarriages, there has been continued support for autonomy for individual clergy. There have certainly been those who have put other priorities ahead of rabbinical autonomy. Among these is included Alfred Gottschalk, who in a 1973 debate “challenged the CCAR to go beyond issues of ‘clerical prerogatives’ and ‘address itself to the substantive issues of those factors ... which have led to an acceleration of intermarriage to a horrendous proportion among our people.’”¹³⁶ On the other side of the autonomy issue, in 1985, Eugene Mihaly published a responsum on mixed marriage in which he quoted “The Closing Report” of the Joint UAHC-CCAR Task Force on Outreach, which “unqualifiedly affirms the right of every rabbi to act in accordance with his/her religious conscience in the matter of officiating at interfaith marriages free from any external dissent.”¹³⁷

By the end of the 20th century, Sussman observes, the pressure on the American Reform rabbinate to review its opposition to interfaith marriage had diminished. While interfaith marriage can certainly still be regarded as a *kushya mefursemet* in Reform Judaism, with rabbis holding a variety of positions on the issue, autonomy of the individual rabbi appears to have trumped the desire for a uniform position.

¹³⁶ Irwin H. Fishbein, “Minority Report,” YCCAR 83 (1973), 64-67.

¹³⁷ Mihaly, Eugene, “Responsum on Jewish Marriage: with special reference to Reform Rabbis and Mixed Marriage” (Cincinnati, 1985: pamphlet).

C. The relationship between a rabbi and his or her congregation. The limits on rabbinical authority arising out of the idea of “shared leadership.”

“The struggle for power between rabbi and laymen is a continuous element of Jewish social history.”¹³⁸

In the Medieval period, as we saw in Chapter 1, it was the Jewish community of a geographical entity that hired a rabbi. The town notables established the terms of the rabbi’s contract. In modern America, it is the synagogue rather than a geographical entity that hires rabbis and that issues contracts. Issues of rabbinical authority, then, are most often raised within the setting of the synagogue. In this section of the thesis, the relationship between the congregation and the rabbi will be explored through an examination of the Union for Reform Judaism (URJ) – CCAR Guidelines for Rabbinical-Congregational Relationships, two responsa, two contemporary articles, and an address by the president of the CCAR.

1. Responsum explaining the need for a rabbi

A fundamental issue that is often overlooked is whether a congregation needs to hire a rabbi. There are, in fact, congregations that exist without rabbinical leadership, some due to small size and inability to pay the salary of an ordained rabbi, and some due to a conscious decision to forego the services of a rabbi. It is this second situation, in which the congregation makes a choice, that is addressed in the responsum “Congregation Without a Rabbi.”¹³⁹ The question relates that a congregation of retirees

¹³⁸ Saperstein, Harold I., “The Origin and Authority of the Rabbi,” in Stevens, *Rabbinical Authority*, 24.

¹³⁹ This responsum is unfortunately undated. It appears in *Today’s Reform Responsa* (1990), but it is difficult to date.

in southern California has never hired a rabbi, and asks whether it is a requirement to do so. The responsum traces the history of the growth of the professional rabbinate, citing relevant *halakhah*. In Talmudic times, as was seen in Chapter 2 of this thesis, a community was required to have a synagogue, a teacher of children, and a doctor, but was not required to have a rabbi.¹⁴⁰ Moses Sofer in the 19th century issued a responsum that rules that community members must compel each other to appoint a rabbi.¹⁴¹ Freehof's responsum concludes that "since the rabbinate has become a profession, it has become appropriate and customary for communities formally to contract for the rabbi's services and, as Moses Sofer says: to appoint a rabbi, together with providing a synagogue and a *sefer Torah*, is now an inescapable mandate of the community."¹⁴² I believe that it is quite a leap for a Reform Jewish congregation in America to accept a ruling that is based on rulings that end with the Hatam Sofer without at least some consideration of the differences between traditional Jewish life in Europe at the turn of the 19th century and Reform Jewish life in America in the 20th century. Certainly, the *halakhic* rulings of Sofer's responsum do not have the legal force in the modern Reform community that they had in Sofer's place and time – otherwise American Reform Judaism would look very different from the way it in fact looks today! It would have been helpful for Freehof to explain why he thinks that this particular ruling does apply. Sofer's reasoning for requiring a rabbi is that "a rabbi is essential to the maintenance of Jewish structure and discipline in a community." It would have been instructive to learn

¹⁴⁰ B. Sanhedrin, 17b.

¹⁴¹ Sofer, Moses, *Responsa Orach Hayyim* 206. See chapter 2 for discussion.

¹⁴² Freehof, "Congregation Without a Rabbi," 3-6.

how Freehof saw this reasoning as applying (or not applying) to Reform Jewish communities of his time.

The fact remains that the vast majority of Reform congregations in America do choose to employ one or more rabbis. The recent responsum “Rabbinical Autonomy and Collegiality,” cited in Section B of this chapter, emphasizes the difference between the authority wielded by the community rabbi in Moses Sofer’s time and the authority of the American Reform Rabbi:

Each Reform rabbi functions, in his or her congregational community, as the *mara de 'atra*, the local religious authority. This status, to be sure, does not grant the rabbi autocratic power to decide questions of religious practice. In our movement these are resolved cooperatively between the rabbi and the congregation.¹⁴³

The remainder of this section will explore the nature of this cooperative relationship between rabbi and congregation.

2. The URJ-CCAR Guidelines for Rabbinical-Congregational Relationships

The Guidelines for Rabbinical-Congregational Relationships adopted by the URJ and the CCAR in 1984 include a section on the authority of the rabbi. This section contains two subsections, the first of which is “The Rabbi’s Status in the Congregation.” This subsection begins by stating that “The Rabbi is the Congregation’s chosen spiritual leader,” and that “While in a legal sense the Rabbi is an employee of the Congregation, the Rabbi is more than a professional staff person.” The sentence that follows refers to the rabbi’s “unique authority;” it is not explained in what respects the rabbi’s authority is

¹⁴³ “Rabbinical Autonomy and Collegiality” NYP no. 5761.3.

unique. The Guidelines set out three sources of this “unique authority.” They emphasize the rabbi’s learning, as attested to by ordination, and the rabbi’s election as “spiritual leader” by the congregation. The exact wording of this passage is as follows:

The Rabbi’s unique authority derives from three sources:

1. Rabbinic ordination attests to the Rabbi’s learning and fitness to interpret Judaism. Ordination is granted upon the completion of four years of general studies in a university and five years of graduate study in the Hebrew Union College – Jewish Institute of Religion, or an institution of equivalent rank.
2. Rabbinic authority is broadened by systematic study after ordination, and by association with other Rabbis, with the agencies of the Reform Movement, and with local and national institutions, both Jewish and non-Jewish, which contribute to the Rabbi’s scholarship, spiritual growth, and experience.
3. Rabbinic authority within a particular Congregation is derived from the Rabbi’s election as spiritual leader by the Congregation.¹⁴⁴

The second subsection of “The Authority of the Rabbi” deals with “The Roles of the Rabbi.” There are eight roles listed: “The Rabbi in the Pulpit,” “The Rabbi as Teacher,” “The Rabbi as Scholar,” “The Rabbi as Officiant,” “The Rabbi as Counselor,” “The Rabbi in the Community,” “The Rabbi as a Person,” and “The Rabbi and the Lay Leadership.” Of these eight roles, the following are of particular interest with respect to issues of authority.

“The Rabbi in the Pulpit” states that “The Rabbi always enjoys complete freedom of the pulpit.”¹⁴⁵ Rabbis are faithful to the traditions ... when they preach and teach Judaism both in its fundamental essence and its application (*as each Rabbi sees it*) to the

¹⁴⁴ “Guidelines for Rabbinical-Congregational Relationships,” CCAR 1984.

¹⁴⁵ Freedom of the pulpit was not always the norm; in early days the preacher was under the control of the lay leaders in this regard (see Chapter 1); Stephen S. Wise established the Free Synagogue in New York in 1906 in part in order to insure that he had complete freedom of the pulpit (Sarna, 250-251).

contemporary scene.” (emphasis added) With regard to worship, and life cycle ceremonies, when changes in the method of worship are under consideration, *the Rabbi should consult with the Cantor and/or the Director of Music and the appropriate congregational committee, and seek a consensus. The Rabbi’s especial competence in questions of ritual should be recognized.*” Thus, the Rabbi has special competence in matters of worship, but the authority is not the authority to dictate how worship will be carried out. The rabbi may influence, but decision-making is to be shared. Note that this model was chosen over one which is often suggested: that a leader consult with stakeholders, and then make the final decision and take responsibility for it. The rabbi here is not given the ultimate say.

“The Rabbi as Officiant” states that with respect to life-cycle functions, “Courtesy and practical considerations require that the Rabbi shall determine rituals and procedures which are to be used at these functions.” Thus far, it appears that unlike in matters of worship ritual, the rabbi *does* have final say. However, the next sentence reads, “The Rabbi shall officiate in accordance with his/her convictions and with due regard for the customs of the Congregation.” Once again, limiting factors creep in. This limiting factor, respect for *minhag hamakom*, is an old one; we already encountered it in Chapter 1 of this thesis. The guidelines leave it unclear as to how serious differences between rabbinic conviction and congregational custom should be resolved. The Guidelines continue, “The Cantor’s especial competence in the field of Jewish music shall be respected in the choice of appropriate music for public worship and for life-cycle functions.” Here the rabbi’s authority is limited, but by deference to another Jewish professional.

“The Rabbi in the Community” includes a sentence that extends freedom of the pulpit from the pulpit to a wider range of community outlets. It states, “Rabbis may rightly identify themselves with causes, movements, or institutions which they judge compatible with the teachings of Judaism.”

Finally, “The Rabbi and Lay Leadership” instructs that “the Rabbi should interact on all levels with the lay leadership of the Congregation. Experience has demonstrated that a Congregation is best served when its rabbinic and lay leadership consider themselves to be partners in the sacred work of the Synagogue. The President and the Rabbi need to have an ongoing relationship, respect for each other’s knowledge and experience, and a genuine desire to work together for the good of the Congregation.” Once again, no guidelines are given regarding how to resolve conflicts that may arise.

In summary, the Guidelines for Rabbinical Congregational Relationships attribute “unique authority” to the rabbi, based on the rabbi’s learning and election by the community, yet deem that that authority is to be shared with the Cantor (if there is one) and lay leadership of the congregation.

3. Other writings

As we learned above, the Guidelines suggest a partnership between rabbi and lay leaders. Howard Saperstein, in “The Origin and Authority of the Rabbi,” writes on this topic. Saperstein asserts that there must be a new emphasis upon the role of the layman in Jewish life, regardless of the particular branch of Judaism. He quotes the late Rabbi Samuel Belkin of Yeshiva University: “So much of the law involves policies in which

the laity may be equally or even more knowledgeable, the decision-making process should not be by rabbis alone.”¹⁴⁶ Saperstein adds that sometimes, laymen are ahead of rabbis in social consciousness. Furthermore, there is more lay participation in religious activities. But rather than diminishing the importance of the rabbinic role, Saperstein sees this as enhancing it:

For the lay participation is rarely Jewish in character. The rabbi must stress the Jewish dimension and spiritual values in synagogue and community affairs. He must educate his laymen so that their involvement will be an authentic one.¹⁴⁷

Jack Stern, in his “President’s Message” to the CCAR in the 1987 CCAR Yearbook, looks for the source of strain and conflict in rabbi-lay leader relationships. He believes that some problems arise “because of a gaping void on the other side: in the education and understanding on the part of our congregational leadership about their relationship to rabbis.” (Apparently, publishing the Guidelines discussed above does not always head off or resolve problems.) Stern asks the hard questions:

“How does the leadership of a congregation shift gears from the moment when they decide who will be their new rabbi to all the subsequent moments when that same person (whose destiny they have just determined) now becomes their leader, their teacher, and sometimes even their critic – hopefully their loving critic? How do they then shift back at contract time when the destiny of their leader and their critic is again in their hands? How does the leadership congregation respond to the new corporate mentality which prepares questionnaires, to be distributed to the entire congregation, for the evaluation of its rabbi?”¹⁴⁸ ...

Ultimately, how do we construct a model, a realistic model, for rabbi-congregation relationships where mutual expectations are Jewishly appropriate and graced with integrity? ...¹⁴⁹

¹⁴⁶ Quoted by Rabbi Emanuel Rackman in *Jewish Week*, December 23-30, 1979.

¹⁴⁷ Saperstein, Harold I., “The Origin and Authority of the Rabbi,” in Stevens, *Rabbinical Authority*, 25.

¹⁴⁸ A practice that is discouraged by the Guidelines discussed above.

¹⁴⁹ Stern, Jack, “The President’s Message,” CCAR Yearbook 97 (1987), 10-13.

Stern answers these questions by saying that “At the heart of the matter is the imperative for congregations and rabbis to acknowledge ... that rabbis and congregations are *shutafim*, partners, in transforming their building into what their title often claims them to be: a *K'hillah K'doshah* [holy congregation].”¹⁵⁰

In the article “Rabbinic Spiritual Leadership,” Lawrence Hoffman looks in-depth at the issue of rabbinic authority through the lens of leadership theory.¹⁵¹ Hoffman quotes a “graduating” rabbi who is an exceptionally well-trained scholar who complained that congregations were not interested in the depth of his knowledge and were seeking rather “a combination of Bernie, Buber and Besht.”

Hoffman cites Jack Wertheimer’s 2003 article “The Rabbi Crisis” in which Wertheimer links the falling academic capabilities of incoming rabbinical students to “wider social trends that have whittled away at rabbinic authority to the point where the rabbinate no longer appeals to the best and the brightest.” Hoffman responds that he believes that rabbinic authority has changed, not failed. Hoffman writes that he believes that the work of Synagogue 2000¹⁵² has confirmed the centrality of the rabbinic role, both positively and negatively. “In a rational/bureaucratic (systemic) leadership model,¹⁵³ authority is not given so much as it is earned – and the majority of rabbis do earn it.”¹⁵⁴

¹⁵⁰ Ibid.

¹⁵¹ Hoffman does not use the expression “leadership theory,” but I believe that it captures his idea.

¹⁵² Synagogue 2000 was a renewal movement of Reform and Conservative Jews designed to revitalize Jewish prayer and community.

¹⁵³ This model characterizes modern corporations and democracies. In this model, decisions “do not arrive from the personal fiat of all-powerful individuals; they *derive* from the predicable and accountable

Hoffman explains the complexities of rabbinic leadership, clarifying how the rabbi's knowledge of Torah and his or her expertise in Jewish tradition contribute to the rabbi's authority as a leader:

Rabbinic leadership, then, is a good deal more complex than just being collaborative, rather than hierarchical. Good rabbis earn the regard of their congregants at every step in the rabbinic decision-making process. They are expected to pass *privileged* judgment on matters of clear technical competence. But people have faith also that their rabbi will help them *frame* multiplex matters. During the reframing discussion, the rabbi presents expertise in Torah but factors in other perspectives that go into deciding the frame and solving the problem once its appropriate frame is arrived at.¹⁵⁵

Hoffman writes that rabbis attain the right to lead “precisely because they apply Jewish values to everything they do, and not just implicitly, but as a matter of public example.” He affirms the centrality of Jewish sources (which I believe would include *halakhah*) as the basis of the rabbi's leadership:

... unless rabbinic leadership was both actually and evidently rooted in Jewish sources, it was not rabbinic at all. The final component of rabbinic leadership, then, is what I call theology.¹⁵⁶

Hoffman points out that a rabbi's leadership is different from the leadership of those who practice professions such as medicine or law, or from that of corporate CEOs. He writes that rabbis “exercise a kind of moral leadership that other professions do not.”¹⁵⁷ Toward the end of the article, Hoffman makes clear that he is firmly with those

rationality that only a system guarantees.” (Hoffman, Lawrence A. “Rabbinic Spiritual Leadership,” in CCAR Journal, Summer 2006, 37).

¹⁵⁴ Hoffman, 37.

¹⁵⁵ *Ibid.*, 52.

¹⁵⁶ *Ibid.*, 53.

¹⁵⁷ *Ibid.*, 58.

who see the rabbi's authority as based on the authority of the tradition: "I cannot stress enough that the basis for rabbinic leadership is the authority of our tradition."¹⁵⁸

Eric Yoffie, the president of the Union for Reform Judaism (then the Union of American Hebrew Congregations) in his 1999 Biennial Assembly address focuses particularly on rabbinic-lay partnership in worship. He suggests a "worship revolution be built on the premise of partnership: rabbis will be its architects, cantors will be its artists, and lay people its builders." He suggests that "this has always been the way of our Movement." (I don't think that this is the case; the early Reform rabbis were, I believe, quite autocratic – but perhaps saying that the lay people are builders is really putting them not as true partners, but as worker bees.) Later in his address, he suggests limits to the authority of rabbis:

We do not want to be rabbis who are spiritual imperialists, insisting that worship is ours alone; we do not want to be cantors who are operatic obstructionists, intent on performance at the expense of prayer; and we do not want to be lay people who are conscientious objectors, objecting to everything that is not as it was.

What we do want is for our members to join together with rabbi and cantor in creating worship that leaves us all uplifted ...¹⁵⁹

¹⁵⁸ *Ibid.*, 63.

¹⁵⁹ Yoffie, Eric H., "Realizing God's Promise: Reform Judaism in the 21st Century," UAHJ Biennial Assembly address, Orlando, FL, December 1990, 2-3, 7.

Chapter 4 – Conclusion

In the days of the Talmud, a rabbi's authority was regarded as God-given. Ancient *semikhah*, or ordination, was considered to confer upon the recipient the status of a biblical judge, making him a link in a chain of Torah transmission that began with Moses. That link was broken more than one thousand years ago; even Orthodox rabbis today no longer claim that their authority comes directly from Sinai, nor do they have the judicial power that came with ancient *Semikhah*. Orthodox rabbis do claim a link to Sinai, however, in that their role is to interpret the *halakhah* that was given at Sinai. The authority of these rabbis is based both in their expertise in *halakhah* as evidenced by ordination and in their election by a community.

Authority of American Reform rabbis shares certain common elements with the authority of traditional rabbis. Knowledge, as attested to by ordination, is one factor that is shared. Despite Reform's rejection of the claim of divine authority for Oral Law and the subsequent decision that *halakhah* is not binding, many Reform rabbis still argue that *halakhah* does play a significant role in their authority. The platforms of Reform Judaism have moved from explicit rejection in the 1885 Pittsburgh Platform of *halakhic* rulings that "are not adapted to the views and habits of modern civilization" to a reaffirmation in the 1999 Pittsburgh *Statement of Principles* of traditional concepts found in *halakhah*. Most writers of Reform Responsa are committed to *Halakhah*, with room for creative interpretation and outright departure as needed. Some modern American Reform rabbis have located the source of their authority in knowledge that includes not only *halakhah*, but also Jewish history, literature, and culture. Thus most American

Reform rabbis do locate the basis for their authority in *halakhah*, but with the understanding that the role of *halakhah* is different in Reform Judaism from the role in Orthodoxy and that *halakhah* is not the only knowledge requisite for the Reform rabbi.

Both traditional and Reform rabbis also understand their authority to be based on community acceptance. But standards by which communities judge their rabbis' fitness may vary among the movements. While a rabbi with a truly nasty disposition is not likely to find acceptance anywhere, an Orthodox rabbi may be judged principally on his knowledge of *halakhah*. Many American Reform rabbis write of their authority being based in their ability to relate well to people and to persuade them of their views. While Reform Jewish communities expect their rabbi to be Jewishly knowledgeable, their acceptance of the rabbi and the rabbi's views may be more closely tied to the appeal of the rabbi's personality.

Like their

In contrast with these traditional grounds, some recent writers have suggested that Reform rabbinical authority is based additionally or instead on human relationship and presence

do not have the authority of the ancient rabbis, but most would still base their authority in traditional sources. Some

We have seen that during the middle of the 20th century through the 1980s most writers of Reform Responsa are committed to *Halakhah*, with room for creative

interpretation and outright departure as needed. While most other Reform rabbis who write on the topic of rabbinical authority give at least lip service to the idea that their authority is somehow grounded in the tradition (a few in the *halakhah*, more in the wider expanse of Jewish knowledge), they place much more emphasis on other factors such as the interpersonal.

Bibliography:

I. Primary Sources: *Halakhic*

Asher ben Yehiel, *Responsa*.

Joseph b. Moses. *Leket Yosher*.

Karo, Yosef and Moses Isserles. *Shulchan Aruch*.

Ibn Daud, Abraham. *The Book of Tradition (Sefer Ha-Qabbalah)*, ed. trans. Gerson D. Cohen (Philadelphia, 1967).

Isserlin, Israel. *Pesukim u-Ketavim*.

Judah Ben Barzilai, *Sefer ha-Shetarot*.

Mahzor Vitry, ed. S Horowitz, (Frankfurt, 1923).

Maimonides, Moses. Commentary on Mishnah Avot, as found in Twersky, Isadore, *A Maimonides Reader*. Springfield, NJ: Behrman House, Inc., 1972.

-----, *Mishneh Torah (Yad)*. Jerusalem: Mechon Mamre edition, 2004.

-----, *Responsum 156*. (Freiman edition, Jerusalem, 1934), as translated in the Dissertation of Zuroff, Abraham N., "*The Responsa of Maimonides*," 1967.

Midrash Rabbah Exodus. Ed. D. H. Freedman and Maurice Simon. Translated by S.M. Lehrman. London: The Soncino Press., 1983.

Mishnah.

Rivash, *Responsa*.

Sifre on Deuteronomy, Ed. Friedmann [++++find in berger]

Sofer, Moses, *Responsa Orach Hayyim 206*

Talmud Bavli.

Talmud Yerushalmi (Yer.), Neusner, Jacob, trans. *The Talmud of the Land of Israel: A Preliminary Translation and Explanation*. Chicago: University of Chicago Press, 1984.

Tashbetz, *Responsa*.

II. Primary Sources: *Post-Halakhic*

Abrahams, Israel. *Hebrew Ethical Wills*, (Philadelphia, 1948), 182 and 194-5.

Baer, F. *Die Juden im Christlichen Spanien* (Berlin, 1936). As cited in Schwarzfuchs.

Bauer, L'Ecole rabbinique de France (1830-1930) (Paris, no date), p. 7. As cited in Schwarzfuchs.

Berger, Peter, *Heretical Imperative: Contemporary Possibilities of Religious Affirmation*, Garden City: Anchor Press/Doubleday, 1979.

Blau, Joseph L, and Salo W. Baron, editors. *The Jews of the United States: A Documentary History, 1790-1840*. New York: Columbia University Press, 1963.

Bronstein, Herbert, "Meditation on Rabbinical Anxiety," in *CCAR Journal*, Winter 1993.

CCAR's *Code of Ethics for Rabbis*. Adopted in convention assembled, June 1991, and as last amended in 2008.

CCAR's *Guidelines for Rabbinical-Congregational Relationships*.

CCAR *Reform Responsa NYP* (Not Yet in Print—responsa published by the CCAR Responsa Committee, but not yet in bound collections), found at <http://ccarnet.org/documentsandpositions/responsa/>

"Private Ordination," 5753.4.

"Who Is a Rabbi?" 5759.3.

"Rabbinical Autonomy and Collegiality," 5761.3.

"Commitment Ceremonies For Heterosexual Couples; Jewish Wedding Ceremony in the Absence of a Civil Marriage License," 5764.4.

CCAR *Year Book*, Vol I, 1891. Cincinnati: Bloch Publishing and Printing Company. (Reproduced in 1958 from the original editions. Volumes I, II, III, 1890-1893.).

Engelman, Uriah Zvi. "Jewish Statistics in the U.S. Census of Religious Bodies (1850-1935)." *Jewish Social Studies* 9 (1947): 127-174.

Fishbein, Irwin H. "Minority Report," *YCCAR* 83 (1973), 64-67.

Freehof, Solomon B., ed. *Contemporary Reform Responsa*. Hebrew Union College Press, 1974.

-----, "Slow Growth," in *The Growth of Reform Judaism*, ed. W. Gunther Plaut (New York: World Union for Progressive Judaism, 1965), 239-41; as found in Meyer and Plaut, eds., *The Reform Judaism Reader*, 118-119.

-----, *Today's Reform Responsa*. The Hebrew Union College Press, 1990.

Hoffman, Lawrence A., "Rabbinic Spiritual Leadership," in *CCAR Journal*, Summer 2006.

- Jacob, Walter, ed. *American Reform Responsa: Collected Responsa of the Central Conference of American Rabbis 1889-1983*. New York: CCAR, 1983.
- , *Contemporary American Reform Responsa*. NY: CCAR, 1987.
- Malino, Jerome R., "Vineyards of the Lord," in Stevens, *Rabbinic Authority*, 3-14.
- Karff, Samuel E., "The Subtleties of Our Rabbinic Authority," in Stevens, *Rabbinic Authority*, 55-62.
- Knobel, Peter, "Rabbi, Interpreter of Religious Experience," in Stevens, *Religious Authority*, 47-54.
- Kober, Adolf, Documents selected from the Pinkas of Friedberg, *Proceedings of the American Academy for Jewish Research*, XVII, 1947-8, 45-6.
- Lagumina, B. and G., *Codice diplomatico di Giudei di Sicilia* (Palermo, 1990), I, no. 26, pp. 23-30 and no. 123, pp. 166-7. As cited in Schwarzfuchs.
- Marcus, Jacob R. *This I Believe: Documents of American Jewish Life*. Northvale, N.J.: Jason Aronson, 1990.
- Mihaly, Eugene, "Responsa on Jewish Marriage: with special reference to Reform Rabbis and Mixed Marriage" (Cincinnati, 1985: pamphlet).
- Moise, L.C. Biography of Isaac Harby. Columbia, S.C.: R. L. Bryan, 1931, 83-89.
- Plaut, W. Gunther, ed. *The Growth of Reform Judaism*. New York: World Union for Progressive Judaism, 1965.
- , and Washofsky, Mark, ed., *Teshuvot for the Nineties: Reform Judaism's Answers to Today's Dilemmas*. New York: CCAR, 1997
- Polish, David, "A Kind Word for the 'Sermon,'" in Stevens, *Rabbinic Authority*, 99-102.
- Pribam, A.F. Urkunden und Akten zur Geschichte der Juden in Wien, II (Vienna and Leipzig, 1918), pp. 305-6 (22 January 1820). As cited in Schwarzfuchs.
- Protokolle der Rabbiner Konferenz abgehalten zu Philadelphi (Nov 3-6, 1869)* (New York, 1870), 7ff., in Meyer and Plaut, *The Reform Judaism Reader*, 196-197.
- Reform Responsa NYP (Not Yet in Print—responsa published by the CCAR Responsa Committee, but not yet in bound collections), found at <http://ccarnet.org/documentsandpositions/responsa/>
- "Private Ordination," 5753.4.
- "Who Is a Rabbi?" 5759.3.
- "Rabbinical Autonomy and Collegiality," 5761.3.

“Commitment Ceremonies For Heterosexual Couples; Jewish Wedding Ceremony in the Absence of a Civil Marriage License,” 5764.4.

Roth, Harry, “From Whence the Authority of the Rabbi to Comfort and Counsel?” in Stevens, *Rabbinic Authority*, 95-98.

Rudavsky, Joseph, “Rabbinic Authority: The Human Element,” in Stevens, *Rabbinic Authority*, 37-40.

Saperstein, Harold I., “The Origin and Authority of the Rabbi,” in Stevens, *Rabbinic Authority*, 15-30.

-----, “Changing Role of the Rabbi,” in *The American Rabbi*, New York, 1977, 163.

Stroh, Michael S., “The Authority of the Tradition for the Reform Rabbi,” in Stevens, *Rabbinic Authority*, 41-46.

Sussman, Lance, “A ‘Delicate Balance:’ Interfaith Marriage, Rabbinic Officiation, and Reform Judaism in America, 1870 – 2005,” in *CCAR Journal*, Spring 2006, 45.

Washofsky, Mark. “Introduction: Responsa and the Reform Rabbinate,” in Plaut, W. Gunther, and Washofsky, Mark, ed., *Teshuvot for the Nineties: Reform Judaism’s Answers to Today’s Dilemmas*. New York: CCAR, 1997, xiii-xxix.

Wise, Isaac M. “Addresses at Opening of Hebrew Union College.” [unidentified source].

-----, “Historical Oration,” *CCAR Yearbook I* (1890-1891), pp. 19-21.

-----, *Reminiscences*. New York: Central Synagogue, 1973.

Yoffie, Eric H., “Realizing God’s Promise: Reform Judaism in the 21st Century,” UAHC Biennial Assembly address, Orlando, FL, December 1990. Rpt. In Meyer and Plaut, eds., *The Reform Judaism Reader*, 196-197.

III. Secondary Sources

Berger, Michael S. *Rabbinic Authority*. New York: Oxford University Press, 1998.

Stevens, Elliot L, ed. *Rabbinic Authority: Papers Presented Before the Ninety-First Annual Convention of the Central Conference of American Rabbis, Vol XC, Part Two*. New York: Central Conference of American Rabbis, 1962.

Elon, Menachem Elon. *Jewish Law: History, Sources, Principles*. Translated by Bernard Auerbach and Melvin J. Sykes. Philadelphia: The Jewish Publication Society, 1994.

Meyer, Michael A. *Response to Modernity: A History of the Reform Movement in Judaism*. New York: Oxford University Press, 1988.

-----, and W. Plaut, Gunther. *The Reform Jewish Reader: North American Documents*. NY: UAHC Press, 2001.

Rheins, Richard S. *The Development of the Professional Rabbinate as Evidenced in the Halakhic Sources*. Rabbinical thesis, HUC-JIR, 1989.

Rothkoff, Aaron. (2007). "Semikhah." In Skolnik, Fred (Ed.), *Encyclopedia Judaica* (Second Edition, Vol. 18, 275). Detroit: MacMillan Reference USA. As quoted in Schwarzfuchs.

Sarna, Jonathan D. *American Judaism: A History*. New Haven: Yale University Press, 2004.

Schwarzfuchs, Simon. *A Concise History of the Rabbinate*. Oxford: Blackwell Publishers, 1993.

Sussman, Lance Jonathan. *Isaac Leeser and the Making of American Jewry*. Detroit: Wayne State University Press, 1995