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Toward an Understanding of Jewish Organizational Crisis Resolution:  
Precedents, Present-Day and Projections

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*For Lauren.*

## Digest

What happens when rabbis and congregants confront one another? Often the result is beneficial to both parties, an opportunity to listen and to grow.

But what happens when clergy and laity fail to reach an end to a dispute?

The intent of this thesis is to explore one path which may be taken when conflict between rabbis and congregants occur, the path of outside intervention. This work will attempt to ascertain the effect mediators have had in disputes between rabbis and congregants throughout history. The methods used by mediators to bring parties together, as well their successes and shortcomings, will be measured.

Chapter One will explore examples of conflict between religious and lay leaders throughout Biblical and early Rabbinic history, tracing the path from conflict to resolution between kings, prophets, priests and Israelites.

Chapter Two will expand our understanding of conflict mediation in Jewish settings by exploring examples of congregational conflict through the Medieval and early Modern period. The historical record of events leading to conflict between rabbis and laity will be explored and attempts will be made to find common forms of successful mediation techniques in each era.

Chapter Three will explore the world of modern secular mediation techniques, as applied in modern business and media. Additionally, representative modern religious institutions and their respective techniques in crisis resolution will be explored. Finally, we will explore contemporary structures of crisis resolution in American Reform Judaism, their methods and impact on conflict between rabbi and *kahal*.

The thesis will conclude with Chapter Four, an attempt to synthesize the information gleaned from the above chapters and formulate a hypothesis concerning the future of congregational crisis mediation.

An appendix is included at the end of this work for the reader's reference, containing the complete text of Guidelines for Rabbinical-Congregational Relationships, written on behalf of congregations and their rabbis by the National Commission on Rabbinical-Congregational Relations (NCRCR).

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## **Introduction**

*Friction between human beings is as old as the Bible itself. Since the temptations of the garden, since the conflict of interest which led to the first fratricide, we have proven time and time again that we know how to fight. And throughout the ages, it has been the mission of Judaism — in fact the mission of all civilizing cultures, societies and religions — to temper the fire that causes violence to erupt from dispute, to channel it into something else, be it prayer, virtuous activity, or the pursuit of unconditional love.*

*It might be argued that humans have learned as a species to fight out of necessity; the children of humankind take much longer to reach self-sufficiency than other animals; they lack essential natural defenses against the elements, or other creatures, such as fur, or claws. So what is left to provide for a human's defense? One's mind, one's craftiness -- with which people have created weapons for hunting, tools for sowing, and speech to communicate our needs and desires with others. It is the tongue which is perhaps the greatest of these achievements, or at least the most advanced; it is capable of stirring angry masses, or of soothing wounded souls. We are a species that loves to use our tongues to both challenge and comfort one another.*

*It is the continuous vigil to maintain this balance of challenge and comfort which has allowed us to preserve an air of civility amongst ourselves through the millennia. We have created boundaries — verbal and emotional, as well as physical -- to maintain civilization in what has all too often proved to be an uncivilized world. We have used*

*words to build bridges, and allowed ourselves to be swayed to discuss our differences, even as we have used our tongues to convince people that the one who looks or acts differently than us does not merit our presence at a common table.*

*And when we have found ourselves, individually or collectively, unable to meet another at the crossroads of commonality, we have sought the aid of those who can help each side to find its way to the proverbial table of consensus. That has been the role played by countless figures in recorded history, many famous, many obscure, persons who have made it their business to help those mired in conflict to seek harmony using the facilitator as a connecting bridge.*

*This is a work which seeks to illustrate the many ways in which persons of wisdom and common sense have helped individuals and communities throughout history to seek a common ground. While it cannot do justice to the efforts of so many of our species who have sought to bring calm to those caught up by controversy, it will attempt to show both the similarities of form, and the differences in technique brought by societal and cultural evolution, used by those who mediate dispute.*

*This work will examine the issue of conflict as it pertains to matters between congregant and clergy. While it is clear that these terms reflect a contemporary bias, let us assume that, generically, we are discussing conflicts that occur, on an individual or communal level, between those who consider themselves to be members of a religious community, and the person or persons who lead that community in its commonly understood religious activities (prayer, study, good deeds, other forms of ritual, symbolic or vicarious activity). And since many groups understand the role and*



*authority of their religious leaders differently, we should focus on how such perceptions affect the way in which conflict is pursued, and the consequences of conflict upon the leader and congregant's standing in the community.*

*For the purposes of this work, it must be understood that the term 'authority', like the role of the rabbi, evolves. Until medieval times, one definition which fit the rabbinic role of authority was 'the power to enforce laws, exact obedience, command, determine, or judge'<sup>1</sup>. Yet as Judaism approached the modern age, the rabbinic role and definition of 'authority' changed, to 'the power to influence or persuade resulting from knowledge or experience'<sup>2</sup>. From coercion to persuasion, the nature of rabbinic authority has been shaped over the centuries.*

*Of course, this is a work about mediation. So the puzzle would not be complete without a thorough look at how mediation techniques, religious and secular, have become important tools in the work of mediation and intervention.*

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<sup>1</sup>The American Heritage Dictionary of the English Language, Third Edition, 1992.

<sup>2</sup>Ibid.

## **Chapter One: Understanding Rabbinic Authority Throughout the Ages**

Before we come to an understanding of the sources of and participants in communal/congregational conflict, we must first learn more about who the authority figures commonly referred to as 'rabbis', are. They are, after all, those most likely to be called upon either as adjudicator, or (in some cases, as we will see), even as litigant in case of dispute. We will therefore begin with a general overview of rabbinical authority as it has been perceived from antiquity to modern times; here we will discuss the sources of rabbinic authority, and the range and scope of such authority.

### **In The Biblical Period**

The source of authority in Judaism, ultimately, lies in the word of God. Judaism has based itself on the combination of the written and oral law since their creation<sup>3</sup>; the latter contains all the enactments of the Talmud which are not specifically mentioned in the Bible. The chain of tradition became clear to the authorities of the Mishnah and the Talmud and is recorded in the beginning of the *Pirke Avot*<sup>4</sup>; the tradition stated that Moses, the first teacher, had received the principles of the law and that all the particulars were included in them.<sup>5</sup>

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<sup>3</sup>Megillah 19b. All Talmudic references refer to the *Talmud Bavli*, the Babylonian Talmud, unless noted differently.

<sup>4</sup>Mishnah Avot 1:1.

<sup>5</sup>Exodus Rabbah 41:6.

While there were many in *Tanakh* who claimed the ability to influence people, it may be argued that no one swayed more to his cause than Moses. While the role of the patriarchs Abraham, Isaac and Jacob were central to early Jewish history, the scope of their power was tribal, not national. And while Joseph may have sat at the right hand of Pharaoh, Moses not only overcame the power of the Egyptian crown, but served a liberated nation as their divining source. The son of Hebrews and child of Egypt was tasked by God to lead the people Israel out of bondage, and to aid them in their wanderings not only towards the physical land of Canaan, but also in their collective process of becoming a lawful nation. To this end, he was given the power to lead his people, through the words and acts of God, and became the archetypal 'rabbeinu' for all generations of Jews.

We see Moses' first attempts to effect change in the people through his well-intentioned, but fruitless marathon sessions of adjudication. Yet with the advice of his father-in-law Jethro, he comes to see the value of appointing various tiers of leaders to deal with differing degrees of communal problems.

...Moses sat as magistrate among the people, while the people stood about Moses from morning until evening. But when Moses's father-in-law saw how much he had to do for the people, he said, "What is this thing that you are doing to the people? Why do you act alone, while all the people stand about you from morning until evening?" Moses replied to his father-in-law, "It is because the people come to me to inquire of God. When they have a dispute, it comes before me, and I decide between one person and another, and I make known the laws and teachings of God."

But Moses' father-in-law said to him, "The thing you are doing is not right; you will surely wear yourself out, and these people as well. For the task is too heavy for you; you cannot do it alone. Now listen to me. I will give you counsel, and God be with you! You represent the people before God: you bring the disputes

before God, and enjoin upon them the laws and teachings, and make known to the way they are to go and the practices they are to follow. You shall also seek out from among all the people capable men who fear God, trustworthy men who spurred ill-gotten gain. Set these over them as chiefs of thousands, hundreds, fifties, and tens, and let them judge the people at all times. Have them bring every major dispute to you, but let them decide every minor dispute themselves. Make it easier for yourself by letting them share of the burden with you. If you do this -- and God so commands you -- you will be able to bear up; and all these people too will go home unwearied."

Moses heeded his father-in-law, and did just as he said...<sup>6</sup>

In a very real sense, Moses served as the supreme arbiter of all legal matters; while those appointed by him to create order amongst the people, served as his 'rabbinic' proteges, performing similar tasks in Moses' stead.

Moses is also understood as 'rabbeinu' for the other meaning of the term, 'our master'. His power and authority, though challenged from time to time during the wanderings in the wilderness, always had the approval and support of God. Where the seeds of rebellion were sown, Adonai, through Moses His<sup>7</sup> vessel caused the blood of dissenters to flow, and order amongst the people to be restored. Throughout their wanderings, the people Israel came to understand that God's favor rested upon Moses.

Now Korah...betook...to rise up against Moses, together with 250 Israelites, chieftains of the community, chosen in the assembly, men of repute. They combined against Moses and Aaron and set to them, "You have gone too far! For all the community are holy, all of them, and the Lord is in their midst. Why then do you raise yourselves above the Lord's congregation?" When Moses heard this, he fell on his face. Then he spoke to Korah and all his company,

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<sup>6</sup>Exodus 18:13ff.

<sup>7</sup>Please note that the use of masculine pronouns throughout this work is a matter of convenience, and not a personal statement regarding gender issues in literature.

saying, "Come morning, the Lord will make known who is His and who is holy, and will grant them access to Himself; He will grant access to the one He has chosen...and the earth opened its mouth and swallowed them up with their households, all Korah's people and their possessions. They went down alive into Sheol...the earth closed over them and they vanished from the midst of the congregation."<sup>8</sup>

And at the end of Moses' days, God directed the Israelite leader to pass on the mantle of authority, in God's name, to Joshua, the best of the generation which would lead Israel into Canaan. Joshua needed only the word of Moses accompanying his laying on of hands to be fully invested with the rights and responsibilities as leader of the Jewish people.

And he charged Joshua son of Nun: "Be strong and resolute: for you shall bring the Israelites into the land that I promised them on oath, and I will be with you."<sup>9</sup>

The laying on of hands entitled Joshua, upon Moses' death, to succeed him as the leader of the people:

"Now Joshua...was filled with the spirit of wisdom because Moses had laid his hands upon him; and the Israelites heeded him, doing as the Lord had commanded Moses."<sup>10</sup>

And so the source of rabbinical authority was established. Mishnah Avot

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<sup>8</sup>Numbers 16: 1-5; 32-33.

<sup>9</sup>Deuteronomy 31:23.

<sup>10</sup>Deuteronomy 34:9.

reiterates this by starting with Moses, tracing a chain of tradition from teacher to student;

"Moses received the Torah at Sinai and transmitted to Joshua, and Joshua to the Elders, the Elders to the Prophets, the Prophets to the men of the Great Knesset..."<sup>11</sup>

This allocation of spiritual authority, precursor to the rabbinic form, is also indicated in the verse from Jeremiah:

"Instruction shall not fail from the priest, nor counsel from the wise nor oracle from the prophet."<sup>12</sup>

From Moses to Joshua, spiritual authority -- the ability not only to adjudicate legal dispute, but to infuse such decisions with godly meaning -- came to rest also upon other types of leaders:

From priest, the divinely ordained intermediary between God and Israel; to prophet, the charismatic and inspired spokesman for God; to scholar, guardian of traditional text and interpretation; the evolution of the rabbi can be seen as an amalgamation of all three roles.<sup>13</sup>

Authority came through the words of prophets who possessed the power to anoint secular leaders of the people, and even to rebuke a king of Israel for his actions:

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<sup>11</sup>Mishnah Avot 1:1.

<sup>12</sup>Jeremiah 18:18.

<sup>13</sup>Harold I. Saperstein, "The Origin and Authority of the Rabbi", in *Rabbinic Authority: Papers presented before the ninety-first annual convention of the Central Conference of American Rabbis* (New York: Central Conference of American Rabbis, 1982), 15.

...As they were walking toward the end of the town, Samuel said to Saul, "tell the servant to walk ahead of us" -- and he walked ahead -- "but you stop here a moment and I will make known to you the word of God."...Samuel took a flask of oil and poured some on Saul's head and kissed him, and said "The Lord hereby anoints you ruler over His own people...."<sup>14</sup>

And Nathan said to David, "You are that man! Thus said the Lord, the God of Israel: 'It was I who anointed you came over Israel and it was I who rescued you from the hand of Saul. I gave you your master's house and possession of your master's wives; and I gave you the House of Israel and Judah; and if that were not enough, I would give you twice as much more. Why then have you flouted the command of the Lord and done what displeases him?...David said to Nathan, "I stand guilty before the Lord!"..."<sup>15</sup>

Later, charge of the Law came to the priests and Levites; these two groups also staffed the high court of justice at Jerusalem, which formed the highest tribunal to decide grave and difficult questions of the people. The sacrificial cult, heirs to the Aaronide priestly caste, would serve as masters of ritual and legal interpretation, as functionaries of the Temple in Jerusalem, working in tandem -- or sometimes in competition -- with the secular authorities of the time.

If a case is too baffling for you to decide, be it a controversy over homicide, civil law, or assault -- matters of dispute in your courts -- you shall promptly repair to the place that the Lord your God will have chosen, and appear before the levitical priests, or the magistrate 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...<sup>16</sup>

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<sup>14</sup>I Samuel 9:27, 10:1.

<sup>15</sup>II Samuel 12:7ff.

<sup>16</sup>Deuteronomy 17:8ff.

But with the destruction of the Temple and subsequent Babylonian exile of Judah in 586 BCE, the understanding of religious leadership and its source of power was to radically change.

### **From The End Of The Babylonian Exile Through The Pharisaic Period**

In the last two centuries before the common era, and throughout the Talmudic period, the scribes (*soferim*), also known as the *chachamim* (the wise), claimed to have received the true interpretation of the Law from their priestly predecessors. They saw themselves as a link in the unbroken chain of tradition which led from the men of the Great Synagogue, to the prophets, directly to Moses himself.<sup>17</sup>

These scribes were composed of people from all classes of life. This new elite formed courts of justice in every town, as well as the high court of justice, the *Sanhedrin* in Jerusalem. From these courts, they applied the Law as expressed in the Book of Deuteronomy, Chapter 17:

"You shall come to the judge that shall be in those days...and you shall do according to the sentence which they...shall show you...you shall not decline from the sentence which they shall show you, to the right hand, or to the left."<sup>18</sup>

This came to be understood as meaning that the judge of a particular era, if he was recognized as competent and honorable, could, no matter his social standing,

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<sup>17</sup>Mishnah Avot 1:1.

<sup>18</sup>Deuteronomy 17:8-11.



adjudicate with the same authority as Moses himself.<sup>19</sup>

Even if the judge should decide that left should be right, or right should be left, even when they are mistaken or misled in their judgment, they must be obeyed, says the tradition.<sup>20</sup>

And even heaven itself must yield to the authority of such an earthly court of justice. So, in a discussion between Rabbi Eliezer ben Hyrkanos and Rabbi Joshua ben Hananiah, the latter's opinion was declared correct because the majority followed him, although a heavenly voice (*bat kol*) intervened in behalf of the former's opinion.<sup>21</sup>

We can see, therefore, that by the Talmudic period, direct divine revelation had been replaced by human authority and by the traditions created through the centuries. This, then, was a vast change from the Biblical period.

The title 'rabbi' was used prior to the destruction of the Temple to indicate an outstanding person in any field of endeavor. As an official title, it was first used in reference to Gamaliel, the *Nasi* and president of the Sanhedrin in the last decades before the destruction, who was called *rabban*. It was first conferred by Yochanan ben Zakkai upon his disciples, at the academies of Yavneh.<sup>22</sup>

As a matter of course, the rabbinical authority and legislative power rested with the entire body of the court of justice or rabbinical academy, and not with the president

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<sup>19</sup>Sifre to Deuteronomy, 153; also see Rosh Hashanah 25ab.

<sup>20</sup>Rosh Hashanah 25a.

<sup>21</sup>Baba Metzia 59b.

<sup>22</sup>"Rabbi, Rabbinate", in *Encyclopedia Judaica, CD-ROM Edition* (Jerusalem: Keter Publishing House, 1996).

or patriarch alone. Still, the more eminent the latter in knowledge in wisdom, the better he succeeded in making his opinion or propositions prevail in the deliberation; and so the new measure or institution was ascribed to him, or to him and his *bet din*.<sup>23</sup>

At any rate, the *Nasi*, or patriarch, announced the decision, and represented on all official occasions the whole rabbinical body as its highest authority. The power of investing others with rabbinical authority was therefore presumably his exclusive privilege. It is known that from the beginning of the third century before the common era, rabbinical authorization by the patriarch consisted in the bestowal of authority and power ("*reshut*") to teach, to judge and to grant permission regarding "the forbidden first-born among animals" ("*yoreh yoreh, yadin yadin, yattir bekorot*").<sup>24</sup>

This process was the culmination of two basic principles of Jewish law: *Torah min hashamayim* – "The Torah comes from Heaven"; and *Torah lo bashamayim* – "The Torah is no longer in Heaven". The source of Law is divine, and the rabbi is the voice which hearkens the people to this notion. But the rabbinic voice which declares the nature of the Law also decrees its development, changing and adapting the Law to human circumstance. Through ordination, the rabbi obtains *reshut* to adapt the Law to the needs of every generation.

Ordination in Palestine was later placed in the hands of the *Nasi* and the Rabbis of his academy. A modified ordination was practiced in Babylonia, carrying the title *rab*. There is some scholarly dispute about when formal ordination ceased, but the

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<sup>23</sup>Rosh Hashanah 2:5-9; 4:1-4; also see Yevamot 77a.

<sup>24</sup>Sanhedrin 5a.

formal recognition of those qualified to teach and to judge on the basis of the written and oral law was henceforth an accepted practice. Thus the scholars and judges of each generation were able to claim a line of succession that reached back to Moses.<sup>25</sup>

In antiquity, the ceremony of ordination took place at the Sanhedrin, where *semichah* was conferred by declaration or in writing. Following the ceremony, the newly ordained rabbi delivered a learned discourse to show that he was indeed filled with the spirit of wisdom.<sup>26</sup>

The power of the Rabbis of antiquity was threefold:

First, they had the power to augment the Law; either through the use of *gezerot*, statutes for the prevention of transgressions, or through *takkanot*, statutes intended to improve the moral or religious life of the people. Additionally, the Rabbis could introduce new rites and customs, *minhagim*, to commit the people to right activity.

Second, the rabbis had the ability to expound the Law according to certain rules of hermeneutics, and thereby create new statutes as implied in the letter of the Law.

Third, the rabbis could impart additional instruction to the people based upon established tradition.<sup>27</sup>

The rabbis were also empowered under certain circumstances to abrogate or modify the Law; in many instances where greater transgressions were to be prevented, or for the sake of the glory of God, or for the honor of humankind, certain Mosaic laws

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<sup>25</sup>Saperstein, 16.

<sup>26</sup>"Semikhah", in *Encyclopedia Judaica, CD-ROM Edition* (Jerusalem: Keter Publishing House, 1996).

<sup>27</sup>Saperstein, 16.

were abrogated or temporarily dispensed with by the Rabbis.<sup>28</sup>

Examples of the range of rabbinical authority, extending into matters of personal as well as communal life:

In matrimonial matters the principal adopted was that, since marriages are, as a rule, contracted in accordance with the rabbinical statutes, the rabbis had the right to annul any marriage which is not in conformity with their ruling.<sup>29</sup>

In financial matters the rabbis claimed the same right of confiscation in cases where their ruling was disregarded, as was exercised by their Biblical predecessor Ezra.<sup>30</sup>

Rabbis could nullify a Torah law by a legal fiction (Hillel's *prozbul* or the *sota*, i.e. Yochanan ben Zakkai's decision to give up the process of *sota*).<sup>31</sup>

Other examples include the power to regulate the calendar, release the *bechor* (the male firstborn of a clean animal) for profane use by reason of disqualifying blemishes, and inflict corporal and capital punishment.

At the height of rabbinical authority, in the days of the Pharisees, those ordained possessed the power of *herem* -- understood as the ability to remove and admit members of the Jewish community as they pleased. In a time where questions of family purity ruled the entire social life of the Jews, the Pharisees possessed the ultimate

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<sup>28</sup>Mishnah Berachot. 9:5, 54a, 63a; also see Mishnah Yoma 69a.

<sup>29</sup>Yevamot 90b.

<sup>30</sup>Ezra 10:8; also see Gittin 36b.

<sup>31</sup>Sota 9:9.

ability to make and unmake Jewish lives.

There were, of course, potent checks and balances to rabbinic power and authority. While Deuteronomy 17:11 provides the basis for understanding rabbinic power to legislate and adjudicate -- "Ask your father and he will declare unto you; your elders, and they will tell you..." -- an element of democracy clearly existed from the Mishnaic period onward, and the voice of the people played a major role in both legal decisions and custom. If a decision made by a court was not accepted by the people, or if the original reason for the law was no longer valid for the society, a later court could annul the decision without penalty.<sup>32</sup>

There were other checks and balances to rabbinical authority:

No *bet din* could impose laws or institute forms of practice which the majority of people could not without great hardship accept and observe.<sup>33</sup>

No *bet din* could abrogate laws and institutions made by any other court, unless it was superior in both wisdom and number. If, however, such a prohibitory law had been accepted by the entire Jewish people, no rabbinical court, even though superior to the one that introduced it, had the power of abrogating it.<sup>34</sup>

The power of local custom, or *minhag* was also a significant balance to rabbinic power. When the law was in doubt, common custom served as a guide. Here two principles were evident: *Minhag avoteinu Torah hi* -- "The custom of our ancestors is

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<sup>32</sup>*Yad HaHazakah*, Hilchot Mamrim, 2:7; also see Betzah 5ab.

<sup>33</sup>Avodah Zarah 36a.

<sup>34</sup>Eduyyot 1:5; Avodah Zarah 36b.

Torah"; and *Hakol k'minhag hamedina* -- "Everything is according to local custom".

Thus both ancient and current custom were considered authoritative. The rabbis did reserve the right to safeguard the *kahal* against practices which pushed limits of acceptable custom. For example, the rabbis of antiquity could and did annul those marriages which were considered outside the boundaries of communal custom<sup>35</sup>. Also, the rabbis claimed the right of confiscation, when in their opinion the financial practices of a community member fell outside the norm<sup>36</sup>. However, they were not always successful. It was often considered expedient to overlook such cases, for the sake of preserving the general sense of rabbinical authority in the Jewish world.<sup>37</sup>

Challenges to rabbinic authority also came from those who served as the secular rulers of the Jews outside of the land of Israel. In Babylon this was the exilarch, the *Resh Galuta*, who manifested the features of hereditary monarch. He claimed that genealogical descent from David. He was recognized as the political leader of the Jewish community by the Sassanian, and later by the Moslem government. He collected taxes, exerted control over local communities, and represented Jewry at the royal court. His rule was virtually a state within a state. Among the powers granted to him was that of appointing judges. The exilarch welcomed refugee rabbis from Palestine as a source of well-trained officials. A balance was established; the exilarchs represented the Davidic royal tradition, the Rabbis represented the Mosaic Torah

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<sup>35</sup>Yevamot 90b.

<sup>36</sup>Gittin 36b.

<sup>37</sup>"Rabbinical Authority", in *The Jewish Encyclopedia* (London: Funk and Wagnalls Company, 1901).

tradition. The Rabbis gave the prestige of scholarly support to the exilarch and received political support from him.<sup>38</sup>

The relationship, however, carried the seeds of potential rivalry and conflict. By the second generation of *Amoraim*, the Rabbis had assumed a level of equality. Semi-annual *kallot* of scholars and layman were held at the academies. There, too, the ordination of rabbis was performed, and proclamations made. The rivalry reached a climax in the controversy between Saadia Gaon and exilarch David ben Zakkai in which each sought to depose the other. It occurred again in the time of the Rambam, whose contemporary Samuel ben Ali declared publically that the time of secular royal power among Jews had passed.<sup>39</sup>

It could also be argued that disputes amidst the rabbinic ranks provided a safeguard against excess rabbinic power. In cases where two rabbis, or two rabbinical courts, differed in their opinions, it came to be understood that in questions concerning Mosaic laws the more rigid decision should prevail; in questions concerning rabbinical laws the more lenient decision should be followed. In this way both the needs of the scholar and the customs of the people could be taken into consideration during times of intellectual dispute.<sup>40</sup>

However, there were limits to the degree which one could dissent from the will of the religious lawmakers. If a teacher were to dissent from the opinion of the highest

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<sup>38</sup>Saperstein, 17; also Jacob Neusner, There We Sat Down. Nashville, 1972. p. 59.

<sup>39</sup>Saperstein, 17.

<sup>40</sup>Avodah Zarah 7a.

court, he could state his dissent and teach accordingly to his disciples; but he was not allowed to openly oppose the authority of the court in practice, or he would fall under the category of a *zaken mamre*, a rebellious elder, losing the right to teach or adjudicate amongst his students or in the presence of the people.<sup>41</sup>

This period marked the height of religious power for the rabbis. It was an age where there existed no disparity between the Law of God and the laws of society. In practice, the statutes and decrees of the rabbis were tempered by the day-to-day needs of the people. But in a theocratic world, the interpreters of God's word stood atop the pyramid of power. In no other period of Jewish history would the rabbis prove so directly influential on the lives of the people Israel.

### **Talmudic, Geonic, Middle Ages; The End of Pre-Modernity**

The rabbis and priests of antiquity wielded enormous power and influence at the end of the Pharisaic period. The laws established from religious tradition were, essentially, the normative laws of the land; rabbis and priests, responsible for interpretation and implementation of tradition, held the keys to real power in such a society. Such influence and power waned after 70 CE, with the destruction of the Temple, and all but disappeared after the end of the Bar Kochba war in 135 CE. The original ceremony of ordination, the link to Moses and divinely granted power, fell into disuse after the symbol of God's power on earth was destroyed by the Romans. The

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<sup>41</sup>Deuteronomy 17:12; also see Baba Metzia 59b.



character of rabbinical authority changed, in as much as the continuity of tradition was no longer its basis and safeguard. Scholarship, not social power, became the trademark of the rabbi.

From the second to seventh centuries, the rabbis of antiquity maintained a modicum of authority through the establishment of post-destruction schools of learning. By influencing the studies of subsequent generations, the rabbis could bring the layperson as well as the seminarian over to their way of viewing the worlds of law and tradition. The inheritors of such studies then established control over formerly lay-driven synagogues, which first arrived on the Jewish scene just prior to the demise of the second Temple<sup>42</sup>. The creators of the synagogues would for centuries be influenced by the secular world in matters of decor and decorum; however, as the teachings of the rabbis became more heavily institutionalized, their concerns over bringing too much of the outside world into the house of worship -- the successor to the house of ritual sacrifice, and now the place where vicarious offerings were made -- brought the order of worship into a greater conformity with their wishes.

In this period, as control over institutions of learning and prayer was established, legal literature -- Mishnah, Talmud -- was written to in a sense 'canonize' the Oral Law, and therefore secure the need for rabbinic interpretation of what had, like the Written Law, become holy writ, accessible in full to an elite few.

With the eventual dispersion of the Jewish community throughout Europe, Asia,

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<sup>42</sup>"Synagogue", in *Encyclopedia Judaica, CD-ROM Edition* (Jerusalem: Keter Publishing House, 1996).

and North Africa, the nature and role of religious authority changed according to each community's needs and means. At first the communities would look towards the Geonic centers in Babylonia for authoritative answers to religious questions. But with the decline of the Babylonian academies in the 10th and 11th centuries, there was a period of confusion in Jewish life. Without the continuity of academies, Jewish communities found themselves cut adrift from a central rabbinical authority. This encouraged the tendency towards community self-determination. This trend was particularly evident in European Jewish communities such as Italy and the Rhineland. By the time academies had been re-established on the European continent, local communities had centuries of experience in self-government.<sup>43</sup>

Although life was still dominated -- theoretically -- by Talmudic law, this local independence, coupled with lay leadership, put the judicial system outside of rabbinic hands. Experts were needed, however, in the areas of ritual and liturgy. And so this period developed a new pattern for the rabbinic role -- that of *rab ha-ir*, the communal rabbi.<sup>44</sup>

In this period ordination was designated through the diploma -- a *ketab masnich* -- rather than the laying of hands. It was conferred not solely by the rabbi; a city or synagogue elder could also prepare the writ confirming one's rabbinic qualification. However, rabbinical authority did not exceed that which the community was unwilling to grant. The diploma acknowledged the learning and qualifications to

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<sup>43</sup>Salo Baron. The Jewish Community, Vol. II, p.69.

<sup>44</sup>Saperstein, 18.

interpret *halachah*, but not to adjudicate in what were considered more secular matters.<sup>45</sup>

The judges in these communities were of varying levels of legal expertise and moral standing. One simple reason for this was a lack of qualified candidates for ordination. The Jewish communities of Europe had declined greatly during the Black Death (1348-49) and the anti-Jewish persecutions that had accompanied the tragedy. Those appointed by post-plague communities to serve and adjudicate, while perhaps well-intentioned, could not necessarily meet the standards of Jewish scholarship of the era.<sup>46</sup>

To rectify the situation, Meir ben Baruch Halevi of Vienna enacted an ordinance that required a rabbi to once again be authorized by another rabbi. This would ensure a minimum standard of Jewish religious and communal leadership.<sup>47</sup>

This period also marked the transition into a fully professional rabbinate. As early as the Mishnaic period, the Rabbis had instructed that one should not derive monetary benefit from Torah.<sup>48</sup> Their model for this rule was God, who had freely and willingly instructed Moses. But at the end of the 14th century rabbis began to receive remuneration for their services as teachers and preachers. When Simeon b. Zemah Duran fled from the anti-Jewish riots in Spain in 1391 and arrived in Algiers, the local

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<sup>45</sup>Ibid.

<sup>46</sup>Seltzer, Sanford. Jewish People, Jewish Thought (New York: Macmillan, 1980), 362.

<sup>47</sup>Saperstein, 19.

<sup>48</sup>Mishnah Avot, 4:5.

community wished to appoint him as rabbi. He pleaded an inability to accept as he was penniless and had to earn a livelihood. In order to enable him to accept the position, a formula was worked out whereby instead of the salary for his services, he was to receive *sekhar battalah*, i.e., compensation for loss of time due to his preoccupation with his rabbinical office. This remains the legal basis in Jewish law for rabbi receiving a salary, even though in the modern period the rabbi's salary is generally regarded as in the category of professional wage, with contracts written between rabbis and their congregations.<sup>49</sup>

From the 14th century onward there emerged the concept of one rabbi for one locality -- the *mara d'atra* ("the master of the locality").<sup>50</sup> These rabbis, usually appointees by local secular rulers, or those who had risen to prominence due to their personal charisma, were the voice of the Jewish community in all matters of Jewish practice and law. Other scholars in his community were to submit to his authority, *ex officio*, a concept that took a long time to establish. In Poland-Lithuania of the 16th-17th centuries, rabbinical office was linked to being a *rosh yeshivah*, thereby deriving much of its authority and prestige. In the main (albeit with various changes in details over time), this conception of rabbinic office remains dominant for contemporary Orthodox Jewish communities.<sup>51</sup>

In the late Middle Ages, attempts were made to re-establish a more centralized

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<sup>49</sup>The Jewish Encyclopedia, Vol. I, 337-338.

<sup>50</sup>Schwarzfuchs, Simon. A Concise History of the Rabbinate. Cambridge, Massachusetts: Blackwell Publishers, 1993, 25.

<sup>51</sup>Schwarzfuchs, 50ff.

rabbinic authority. Among the most notable efforts was that of Jacob Berab (1474-1546) to re-establish rabbinic ordination and, thereby, a centralized *bet din* which could act as a court of ultimate authority. His efforts did not bear fruit. More successful were the various legal codes which sought to provide authoritative, clear decisions in every area of Jewish concern. Maimonides' *Mishneh Torah*, and Caro's *Shulchan Arukh* were the most notable examples of his effort at centralized authority. While they did not create a center of rabbinic power, these and other codes provided a source of Jewish continuity and unity which crossed geographical and political boundaries.<sup>52</sup>

The *Shulchan Arukh* is the best known work of the scholar Joseph Caro (c. 1488-1575). Caro's motivations in the development of this tome were various in nature; one concern in his codificatory process was that of making an efficient halachic code that could be used by those were not necessarily scholars. It was divided into 30 sections, and published in small, pocket sized editions, so that it could be studied daily and read in its entirety each month. The greatest testimony to the importance of the *Shulchan Arukh* is its enduring centrality in the field of Jewish law. Within the text are discussions of relevant sources ranging from Bible to Talmud, from the works of the *Rishonim* to the *Aharonim*. In this way, the opinions and decisions of generations of scholars could be accessed, compared, and ultimately applied long after their deaths -- the manifestation of rabbinic power and influence *par excellence*.<sup>53</sup>

In practice, the power of the community rabbi was limited. In many cases

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<sup>52</sup>Louis Ginzberg, "The Codification of Jewish Law," *On Jewish Law and Lore* (Philadelphia: Jewish Publication Society, 1955), 179-180.

<sup>53</sup>*Ibid.*

rabbinical decrees required the consent of the *kahal*; similarly the rabbis right to use *herem* as enforcement of decisions was dependent upon community approval. The rabbi was required to issue decrees when requested specifically to do so by local Jewish secular authorities (*parnassim*). Additionally, some communities attempted to subject rabbis to taxes from which they had previously been exempt. In any case, the rabbi's limited authority applied only to the community which had appointed him.<sup>54</sup>

Examples of community restriction in Europe included:

1614, Venice: the rabbi was forbidden to ordain learned candidates without prior approval of the local lay leaders.<sup>55</sup>

1628, Venice: the community chose to do without the services of a rabbi, eliminating the office and assigning lay leaders to administer the law, even in matrimonial affairs.<sup>56</sup>

In general, the community rabbi was assigned the supervision of religious and ritual matters; civil and financial matters remained the purview of non-rabbinical courts.

Fiscal pressures became another source of conflict between religious and secular authorities in the Jewish world. In the 14th and 15th centuries, as the professionalization of the rabbinate progressed, it became common to pay salaries to community rabbis. Reliant upon the *parnassim* for their livelihood, many a *rab ha-ir*, now unable or unwilling to pursue another occupation, felt compelled to match their

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<sup>54</sup>Saperstein, 19.

<sup>55</sup>Ibid.

<sup>56</sup>Ibid.

ethical standards to the practices of their patrons.<sup>57</sup>

Whether the 13th or 18th century, critics were vocal in their outcry against rabbis they saw as being more concerned with retaining the favors of the local wealthy, than acting as the conscience of the populace. And, for better or worse, there were those who, choosing to overlook the actions of their patrons, gave the Jewish world the perception that their spiritual leaders were as a group easily corruptible. Thus for centuries the preachings of the rabbinic world were dealt upon a wary number of *kehillot*.

In many ways, the difficulties between rabbi and community were exacerbated by the insecurities of individual teachers and leaders. Rabbis were often greatly concerned about their personal prestige, especially when criticized for being lenient towards their financial patrons. Under the influence of the surrounding Catholic society, the rabbinate took a more clerical posture. Rabbis began to employ additional honorifics, such as *manhig*, or *rosh gola*. This was presumably in an effort to increase their societal stature. Yet the power of the rabbis did not increase, their purview remained that of *dat vadin*. And for those rabbis who sought to enter the world of lay communal administration, or vice versa, conflict was inevitable.<sup>58</sup>

An example:

1630, Venice: Leon de Modena argued that the lay prohibition against the gambling, under the penalty of herem, was invalid because herem, a matter of religious

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<sup>57</sup>Salo Baron, p. 79.

<sup>58</sup>Saperstein, 20.

law, was the purview of the rabbis and not the lay leaders.<sup>59</sup>

Like the modern age, rabbis in the employee of a community often saw their authority bled away by matters fiscal and political. Controversies over tenure and salary were prevalent throughout the late Middle Ages.

The words of the *Maharal* of Prague (d. 1609) serve to illustrate:

"Woe to us that the rabbi is dependent on the heads of the community -- that every year or three-year (*sic*) his appointment is reviewed. And how should he not fear, since he is in their power, conscious of the possibility that they may not renew his contract?"<sup>60</sup>

Contradictory trends were the rule in medieval and late pre-modern times. One would like to think that the rabbi's role and position in the community was central. And, where one had combined competence with a strong personality, he might very well have been accepted as the acknowledged leader of Jewish life. Salo Baron sites the heyday of rabbinical power and influence in Germany from the 15th to the 17th century, and in eastern Poland in the 19th, where the rabbi wielded almost unchallenged power. For example, rabbinical tenure became law throughout much of Eastern Europe's Jewish communities. But in general, we find a rabbi in the difficult and paradoxical position of one who must maintain his integrity when employed by people he sought to lead.<sup>61</sup>

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<sup>59</sup>Naveh, P., Ed., Modena, Leon Judah, "Zikne Yehuda" in Leket Ketavim, Jerusalem, 1968, p.181-2.

<sup>60</sup>Breuer, Mordechai, Rabbanut Ashkenaz b'yeme Habenayim. Jerusalem, 1976, p.118.

<sup>61</sup>Saperstein, 21.



It was only from the Middle Ages onward that the rabbi became -- in addition to, or instead of, the interpreter and decisor of the Law -- the teacher, preacher, and spiritual head of the congregation that we recognize in modern times. And, like their medieval counterparts, the rabbis of modernity would have to balance the powers granted to them by virtue of study and communal understanding, to the demands of an increasingly powerful secular Jewish constituency.

## **Modernity**

The nature of community changed in the New World for Reform Jews. Here in North America, the community structure of European Jewry was replaced by the synagogue-centered structure of American Jewish life. In this setting the authority of the rabbi was posed not against communal power, but rather against the power of the individual synagogue....<sup>62</sup>

Under the influence of modern times and through the interference of worldly governments, rabbinical authority has for hundreds of years been in steady decline. For myriads of 18<sup>th</sup> and 19<sup>th</sup> century emancipated Jews -- whose descendants have in many cases found a home in contemporary Reform Judaism -- the corpus of Jewish legal text had lost its air of authority. They became volumes of guidance, rather than governance, for Jewish laity and leadership. Ironically, as the authority derived from and imbued in rabbinical text has continued to decline in the last three centuries, the number of rabbinical conferences and conventions has increased inversely. It seems

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<sup>62</sup>Saperstein, 21ff.

that the more voluntary Judaism has become, the greater the perceived need for rabbinic convocations, in order to cope with the loss of scholarly power and authority.

The Reform movement, born of the Emancipation in Central and Western Europe, with its progressive rejection of traditionally received *halachah*, has changed the concept of rabbi and rabbinical authority altogether. The Reform rabbi is no judge. He has become to a large degree, for the first time in the history of the rabbinate, the facilitator and leader of the prayer service; as much a social leader as pastor and teacher. The authority of the Reform rabbinate comes from those who, by their association and affiliation with synagogues, accept the rabbi as ritual, intellectual, spiritual and social leader of the congregation. His ability to serve local communities comes from ordination at a recognized seminary. His power to interpret Jewish law is supported by the consensus of colleagues in general and congregants in particular.

With the Emancipation, Jews entered into the stream of general society, free to pursue as religious or as secular a life as they wished without fear of excommunication. Yet this freedom sometimes was seen as a tightrope, rather than a bridge. Many Jews were now striving to live in two worlds, where one had only been available previously. And as modern Jews found themselves living bifurcated lives, around them arose a dramatic re-evaluation of the sacred in the value system of Judaism. Science, democracy, and freedom of thought made the old standards of authority based on divine sanctions -- and as previously interpreted by the rabbis -- no longer applicable.

Two historical factors combined to create possibly the most significant change in the history of Jewish leadership. Following the Chmielnicki Massacres (c. 1648-9),

Jewish communities throughout Central and Eastern Europe were displaced, unable to retain their status as a distinct cultural and religious group tolerated by the surrounding majority.<sup>63</sup> 150 years later, the distillation of the Jewish polity into mainstream life occurred, albeit in a less violent form, in the West. In France in 1806, Napoleon called together an "Assembly of Notables", a prelude to his modern-day Sanhedrin, to gain a better "understanding" of the Jewish community. He asked questions about methods of appointing Rabbis, rabbinic jurisdiction, and Jewish law.<sup>64</sup>

According to one authority,

"the phrasing of these questions was intended to extract an answer which would so define the powers of the rabbinate as to allow its integration into the French state."<sup>65</sup>

Judaism had gone from being an nation to being a religion, one to be considered parallel, although not equal, to the Catholic majority of Napoleon's citizens.

The role of the rabbi was now radically altered. His traditional influence and functions were forced to evolve. With modernity, laymen had begun to stress practical modifications in traditional practice; the essential foundation of Reform Judaism. Rabbis at first attempted to defend such lay driven changes on the basis of traditional interpretation, the foundation of their authority for centuries. But as Rabbi Bernard Bamberger once said,

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<sup>63</sup>Ben-Sasson, H. H. A History of the Jewish People. Cambridge: Harvard University Press, 1976, 656-657.

<sup>64</sup>Schwarzfuchs, 79.

<sup>65</sup>Ibid.

"You cannot use authority to justify the rejection of that authority. Tradition might sanction reforms -- it could not sanction Reform."<sup>66</sup>

This new approach, which negated the unique authority of rabbinical interpretation, complicated the rabbinic role. The new rabbis of Reform disagreed with the "formal rabbinism" of tradition, which relied upon a hierarchic authority system. This they saw as inconsistent with modern religious forms.

Frankel: "There are no clergymen who by higher inspiration stand above the layman; but only teachers, who expound the Law."

Geiger: "Neither as priest, by his ordination, nor as officer, by the material power of the state, is he entitled to interfere in the direction of religious affairs; but only through his knowledge."<sup>67</sup>

To these and other leaders of religious reform, the only enforcing agency of religion in the modern world was the will of the community. Rabbinic decisions were to be viewed as guidance, even in the most Orthodox of settings. In this way both the rabbi and the congregation were autonomous. One could, by joining a congregation, choose to accept the authority of the rabbi for guidance and inspiration. But the same person could also choose to leave the community if they desired, and seek guidance elsewhere. The rabbi, despite the ordination he had received, had no power save that of persuasion in a modern society.

To maximize the persuasive powers of the rabbis, pioneer Aaron Chorin (1766-

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<sup>66</sup>Bamberger, Bernard. The Story of Judaism. New York, 1964, 279ff.

<sup>67</sup>Saperstein, 22.

1844), the early Hungarian reformer, felt that centralized authority for the changes sought by the Reform movement should reside in a synod comprising rabbinic and lay leaders. In this way, the layperson, though ultimately capable of rejecting the decisions of his local rabbi, would at least know that such decisions were backed by professional, if not legal convention.<sup>68</sup> Later, Isaac Mayer Wise (1819-1900) sought to convene a similar body. Although there was considerable debate about this matter in the early rabbinic conferences, nothing came of the idea of such a central authoritative body.<sup>69</sup>

Abraham Geiger (1810-1874) urged in 1837 that uniform changes be made through rabbinic conferences, and the first conference was held in that year, but nothing substantive was accomplished until the Brunswick Conference of 1844, which was followed by a series of others in Germany and the United States. These meetings discussed virtually every aspect of Jewish life and made decisions in connection with them.<sup>70</sup>

Although sometimes antinomian in mood, Reform Judaism has often worked within the broader framework of traditional authority. The rabbinic conference held in Brunswick (1844) made decisions about the nature of the service, marriage, divorce, the dietary laws, and much else by adapting the past to the present. These decisions were made in the spirit of both the biblical and rabbinic tradition, but with the clear understanding that the *Shulchan Arukh* was no longer a central guiding authority. That

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<sup>68</sup>Ibid.

<sup>69</sup>Ibid.

<sup>70</sup>Ibid.

was made absolutely clear through the statement of the Augsburg synod (1871), the Pittsburgh Platform of 1885, the Columbus Platform of 1937, and the Centenary Statement of 1976.

It goes without saying that the modern-day Reform rabbinate has been influenced by the environment in which it has developed. In the United States, democracy is considered the norm. This has created a new model for the Jewish community. In his essay, "Rabbinic Authority-Power Sharing", Rabbi Walter Jacob asserts that the American synagogue as a democratic institution is "at variance with the traditional view of rabbinic authority".<sup>71</sup>

Rabbis can no longer banish a person from a community. In fact, they are not seen as having any hold over a whole community, but rather only maintaining a limited influence over those who elect to affiliate with the congregations they serve. Adding to this democracy is the influential role of the lay leadership, both in financial concerns and religious issues. Additionally, there is the issue of relationship between rabbis both in local settings as well as in differing communities. How colleagues relate to another, for better or worse, has an impact on the level of respect and authority afforded a rabbi by his local constituents.

The earliest rules and procedures governing the Central Conference of American Rabbis were built on two types of concerns, those of collegial relationships between rabbis, and those of relationships between rabbis and the congregations they

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<sup>71</sup>Walter Jacob, "Rabbinic Authority - Power Sharing", in *Rabbinic-Lay Relations in Jewish Law* (Pittsburgh: Rodef Shalom Press, 1993), 83.

served. Later on, the division was made into two separate sets of rules: The Conference's Code of Ethics, and the Guidelines for Rabbinical-Congregational Relations. It is the latter set to which we will devote our energies later in this work.

While the issue of challenges to rabbinical authority will be discussed elsewhere, it is significant to note that from the time of the establishment of the Central Conference of American Rabbis (CCAR), the nature of rabbinic authority had been challenged not only from the laity, but from those ordained as rabbis themselves.

In 1891, the nature of rabbinical authority was discussed over an issue still prevalent in today society -- *milat gerim*, the ritual circumcision of male converts to Judaism. Mr. Henry Berkowitz sent an open letter to the Conference asking for rabbinical advice concerning the issue, posing his question to

"the rabbis in whom are vested the authority and duty to decide all such matters..."<sup>72</sup>

Examples of rabbinic response:

Felsenthal: "Have you or I or any other reform rabbi that right and authority?... I disclaim any authority and protest against the arrogant assumption of ecclesiastical authority by any rabbi or by any number of rabbis."

Emil G. Hirsch: "Rabbis have not the right to presume today to set their authority as rabbis, if there be such a thing in Judaism, against the discussion of this or any other question by whomsoever. There is no distinction in Judaism between layman and clergyman....only one between the scholar and the non-scholar."<sup>73</sup>

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<sup>72</sup>Saperstein, 22.

<sup>73</sup>CCAR Yearbook, vol. II, 1891, pp.85ff.

There were those rabbis who chose a different approach to the issue of authority in the modern period. Most significantly among those was Isaac M. Wise, who saw the need to assert a proactive leadership role for clergy in a synagogue setting.<sup>74</sup>

Wise stressed that the Conference was in fact the source and safeguard of rabbinic authority in modernity. He was convinced that the actions and resolutions of the CCAR could serve as the standards of Jewish practice in North America.

Wise: "It is the duty of the united rabbis to protect Judaism from stagnation and each individual rabbi from attack... all reforms ought to go into practice on the authority of the Conference... if many support one, one is a power. If one sustains many, he acquires the wisdom and energy on the many. We must have a united rabbinate."<sup>75</sup>

It may be argued that both views mentioned above have had their successes in North American Jewish life. As will be seen in chapter three, the efforts and support of the Conference have provided for the successful resolution of major issues between clergy and laity, such as freedom of the pulpit, proper recompense for rabbinical duties, and the maintenance of rabbinical authority over religious issues facing the synagogue and social issues facing the greater community. To be sure, each of the above issues has from time to time been a source of contention between the rabbi and laity in individual community settings. But such incidents have proven the notable exception, rather than the rule, even with the increase in recent decades of lay participation in the social, intellectual, scholarly and spiritual life of local Jewish communities.

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<sup>74</sup>Saperstein, 23.

<sup>75</sup>CCAR Yearbook, vol. I, 1890, p.90ff.



What have we learned from the above analysis?

First, that the unique and unquestioned power and prestige of the rabbinic office in former days which has generally been assumed is not substantiated by the literature or historical sources. The struggle for power between rabbi and layman is a continuous element of Jewish and social history. The story of the rabbi in the past as in the present is one of tension and conflict, of struggle and searching to find and fulfill his role. And that role has usually been most effective when it involved the specialization in religious leadership.

Second, through most of our history the rabbinic office carried no coercive power in and of itself. Rabbinic law was normative law, and the rabbi assumed his authority not because of his office but because of his mastery of this law. The people accepted it as a divinely sanctioned obligation. His authority lay in his scholarly attainments and in the corresponding measure on his acceptance by the community.

Third, in the contemporary world rabbinic authority is no longer backed by the sanction of divine origin. The element of compulsion and coercion has been eliminated. The stress is now totally on voluntary acceptance....our authority is no longer imperative, it is now influential.<sup>76</sup>

As we will see in the next chapter, acceptance of rabbinical authority was by no means a given throughout Jewish history. Chapter Two will provide examples and insight into those recorded instances where challenges to rabbinical authority have been raised not only on the communal level, but even in courts of traditional law.

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<sup>76</sup>Saperstein, 24-25.

## **Chapter Two: 'Crises in Communal Leadership'**

*We now move into a study of representative examples of 'crises in communal leadership'. Such crises, which have for the purposes of this work been defined as "challenges to the normative function of the recognized authority figure in an existing Jewish communal institution", help shape our modern understanding of how disputes between leaders and laity have impacted the life of the kahal throughout the ages.*

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*"Any dispute which is for the sake of Heaven, will in the end endure.  
Any dispute which is not for the sake of Heaven, will not endure..."  
(Pirkei Avot 5:20)*

Throughout Jewish history, there have appeared many instances where the decisions of a leader have been challenged by his constituents. These challenges to communal leadership have been raised over a myriad of issues. Some examples include: who has a more direct 'access' to the knowledge of God? Who understands the laws of a particular ritual better? Who is fit to lead the community in times of turmoil? What recompense -- spiritual, political, financial -- does the leader of a community deserve?

We often refer to the history of Judaism as a dialectic. That is, we understand that it is consistent with Jewish teaching for opposing views of law and ritual to co-exist, and even thrive in different communities, depending on the will of the polity. No one

expects complete uniformity of practice in a world where every human being, let alone communities of human beings, are unique. And we understand that, primarily, disputes between scholar and scholar, or scholar and community, are 'for the sake of heaven'. That is, disputes occur in the honest effort to properly interpret the will of God.<sup>77</sup>

Yet there have been instances where conflict has arisen between the leader of a community and the populace which has not been 'for the sake of heaven' -- at least in the eyes of the chroniclers. These challenges to the normative function of the communal authority have been viewed as arising because of other motivations, unworthy of the mission of Judaism, to serve as a 'light unto the nations'.<sup>78</sup>

Yet these stories are illustrative in many positive ways. They provide a pathway into the mind set of dissent, as expressed by our ancestors. They link the present to the past in ways which people, for better or worse, can understand. For while the healthy questioning of authority 'for the sake of heaven' is to be understood, expected and even lauded, all too often the disputes that arise between rabbi and laity bring out the darker side of human nature, the side that wishes for inappropriate levels of power and influence over fellow Jews.

Here are a few examples of such cases, as chronicled through the epochs of Jewish history. They have been chosen as representative examples of communal dispute not because the stories are so mysterious and fanciful -- though a few do occur

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<sup>77</sup>Pirke Avot 5:20 is the source for the phrase 'for the sake of heaven', citing the disputes between Hillel and Shammai as the classic example of such 'worthy' dispute between fellows.

<sup>78</sup>Ibid. Note that the source for the phrase 'not for the sake of heaven' is the dispute between Korach and Moses, which will be summarized below.

in the midst of extraordinary events. Rather, they are here because they are easily recognizable to modern eyes as events which could occur in today's synagogue board rooms. And while the parties in the dispute may not always be as clearly defined as 'rabbi' and 'layperson' — in fact there are a few stories listed in this chapter which speak of scholarly, rather than rabbi/lay dispute — the common theme throughout all of the events is that, for better or worse, the established authority in a community is being unduly challenged, harassed for the sake of what we now term 'unhealthy conflict', rather than conflict which is 'for the sake of heaven'.<sup>79</sup>

### **In the Biblical Period — *The Age of Moses to the Reign of David***

#### Moses, Korach, and the Threat of Rebellion

The following principle regarding dispute is established in Talmud:

"Rav said: He who is unyielding in a dispute violates a negative command, as it is written, 'And let him not be as Korach, and as his company.'"<sup>80</sup>

The rabbis of antiquity have placed the Korach rebellion into a special category in Jewish history. It is a special type of dispute because it cuts to the heart of the

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<sup>79</sup>For the purposes of this work, 'healthy conflict' is defined as any dispute whose goal is the resolution of an issue, performed in a way that allows all parties to learn and grow from the experience. 'Unhealthy conflict' is defined as any dispute whose goal may or may not be the resolution of an issue, but performed in a way that does not allow for the education and/or growth of all parties involved. Illustrations of both types of conflict will follow below and in the third chapter.

<sup>80</sup>Sanhedrin 110a.

matter of religious authority. Why, Korach asks, can't all Israelites, all touched by the words and deeds of God, feel free to worship Adonai as they wish? It is a seemingly innocuous question, especially to modern ears.

Yet both *Pirkei Avot*<sup>81</sup> and Talmud<sup>82</sup> say that the structures of religious authority in every age are to be respected, so that the people will not begin to misunderstand the will of God. No one person<sup>83</sup> has the right to challenge the essential structure of religious life for Israel. Korach asks a meaningful question, but his answer may cause the fledgling Israel to lose its national cohesion. He is, then, is the first major internal challenge to the survival of the Jewish people. It is no surprise that his rebellion is aborted in a most spectacular fashion.

After a contest between the followers of Korach and Moses involving the offering of fire-pans of incense, Korach and his 250 cohorts are swallowed up alive by the earth.

"Now Korach...betook himself...to rise up against Moses, together with 250 Israelites, chieftains of the community...(they) said, "You have gone too far! For all the community are holy, all of them, and the Lord is in their midst. Why then do you raise yourselves (Moses and Aaron) above the Lord's congregation?"

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<sup>81</sup>Pirkei Avot 5:20.

<sup>82</sup>See footnote 11, below.

<sup>83</sup>Or even God, as we will see below in the commentary to Baba Metzia 59b.

"...and the earth opened its mouth and swallowed them up with their households, all Korach's people and their possessions. They went down alive into Sheol, with all that belonged to them; the earth closed over them and they vanished from the midst of the congregation."<sup>84</sup>

Then God commands that the 250 pans of the rebels be pounded into plates to cover the altar:

"To be a memorial to the children of Israel, that no stranger who is not of the seed of Aaron, come near to offer incense before God; do not be as Korach, and his company, as God said by the hand of Moses him."<sup>85</sup>

Nachmanides claims that this verse comes to teach a negative Torah commandment. The lesson is that it is forbidden to rebel against the established religious leadership.

"'God said by the hand of Moses concerning him' -- Aaron, as High Priest, and not any other family!"<sup>86</sup>

The Hatam Sofer (Rabbi Moses Sofer, 1763-1839) uses this text to bemoan the fact that all too often, when two people argue, one (or both) of the parties involved will claim that only he has a correct understanding of God's wishes. Consequently he has the only right opinion, and the other must be de-legitimized.<sup>87</sup>

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<sup>84</sup>Numbers 16:1-4; 32-34.

<sup>85</sup>Numbers 17:5.

<sup>86</sup>Nachmanides, Commentary on Numbers 17:5.

<sup>87</sup>Jacob Lauterbach. American Reform Responsa. Cincinnati: Hebrew Union College Press, 1932, 82-84.

The Hatam Sofer refers to R. Eliezer in the Talmud, who actually did have a 'pipeline' to God<sup>88</sup>, but whose opinion was still refuted by the gathered sages. Though we may all have, as Korach and his followers contend, a connection to Adonai, there remains a chain of authoritative interpretation of God's word whose power comes from the study of text and tradition.

### Midrashic Interpretations of the Power Struggle Between Joshua and Moses

From *The Chronicles of Moses*:

When God told Moses he was nearing the end of his life, he asked God why he must die. "Because I have assigned Joshua to lead the Israelites into Canaan," God answered. "Let him lead," said Moses. "I shall be his servant." God agreed, but Joshua was not happy about the arrangement. "Do you not wish me to live?" Moses asked him. And Joshua consented to become the master of Moses. When they were about to enter the holy tent, a cloud appeared. Joshua was allowed within the sacred spot, the Moses had to remain outside. Said Moses, "a hundred deaths are preferable to one pang of jealousy." And he asked to die.<sup>89</sup>

Why is this apocryphal tale significant? For it shows that even Moses, the greatest leader of the Jewish people, can provoke a dispute which is not 'for the sake of heaven'. Here, Moses challenges the natural order of leadership as prescribed by God, where Joshua will take up the mantle of authority from Moses after the laying on of hands. Yet what happens to the 'emeritus' once his mantle of power is transferred to

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<sup>88</sup>See the commentary to Baba Metzia 59b, below.

<sup>89</sup>Francine Klagsbrun. Voices of Wisdom: Jewish Ideals and Ethics for Everyday Living. New York: Pantheon Books, 1980, 48.

the next generation? Surely there have been modern instances where the retired leader of the religious community has found his new-found status disturbing, so much so that the need to maintain a political as well as spiritual connection to the *kahal* becomes acute. And we have also witnessed how such situations create a dilemma for the new religious leader as well as the established members of the laity. To which rabbi — new or old — does the congregation owe its loyalty? Can the members of the community be loyal to both rabbis, in different ways? And perhaps most importantly, to which leader do the members of the *kahal* abrogate their religious autonomy?

In the case of Joshua and Moses, God Himself serves as the mediator, making it clear to Moses that, no matter his degree of stature, he is no longer the interpreter of God's wishes.

Modern mediators called in to help emeriti and newly-appointed rabbinic leadership adjust to their new status may take a less dramatic approach than God does, barring Moses from the Tabernacle while Joshua enters the Tent of Meeting. And certainly one would hope that the emeritus in question would not seek death over retirement! But the overall message is a profound one. No matter the level of love and respect afforded to a rabbi by his constituents, there can be only one senior leader of the local community at one time.



### King and Prophet: David and Nathan

King David, holder of the religious as well as political crown of Israel, chooses to remain in Jerusalem during the "season when kings go out [to battle]"<sup>90</sup>. One day David strolled out onto the roof of the palace, and found himself enamored by the view of a strikingly beautiful woman bathing on a rooftop. Though he soon discovers that the woman in question, Bathsheva, is married to one of his soldiers, he nevertheless sends for her, and impregnates her. In an effort to conceal his actions, David sends for Bathsheva's husband, Uriah the Hittite, and directs him to spend time with his wife while at home from the current war being waged between Israel and the Ammonites; "David said to Uriah, 'Go down to your house and bathe your feet...'"<sup>91</sup> When this ploy proves unsuccessful, David concludes that it would be best to simply have Uriah meet his fate at the forward lines, and directs that Uriah be placed in harm's way during battle; "Place Uriah in the front line where the fighting is fiercest; then fall back so he may be killed..."<sup>92</sup> Not soon after this decree, Uriah is struck down by the enemy.

After Uriah's death, David brings Bathsheva into his household and marries her.

Soon after, Nathan the prophet comes to visit the king, and tells him a story:

"There were two men in the same city, one rich and one poor. The rich man had very large flocks and herds, but the poor man had only one little ewe lamb that he had bought...one day a traveler came to the rich man, but he was loath to

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<sup>90</sup>|| Samuel 11:1.

<sup>91</sup>|| Samuel 11:8.

<sup>92</sup>|| Samuel 11:15.

take anything from his own flocks or herds to prepare a meal for the guest who had come to him; so he took the poor man's lamb and prepared it for the man who had come to him."<sup>93</sup>

David then grew angry at what he had been told:

"As the Lord lives, the man who did this deserves to die! He shall pay for the lamb four times over, because he did such a thing and showed no pity."<sup>94</sup>

Nathan, of course, then brings his point home to the king:

"...That man is you! Thus said the Lord, the God of Israel: 'It was I who anointed you king over Israel and it was I who rescued you from the hand of Saul. I gave you your master's house and possession of your master's wives; and I gave you the House of Israel and Judah; and if that were not enough, I would give you twice as much more. Why then have you flouted the command of the Lord and done what displeases Him? You have put Uriah the Hittite to the sword; you took his wife and made her your wife and had him killed by the sword of the Ammonites!'"<sup>95</sup>

Nathan then promises that David's house would not know peace in the years to come, as a result of his misuse of power. And, as a result of David's actions, he and Bathsheva's first child would die within days of his birth.

To tell the king of a people that he has done wrong by his subjects takes a special kind of gall, one that in the days of David came only from those who carried the revealed message of God by their voice. Nathan challenges the authority of David to send his soldier into harm's way, because the motivation for his action is impure. And

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<sup>93</sup>II Samuel 12:1-4.

<sup>94</sup>II Samuel 12:5-6.

<sup>95</sup>II Samuel 12:7-9.

God validates the words of Nathan, through the calamity of a lost child. Is this mediation? No. It is far more effective. It is the validation of the prophet's challenge to the king, the demonstration of the rightness of Nathan's message.

This episode in the life of Israel is important not because it is a matter of diplomacy or arbitration. Rather, because it is one of the most successful challenges of a figure of religious (and in this case political) authority in the Bible. The literary parallels are clear. Nathan, like Moses, rebukes the leader of a great nation. And David, like Pharaoh, pays the ultimate price -- the loss of a child -- for his iniquities against the innocent. The prophetic rebuke is done for the sake of heaven. It is done for the preservation of the right interpretation of God's dictates by an errant servant of Adonai, the representative of God's word to the people. The challenge of David by Nathan is done to restore the balance lost by David's misuse of power. By losing the child conceived out of wedlock, and at the expense of Uriah's life, balance and responsibility are restored to David's house.

### **In the Rabbinic Period — *The Destruction of the Temple to the Rise of the Gaonate***

#### Baba Metzia 59b

The Talmud records how R. Eliezer disagreed with his contemporaries on the status of a particular oven. He was absolutely convinced that he was right, and to prove his claim, he asked and received a series of signs from heaven demonstrating the

accuracy of his halachic opinion. Nevertheless, since his was a minority view in the face of a majority ruling, his refusal to relent led to his excommunication.

"It has been taught: On that day R. Eliezer brought forward every imaginable argument, but they (the Sages) did not accept them. Said he to them: 'If the halachah agrees with me, let this carob-tree prove it!' Thereupon the carob-tree was torn a hundred cubits out of its place — others affirm, four hundred cubits. 'No proof can be brought from a carob-tree', they retorted. Again he said to them: 'If the halachah agrees with me, let the stream of water prove it!' Whereupon the stream of water flowed backwards. 'No proof can be brought from a stream of water', they rejoined. Again he urged: 'If the halachah agrees with me, let the walls of the schoolhouse prove it', whereupon the walls inclined to fall. But R. Joshua rebuked them, saying: 'When scholars are engaged in a halachic dispute, what (right) have you to interfere?'...

Again he said to them: 'if the halachah agrees with me, let it be proved from Heaven!' Whereupon a heavenly voice (*bat kol*) cried out: 'Why do you dispute with R. Eliezer, seeing that in all matters the halachah agrees with him!' But R. Joshua rose and exclaimed: 'It is not in heaven!'. What did he mean by this? Said R. Jeremiah: That the Torah had already been given at Mount Sinai; we pay no attention to a Heavenly Voice, because You had long written since in the Torah at Sinai, 'After the majority must one incline'...

It was said: On that day all objects which R. Eliezer had declared clean were brought and burned in fire. Then they took a vote and excommunicated him."<sup>96</sup>

One may argue that this passage proves the ultimate validity of independent, human reasoning in matters concerning Torah. Once it is given to the Jewish people, the Law becomes their responsibility to disseminate, interpret and promote in communities worldwide.

There is, perhaps, another view that may be put forward for consideration, one

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<sup>96</sup>Baba Metzia 59b.

more relevant to the issue of challenging established rabbinic authority. Here is another interpretation of the Talmudic passage quoted above: Rabbi Eliezer, the legal authority of the era, endorsed not only by his contemporaries but even by deity for his views, is deposed by sagely revolt. When the voice of Heaven attempts to mediate what appears to be a legal dispute, even it is rebuked by the scholars -- an incredible, seemingly unlikely event, considering how little the *bat kol* reveals herself to human beings after the ages of patriarchy and prophecy. Then, after the decision of the sagely majority is affirmed, the dissenters assume the mantle of rabbinic power in the region, declaring that Eliezer, once the first among peers, is now subject to *herem*. This tale is now able to serve as a classic example of what can happen when the majority decides to enforce rules of order not because they are correct, but because they are the collective will. Where in the case of Korach the question was the preservation of a fledgling religious structure versus the demands for individual religious expression, here the issue can be seen as something altogether different. In the age of this rabbinical dispute, one could argue that the survival of religious forms is not in question. One could put forward the notion that this is not a tale concerning truth and accuracy. Rather, it is a story concerned with the public perception of authority, and political expediency.

#### Rabban Simeon ben Gamaliel

This challenge to rabbinical authority occurred around the middle of the second

century CE, in the aftermath of the Bar Kochba war, and is chronicled in *Horayot 13b*. The leaders of that generation were faced with the difficult task of reconstructing Jewish morale and religious institutions that had been shattered in the wake of the revolt and its subsequent suppression by the Romans. In the wake of such catastrophe, the question seems to have been raised: who can best inspire, as well as teach the people? Does the style of rabbinic leadership affect the welfare of the community? And if it does, what, if anything, should be done to change that style, or perhaps even the rabbinic leader?

The story is summarized as follows:<sup>97</sup>

The head of the community in that time was the *Nasi* Rabban Simeon ben Gamaliel. Although he was a well-known scholar and heir to a dynasty of Patriarchs that traced its origins to Hillel (and is known as the father of Rabbi Judah the Prince), Rabban Simeon seems to have, for some reason, been unable to sustain the confidence of his students. Eventually his authority became a source of dissatisfaction among his colleagues.

We do not know precisely what the issue was that gave rise to the questioning of Rabban Simeon's leadership. The Talmud ascribes the conflict to his introduction of ceremonies and protocols that did not give suitable recognition to the senior sages of the Sanhedrin. Perhaps that reason should be accepted at face value. Or perhaps

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<sup>97</sup>See *The Soncino Talmud on CD-Rom* (New York: Davka Corporation and Judaica Press, 1995) for a more complete summary of *Horayot 13b*.

deeper issues related to the leadership of the Rabban were in play. Whatever their motives, two of the prominent rabbis on the Sanhedrin became disgruntled with the *Nasi's* leadership and looked for a way to force him out of office.

They hit upon the idea of quizzing him about an obscure and rarely studied area of Jewish law known as "*Uktzin*" (dealing with the purity status of the stems and handles of various plants and foodstuffs). If things went according to plan, then it was virtually certain that the Patriarch would be caught unprepared and would be unable to answer the questions that were posed to him.

The plotters hoped that the resulting humiliation would force Rabban Simeon to resign. Fortunately for the *Nasi* one of his supporters, Rabbi Jacob ben Korshai, got wind of the conspiracy. On the night preceding the planned confrontation, Rabbi Jacob sat outside Rabban Simeon's room and recited aloud the texts that would form the basis for the next day's test. Simeon, though puzzled at this choice of subject matter, began to suspect that something might be afoot and decided to spend the night brushing up on the material.

Rabbi Jacob's plan was successful. When the session convened the next day, the Patriarch breezed through the quiz to the amazement of the assembled rabbis, and to the distress of his opponents. The *Nasi's* authority was reinforced and the rebels were disciplined.

Was a challenge to Rabban Simeon's leadership necessary? Let us remember the setting in which this encounter occurs. The Jewish people are decimated. They

believe that God has forsaken them, at least for the present, by allowing the Bar Kochba rebellion to fail; the City of David to be stripped of its name, renamed 'Ailia Capitolina' by Roman Emperor Hadrian. In such dire circumstances, the only viable tools available to Jews were study and faith. Rabban Simeon appears to have been able to provide the adequate levels of scholarship necessary for Jewish survival. He was perhaps not the greatest of scholars, but he was far from incompetent.

But the rabbis who challenge Simeon's authority do not do claim that he is a poor scholar. Rather, they object to his leadership because he has apparently failed to give the dissenters proper deference during ceremonial events. The question must be asked: would such 'perceived' slights be overlooked if the Rabban was able to otherwise inspire the people to hope in a time of desperation?

The questioning of Rabban Simeon's authority seems to have more to do with leadership style, than with adjudicating ability. Perhaps this is why Rabbi Jacob, feeling that the challenge to his Rabban under such circumstances was illegitimate, chose to sit outside Simeon's door and aid his master before the morning's confrontation.

It would be ideal for a rabbi to possess both an inspiring style, as well as intellectual talent. In uncertain times in the life of the community, an inspiring manner may make the difference between hope and despair for people. But sometimes, the issue is not if you can say it with panache, but is simply if you can say it at all. Simeon was able to adjudicate even the most esoteric pieces of law, and therefore reassert his right to lead the Sanhedrin into the next century. Would that he had proved able to



provide the kind of hope that his detractors were seeking, and possibly prevented the challenge to his power. But each generation will decide what traits they seek most in a leader, and how to act when they perceive those traits to be lacking.

### Rava and His Students

There are other occasions in Talmudic literature where stories are told to attack a particular rabbi or school. Here, in the story of Rava and his students, the issue has less to do with Rava's ability to adjudicate, but rather with his lack of character as a leader of scholars and judge of the people. The challenge to his power by Rav Ika b. d'Rav Ami comes not only for the sake of the helpless 'congregant' and his son Rav Mari (who also happens to be a fellow student in Rava's academy), but in the hopes that his master Rava will realize his abuse of authority.

In *Baba Batra 149a*, Rava refuses to provide Isur the convert, who is lying on his death bed, with the legal means to transfer his properties to his son Rav Mari. Rava's plan is to use his mastery of halachah in order to take possession of the valuable property himself when Isur dies. Rava discusses several ways in which ownership of property is normally transferred from father to son, and explains why, because of Isur's status as convert, each method has no efficacy here. But another student of Rava, Rav Ika b. d'Rav Ami, comes to Isur with a compromise, suggesting a way in which Rav Mari can in fact inherit his father's possessions without Rava's cooperation. Isur follows suit with Rav Ika b. d'Rav Ami's suggestions, and is able to give his son his property,

depriving Rava of the possibility of ill-gotten gain. When Rava hears of this, he angrily denounces his students for causing him economic loss.

It must be noted that Rava is perfectly within his rights in holding on to Isur's property, since Rav Mari, born to Isur before he converted, has no claim to his father's inheritance according to Jewish law. But that is not the point. If a student of Rava's can discover the enabling legal loophole which will allow Rav Mari to inherit his father's fortune, then surely Rava has the ability as well. Yet he chooses not to use his power for the greater good of his 'congregant' and his student. And that choice, in the eyes of his student Rav Ika b. d'Rav Ami (and in the eyes of the writers of Talmud, since they chronicle the episode), is simply wrong. Ika must challenge his master. As leader of the community, Rava has been entrusted by his constituents, due to his mastery of halachah, to do right by them, to not take advantage of awkward situations. Here a valuable tale is retold: with great power comes great responsibility. Rava does not deserve what is not rightfully his, even though he may manipulate the law to say otherwise. For once he does such a thing, his financial gains will be more than offset by the loss of public trust, not only by his constituents, but by those students who had sought to live by his example.

#### Elazar and Yohanan

A story dealing with R. Elazar ben Pedat and his relationship to his master R. Yohanan (Amoraim of the second and third generations) also brings forward the issue of

character, and how challenges to such character can be ultimately rescued by scholarly intervention.

In *Yebamot 96b*, Elazar once states a halachic opinion and fails to attribute it to its author, his master R. Yohanan. Yohanan is angry with Elazar, and expresses his extreme displeasure with Elazar's seemingly shameless plagiarism. This is a dangerous situation for Elazar, for if his burgeoning rabbinical authority is successfully challenged by one as influential as his teacher Yohanan, his career and possibly continued membership in the greater Jewish community will be compromised. Fortunately for Elazar, R. Yaakov bar Idi is able to bring about a reconciliation between student and master. Yaakov cleverly compares the relationship between Yohanan and Elazar to that between the biblical heroes, Moses and Joshua. The relationship between master and disciple in both instances is so close that there is no need for the disciple to quote the master by name, argues Yaakov bar Idi. Just as the ancient Israelites knew that everything Joshua said he heard from Moses, so too everything Elazar says derives from his teacher, R. Yohanan. In this manner both the needs of the student and the master are met. Elazar is portrayed as the devoted student, whose lack of citation is due to his closeness of heart with his master. And Yohanan's need for attribution is met. But let there be no mistake. Yaakov's actions, while face-saving (and in this case, career-saving for Elazar), are a one-time measure; both master and student, while reconciled, will be mindful of their proper roles and boundaries in the future.

## **In the Medieval Period, to the Emergence of Modernity – 14<sup>th</sup> to 19<sup>th</sup> Centuries**

### Saragossa, 1385

For most of the last quarter of the 14<sup>th</sup> century, the communal administration of Jewish Saragossa was under the control of Solomon Abnarrabi, one of the highest-ranking elders of the community<sup>98</sup>. From all historical accounts, he was not a well-liked man. Complaints had been brought to royal Spanish officials for years, claiming that the community had time and again been brought to the verge of ruin by Abnarrabi's faulty leadership.<sup>99</sup> Although every royal investigation of financial misconduct had exonerated Abnarrabi, the general culture of mistrust had lingered.<sup>100</sup>

In time, the concern over Abnarrabi's power had allowed the rise of another figure in Jewish Saragossa, whose every word and action challenged the elder. Rabbi Isaac ben Sheshet Perfet was considered honest where Abnarrabi was deceptive. He was the voice of the people, where Abnarrabi was the voice of the crown.<sup>101</sup> In 1385, the public dispute between the two men took a dramatic turn. After a vocal difference of opinion between the rabbi and the elder, Abnarrabi, in collusion with the royal official of

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<sup>98</sup>Yitzhak Baer. A History of the Jews in Christian Spain (Volume II). Philadelphia: Jewish Publications Society of America, 1966, 62.

<sup>99</sup>Ibid.

<sup>100</sup>Ibid.

<sup>101</sup>Baer, 63.

Saragossa, has R. Isaac thrown into prison.<sup>102</sup> Just then,

"...almost all the Jews of that community were incited by an evil spirit. They gathered themselves together and made a rebellion, breaking into the home of that Solomon with loud cries of 'Death to Solomon Abnarrabi! Death!' And when they did not find him at home, they shouted again and again: 'Burn him! Burn him we will!'"<sup>103</sup>

The people then brought wood and torches, and would have burned the house down had they not been prevented by royal officials. After a royal inquiry, the monarch Pedro IV, satisfied with the relationship between himself and the elder, imposed a collective fine upon the entire community for their actions against Abnarrabi. R. Isaac was released from prison, but within a few short weeks was forced to leave his post in Saragossa, and soon after resettled in Valencia.

Here, a legitimate issue concerning the welfare of the community – the fiscal health of the *kahal* -- divided rabbi and elder from one another. It happened to be that the rabbi enjoyed the popularity of his constituents, while Abnarrabi was at best mistrusted in the eyes of fellow Saragossan Jews. But did Rabbi Isaac use his popular influence properly to affect necessary change? One must question the wisdom of Rabbi Isaac, in using his oratory skills to humiliate his elder before community and crown.

Though it might not have provided the community with a different outcome, one must wonder if a more private exchange between Rabbi Isaac and elder Abnarrabi would have preserved the dignity of both offices. To modern eyes, the image of a rabbi

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<sup>102</sup>Ibid.

<sup>103</sup>Baer, 64.

inciting congregants to 'overthrow' a member of the synagogue board seems extreme. Apparently, the image was also disturbing to both the elder Abnarrabi and the crown of Spain.

Rabbi Isaac may have had the populace on his side, but he used his power and influence in a way least likely to affect peaceful change. Ultimately, the dignity of both offices did suffer from the encounter -- a rabbi imprisoned and ultimately exiled from the community, an elder seen to be even further under the influence of the royal crown.

#### Yochanan and Isaiah

In 1386 or 1387, Yochanan Treves, leader of the rabbinate in Northern France, asked the rabbi of Catalonia to intervene in the dispute between him and a certain Rabbi Isaiah, son of Abba Mari, also known as Astruc of Savoy. Isaiah was a former pupil of Yochanan's father, Mattathias, who was led the community until his death. Isaiah began to issue decrees not in keeping with the local tradition. He then fled France and won the support of Rabbi Meir ben Barukh ha-Levi of Vienna, one of the preeminent leaders of the era, who declared that Isaiah's

"...scepter and dominion should be over all France, and no other rabbi dare establish himself in France without Rabbi Isaiah's permission. [If he were to do it], all his deeds...would be invalid..."<sup>104</sup>

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<sup>104</sup>Simon Schwarzfuchs, *A Concise History of the Rabbinate*, 28-31.

Yochanan of course could not accept such interference, and so sought the advice of an outside party, namely the Catalanian rabbis, whose decision would not be swayed by the King of France or by the Rabbi of Vienna.

The conflict was significant on many levels:

First, the conflict had to do with the mode of electing rabbis. There were two schools of thought. One felt that a rabbi, in order to perform his duties, had to meet two conditions, that is ability and election. The other view held that a certificate of ability would be sufficient, and that a teacher was entitled to appoint his disciples to serve in a rabbinic capacity where ever he thought it advisable. The community should be only too pleased to be able to secure the services of the qualified person.

Second, this was a case where the rabbi of a foreign country was interfering in the affairs of another community without having been approached by the established leadership. The Catalanian rabbis Yochanan had consulted did not hesitate to condemn such ambition.

However, that ambition was, to a certain extent, understood given the dilemmas of the day. Meir had felt compelled to intervene in the affairs of Yochanan, for he wanted desperately to regulate the rabbinic function throughout Europe in the wake of the Black Death, which years earlier had decimated the learned ranks throughout Europe. Meir thought the best way to do this was by introducing a rabbinic diploma. This was a step Yochanan, the hereditary holder of his position, firmly opposed. Isaiah,

however, was amenable to any plan which gained him support in France.<sup>105</sup>

Ultimately Yochanan, with the support of the Catalanian rabbis, retained his position until 1394, the year Jews were expelled from France. He enjoyed a high reputation as one of the foremost rabbis of the day. Isaiah, on the other hand, faded into obscurity shortly after this incident.<sup>106</sup>

Here it must be understood that the efforts made to depose Yochanan were, seemingly, done for the best of reasons. Meir appeared to truly believe that backing Isaiah, regardless of Isaiah's personal motivations for seeking the mantle of rabbinic leadership in France, was the best way to ensure a continuity of Jewish scholarship on the continent. Because Yochanan viewed his own position of leadership from one of heredity coupled with scholarship, rather than the academic subordinate to a degree-granting Viennese rabbi, Meir felt that he had to go.

One cannot help but feel for Meir's position. Although he knows that Yochanan is a capable leader, and although he knows that Isaiah's motivations for seeking his support are primarily selfish, he nevertheless chooses to aid in Yochanan's deposition, for the sake of a greater principle. Yet while the quality of the holder rabbinic office is important, the question remains -- did change need to be attempted in such an abrupt fashion? We may find cases of individual communities where the quality of rabbinic leadership is considered poor. But is that a valid enough excuse to depose those

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<sup>105</sup>Schwarzfuchs, 29-30.

<sup>106</sup>Schwarzfuchs, 31.



individual leaders who do quality work for their constituents in the name of regulation? It is a question which remains unanswered today, just as the issue of private ordination versus ordination of rabbis from a recognized seminary causes responsa to be written and conventions to convene. Is the issue the quality of the individual ordinee, or the validity of the system by which an ordinee is trained? We can see that the issue has been brewing for quite some time in various Jewish communities.

#### Leone di Vitale and the Jewish Community of Florence, 15<sup>th</sup> Century

Leone di Vitale (1420-c.1495) was a medical doctor and learned rabbi known throughout Medieval Italy for his skill in both disciplines. He was usually addressed by his received title 'Messer Leon', bestowed upon him by the Pope sometime in his early adulthood.<sup>107</sup> In the middle part of the 1400's, Leon moved to Florence, Italy, and assumed the role of community rabbi. Soon after his arrival, the rabbi attempted significant changes in local liturgical and ritual practice.

First, Messer Leon attempted to regulate the system of counting the minimum number of days that must elapse between the end of a woman's menstrual period and her immersion in *mikveh*. Leon insisted on trying to impose a custom based on the Ashkenazi rite, more rigorous than that followed by the Florentines, who, being Italians,

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<sup>107</sup>Robert Bonfil, Jewish Life in Renaissance Italy. Los Angeles: University of California Press, 1994, 103. Sadly, Bonfil does not accompany his historical anecdotes with specific dates, hence the generalities concerning the timeline of events in this subsection.

traditionally followed Sephardic custom.<sup>108</sup>

Second, Leon condemned the study of Kabbalah in Florence, asserting that

"...anyone addressing his prayers to an intermediary between himself and the Creator is behaving in a false and evil matter...shun, then, the tents of the Kabbalists, buried beneath the evil they do themselves by multiplying their invented attributes of God..."<sup>109</sup>

In essence, Leon believed that adherence to Kabbalah was tantamount to perceiving Judaism through the lens of paganism, i.e. Christianity.

Third, Messer Leon attacked the philosophical commentaries of Levi ben Gershon (Gersonides), claiming them to be as dangerously heretical, due to their heavy emphases on classical philosophical disciplines, as the teachings of Kabbalah.<sup>110</sup>

On all three points, Messer Leon was claiming authority in the community not only as ritual leader, but also as a censor of customs and culture.<sup>111</sup> His attacks on the common culture of Jewish Florence, coming so soon after his arrival in the community, were met with violent reaction.<sup>112</sup> One of the chief resisters of Leon's policies was Guglielmo da Montalcino, himself a rabbi as well as moneylender, and one of the most influential members of the Florentine community. It appears that Guglielmo, unlike

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<sup>108</sup>Bonfil, 182

<sup>109</sup>Bonfil, 183.

<sup>110</sup>Bonfil, 183.

<sup>111</sup>Ibid.

<sup>112</sup>Bonfil, 184.

Leon, favored the use of both Kabbalah and the works of Gersonides in the local community, and reacted publicly to Leon's decrees banning their use.

"By what right did Messer Leon think he could impose his opinions on the Jews of Florence? Did he think he was entitled by the dignity conferred upon him by the Pope in virtue of which he expected to be addressed as "Messer"? Absolutely not!..."<sup>113</sup>

Guglielmo argued that no honorific title ('Messer'), especially one bestowed upon a Jew by a Pope, gave a person the right to subvert practices in Jewish Florence. To him, the only legitimate way to have one's authority recognized -- especially an authority which stems from Jewish learning -- was by teaching and persuasion. All Messer Leon had to do, then, was to instruct a certain number of disciples in his principles. The latter would then convince people to follow the teachings of their Master.

Guglielmo, representing the disabused sensibilities of his fellow citizens, was challenging Leon to be not a dictator, but rather a teacher to Florentine Jewry. Gradual acceptance of new practices, and not condemnation of conventional wisdom, would be the path to success for the Messer. Otherwise both he and the office of rabbi would suffer the indignity of public indifference.

For the sake of communal harmony, and for the sake of the authority of the Italian rabbinate, Guglielmo urged de Vitale to base his authority to affect change through his

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<sup>113</sup>ibid.

rabbinic talents, and not through a papally-granted honorific. Otherwise, the "Messer" would become a hypocrite in the eyes of the *kahal*. For could not base his authority upon the receipt of a gentile title, and then condemn the practice of something he considered to be too close to Christian culture.<sup>114</sup>

'Ascribed authority' -- that is, the authority a leader enjoys as he first enters a new community -- is not a license to affect sweeping change. Rather, it is granted to the new leader by the community so that he may ask the probing questions necessary to learn the history and motivation behind communal practices. When one misuses his ascribed authority, by attempting to remodel community practices according to his own tastes, the stage is set for dissent and possibly disaster. No *kahal* likes to be told that what they have done for generations before a new rabbi's arrival is suddenly 'wrong', or 'outdated'. Rabbis new to a community must tread lightly, teach gently, and accept the notion that successful change can only come gradually.

#### Padua, 1585

"It should be stressed that, although the (Italian) communities nominated their rabbis (for placement), the rabbis were never economically dependent upon them....It should not be supposed, then, that by accepting the office the rabbi forfeited his independence. We should not see the rabbis as mere employees of the communities, at the beck and call of their employers. On the contrary, when

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<sup>114</sup>Bonfil, 185.

the rabbi decided to abandon his office as a result of differences of opinion with community leaders, it was the latter who found themselves in an embarrassing position..."<sup>115</sup>

In 1585, the rabbi of Padua, Samuel Archivolti, found himself in disagreement with the elders of his community and resigned.<sup>116</sup> The leaders tried for a time to get along without the rabbi, but it appears that their lay attempts to impose order upon Paduan Jewry were unsuccessful. Their threats to excommunicate those who violated communal ordinances failed to achieve the desired result -- it seemed that an excommunication without a rabbi was apparently inconceivable. The leaders were obliged to give way, and the rabbi returned to his former position.

It is a pity that the nature of the dispute is not known. Also, the method by which the layleaders and rabbi came to a reconciliation. For when the differences between them had been resolved, it was decided to cancel all reference to them from the Registers, thereby condemning posterity to remain in the dark.<sup>117</sup>

Medieval Italian Jewry could teach some modern congregations about the role of the rabbi in the synagogue. Where some modern synagogues view themselves in corporate terms, with rabbis as 'employees', here another system thrives. The rabbi and layleader are both members of the *kahal*, who happen to serve particular roles within the

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<sup>115</sup>Bonfil, 201.

<sup>116</sup>The issue in question, sadly, remains unknown to this day; see below.

<sup>117</sup>Bonfil, 201.

larger community. They are partners in leadership. They can disagree, even remove themselves from one another for a time. But they can also choose the path of reconciliation. In the Paduan system, both rabbi and layleader can affect *teshuvah*, acknowledging their extreme behavior, and returning to their proper roles when deemed appropriate. For each recognizes the necessity of the other, and each sees that without respect for both sides of communal leadership, the system fails to function.

### The Metz *Parnassim* Restrict the Rabbis

Metz, France, 1806. Jewish leaders, in the wake of the Paris Sanhedrin convened by Emperor Napoleon earlier in the year, were intent on gaining official recognition for the Jewish communities which had been forced to become voluntary organizations by government fiat. With this in mind, the *parnassim* of Metz had prepared a blueprint for communal restructure.

In detailing rabbinic powers and duties, the leaders concluded that rabbis would be limited to leading prayers for the welfare of the state and the health of the Emperor and the Imperial family, to performing religious weddings and divorces on the condition that civil marriages and divorces have preceded them<sup>118</sup>. They would be punished if they failed to work within their imposed limitations. The rabbis would also be forced to forfeit the right to exclude any Jew from his community because of behavior contrary to

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<sup>118</sup>Schwarzfuchs, 84.

traditional Judaism. To this end, the rabbis were deprived of the use of *herem* to coerce adherence to Jewish law.<sup>119</sup>

What was the issue? The Jewish leaders evidently wanted to find a way to allow a Jew who would marry outside his religion -- a seemingly inevitable consequence of emancipation within Napoleon's empire -- to remain a member in good standing of their Jewish community.<sup>120</sup> By reducing the possibility of internal Jewish strife in the wake of new civil liberties, it was hoped that Napoleon would more readily enhance the status of Jews beyond the paper decree of emancipation. The government would be prepared to view Judaism as a religious body and not as a 'nation within a nation', a political problem to be dealt through dissolution.

This is a fascinating context in which the traditional authority of the rabbis was limited. The laity concluded that unless the powers afforded to the rabbis were curtailed, the French government would seek to destroy its Jewish citizenry through forced assimilation. With this dilemma in mind, one can imagine the *parnassim* as both protagonists against the rabbis, as well as mediators between the forces of traditional Jewish authority and those of the dominant French society.

The new blueprint created by the Metz layleaders implied that rabbis should give instructions on points of doctrine and belief, but only when requested to do so, while avoiding any criticism of other religions. The community leaders wanted to deprive the

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<sup>119</sup>*Ibid.*

<sup>120</sup>*Ibid.*

rabbis of any right of communal initiative.

Here, it could be argued that the community layleaders were taking advantage of what had become understood as a necessary limitation on rabbinic authority. For the sake of appearance to the outside, gentile empire, the rabbis' powers in matters of law and status were removed. But what of matters of an internal nature, such as the nature of Jewish belief and practice? Once the *parnassim* realized that, bereft of the power of *herem* the rabbis were little more than community schoolteachers, they came to view the need for rabbinic guidance as being less than vital. More, they saw themselves as the Jewish parallel to secular forms of leadership structure in a modern age, attuned to the needs of a changing society. It is arguable that the Metz rabbis may have also been able to adjust to such post-emancipation realities, had they been afforded the opportunity to try. But they were not, and the role of the rabbi as community leader has not been the same since.

#### The Comments of the Hatam Sofer

The great Hungarian authority Moses Sofer (the Hatam Sofer), in his responsa *Choshen Mishpat* 162, discussed the case of a rabbi against whom pious members of the community made a series of complaints. The first complaint was that the rabbi was not observant about hand washing, grace after meals, etc. The second was that he was too lenient in his decisions about *kashrut*. The third was that he gave divorce documents (*gittin*) in a city where no divorce documents should be issued. As for the



first two objections, Sofer was doubtful whether the rabbi should be removed. But regarding the third, he stated clearly that this cannot be forgiven. He said that they should take away from the rabbi the *hatarat ho'roah* (license to serve as rabbi), because it was given to him by his teachers before they could have known the evil that he had committed -- "they shall take from him completely the crown of the name of rabbi."<sup>121</sup>

The authority of religious leadership was once bestowed upon an individual by the laying on of hands, the continuance of a link which led back to Moses himself. As that link became tenuous, the rite of *semichah* evolved into a license to adjudicate, and was granted to those who could attest to their legal abilities in the presence of the Sanhedrin. But by the 19<sup>th</sup> century, *semichah* and its perquisites could be stripped from a rabbi by the acts of community layleaders when it was felt that he had overstepped certain political lines. Even a figure as revered as the Hatam Sofer was compelled to state that there were actions which, although once expected of rabbis, were no longer permissible in a time of secular ascendancy. Where a rabbi once held sway over the community in marital matters, now he could lose his position and livelihood by acting on such matters without the oversight of the *parnassim*.

It is clear that the rabbinate has evolved over the centuries, from a position of great legal as well as spiritual power, to one where the authority to adjudicate is based on the public's wish to abrogate their religious autonomy. Rabbis once challenged the community to meet the standards of religious living, through the power of exclusion

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<sup>121</sup>Solomon Freehof. Reform Responsa For Our Time. Cincinnati: Hebrew Union College Press, 1977, 236.

should members of the Jewish community disagree. Yet for the last 250 years, the roles have been essentially reversed. Though still respected for his commitment to Judaism and his connection with tradition, the rabbi now responds to, rather than instigates challenges. In an increasingly self-directed world, the rabbi continues to learn how to adapt to the role of advisor, rather than lawmaker.

### **Chapter Three: Principles of Mediation Through Secular and Religious Eyes**

*Mediation teaches us that the focus of our efforts should be to create value, as much as possible, for all the parties involved, rather than to get bogged down with the problem of who was right, according to the rules, and who was wrong....*

*Mediation teaches us is that you do not rest content with people's positions, which is to say their values expressed in the form of concrete alternatives. People have to dig deeper than that until they come down to their basic needs. For when they reach their basic needs level most people can really start to communicate and they can usually begin to empathize...*

*Mediation teaches us is that people have to be made to listen to one another...If you cannot hear people when they expose their basic needs and their basic pain, then you are truly morally deaf...<sup>122</sup>*

*Having viewed a variety of historical disputes between rabbi and kahal, we now focus our view of conflict resolution on the contemporary period, in particular the latter half of the twentieth century.*

*In this chapter we will see how elements of both the modern business and contemporary religious world have guided the efforts of Reform Judaism in the area of congregational conflict.*

*To that end, this chapter will consist of three parts.*

*First, we will review a representation of mediation processes in the contemporary*

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<sup>122</sup>Exerpts from 'The Principles of Mediation and the Future of Ethics', by Joe Hardegree. Speech at Annual Conference of Northern California Mediation Association, March 22, 1997.

*business world, in order to gain a basic understanding of the variety of conflict resolution principles and techniques in place today.*

*Second, we will review the key conflict resolution strategies employed by religious experts outside of the Reform Movement, representative of both Christian and Jewish strategies for ending dispute between parties.*

*And finally, we will focus on the conflict intervention institutions that have arisen in North American Reform Judaism in the 20th century. These include the Union of American Hebrew Congregations' Commission on Synagogue Administration, the Union of American Hebrew Congregations' Department of Synagogue Management, and the joint commission of the Union of American Hebrew Congregations and the Central Conference of American Rabbis, The National Conciliation Commission (NCC), known today as the National Commission of Rabbinical-Congregational Relations (NCRCR). An overview of each institution's history and function will be provided.*

## **A Representation of Mediation Processes in the Business World**

The first storefront businesses offering dispute mediation opened in the mid-1970's. Ten years ago, there were about 150 such centers; today there are at least 500 in the United States.<sup>123</sup>

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<sup>123</sup>Brad Edmondson, "Hot Jobs", Utne Reader, February 1999, 58.

ADR. AAA. AFM. AAMFT. CMG. MIRC. SPIDR.<sup>124</sup> These are just a few of the different professional paths by which one may enter into the business of conflict resolution.

Yet beyond the differing titles and concepts are some overarching principles toward achieving a successful repair of relations between disputing parties.

In this section, we will explore three different paths to conflict resolution in the modern business and secular world. We will review their goals and procedures, indicate where their techniques merge and where they differ. We will see how, as in the religious world, the views listed below emphasize varying paths to successful mediation.

Roger Fisher, CMG and Getting to Yes

Conflict Management Group was founded in 1984 to place into public practice an innovative approach to negotiation developed at Harvard Law School. CMG retains a close working relationship with the Harvard Negotiation Project and the Program on Negotiation at Harvard Law School.

CMG draws on the experience, advice, and support of the world's leading academic experts on negotiation, including Roger Fisher, Williston Professor of Law

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<sup>124</sup>Alternate Dispute Resolution. American Arbitration Association. Academy of Family Mediators. American Association of Marriage and Family Therapists. Conflict Management Group. Mediation Information and Resource Center. Society of Professionals In Dispute Resolution.

Emeritus at Harvard Law School and founder and director of the Harvard Negotiation Project.

Over some thirty years of research and practice, Fisher and his colleagues have developed methods of mediating dispute which appear in nearly all methods of conflict resolution employed by consultants today. Entitled 'The Seven Elements of Principled Negotiation', these principles are detailed in Getting To Yes: Negotiating Agreement Without Giving In, by Mr. Fisher, William Ury, and Bruce Patton:

### *Explore Interests, Not Positions*

Positional bargaining, in which each side comes to the table with a list of demands, is likely to be ineffective and costly. Its failures in the labor/management and diplomatic contexts are manifold. It often produces unyielding attitudes and endless haggling. Problem-solving negotiation teaches the parties instead to focus on their underlying needs and interests. This can lead the parties to find common ground and creative ways to resolve a dispute.

### *Develop Options for Joint Gain*

Few traditional negotiations result in optimal solutions because parties rarely explore a broad range of potential options. Instead of jointly inventing many possible

solutions, the parties limit their thinking by focusing on only one or two options. Creative thinking expands the range of possible options and promotes better solutions. Exploring options also promotes a better working relationship.

### *Use Objective Criteria and Standards*

Negotiation does not have to mean giving in, or bowing to the will of another party. Insisting on the use of objective standards, precedents, law, or principles is a means both to persuade the one side that an agreement is fair and to protect the other side from being coerced. Standards of legitimacy also make it easier to explain an agreement to one's constituents.

### *Assess the Alternatives to a Negotiated Agreement*

Each party should understand what it will do if no agreement is reached at the negotiating table. In any negotiation, parties face a choice between accepting a proposal or opting for a walk-away alternative. A negotiator should never agree to a proposal that is worse than his or her BATNA, or Best Alternative To a Negotiated Agreement. By assessing and improving one's BATNA, one will gain flexibility in the negotiations.

### *Separate the People from the Problem*

Every negotiation has two basic components: people and problems. Dealing with each effectively requires two important steps. First, separate the people issues (e.g. emotions, communication, reliability) from the substantive issues (e.g. terms, dates, figures). Second, deal with each set of issues on its own merits, do not make substantive concessions in the hope of "improving" relations.

### *Talk First, Decide Later*

Too often, parties decide on a solution in advance of the negotiations and then try to impose that solution on the other side. When each party decides what should be done before talking, the negotiation ends up as a battle of positions. Negotiators tend to produce better agreements if they first talk to the other parties to explore possible solutions before making decisions. Commitments should come at the end of the process, not at the beginning.

### *Try to Understand Each Other's Perceptions*

Often, parties make demands to which the other party could never agree. Each party should put itself in the shoes of the other, to understand that party's constraints and perceptions of the situation. Understanding the other side's perceptions will



improve communication and enable a party to re-frame its proposals in way that makes it easier for the other side to say "yes."<sup>125</sup>

Randy Lowry and the "Stages of Mediation"

The principles employed by Fisher and his associates are reshaped and expanded upon by Professor Randy Lowry of Pepperdine Law School. Below, Lowry states that mediation sessions are generally broken down into five distinct segments or "Stages":

- Stage One: Convening The Mediation.
- Stage Two: Opening Session.
- Stage Three: Communication.
- Stage Four: The Negotiation.
- Stage Five: Closure.<sup>126</sup>

He also concludes that within each stage there are three sub-segments of activity:

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<sup>125</sup>Thomas F. Fischer, "Seven Elements of Principled Negotiation", Ministry Health Email Newsletter (<http://genesis.acu.edu>), Vol. 48, 1997.

<sup>126</sup>Jeffrey Kirvis, "ADR Skills: How Structure Helps Mediation Planning", MIRC: Mediation Information and Resource Center, September 1997.

- The "Task" -- the objective of the mediation at that moment.
- The "Action" -- the steps taken by the mediator to get on task.
- The "Result" -- the outcome which the mediator expects to achieve.<sup>127</sup>

Once the parties in question have gone through all Five Stages of the mediation, the goal is to achieve a final and durable settlement of the dispute.

Los Angeles-based mediator Jeffrey Kirvis explained in his 1997 article "Alternate Dispute Resolution (ADR) Skills: How Structure Helps Mediation Planning"<sup>128</sup> how he used Professor Lowry's system to resolve a dispute between parties following a terrible accident.

In the scenario described in the article, a man named Bob had been severely injured when a car had been unintentionally driven into the bakery where he sat enjoying his breakfast. The driver, Miriam, survived the accident, but Bob sustained permanent injuries. At the time of the accident, Miriam had an insurance policy that provided up to \$50,000 in coverage per occurrence. Because of the severe injuries to Bob, the insurer offered to pay him the entire policy limits, which was rejected. The case ended up in litigation and the judge urged the parties to consider mediation.<sup>129</sup>

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<sup>127</sup>Ibid.

<sup>128</sup>Ibid.

<sup>129</sup>Ibid.

Here are Lowry's steps to effective mediation, as employed by Mr. Krivis during the dispute resolution process between the above parties:

#### Stage One: Convening The Mediation

The first TASK was to speak to Bob's counsel about his response to the judge's suggestion to participate in mediation...The ACTION I took was to get counsel to start talking about the case by first connecting or building a personal rapport on the phone...the RESULT I was simply trying to achieve in the Convening stage was to create a "willingness" to come to the table, not to actually settle the case.

#### Stage Two: Opening Session

My TASK in stage two was to describe the process so that the parties would know what to expect from the session. The ACTION I took to complete the task was to advise the parties that we would explore a risk analysis of the likelihood and amount of recovery. I further told them that we would meet privately at which point they should be prepared to discuss a realistic assessment of what they expected to pay and receive...The RESULT I tried to achieve was a sense of "Safety and Hope" about the process of mediation and prospect for settlement.

#### Stage Three: Communication

The TASK at this stage is to allow the parties an opportunity to explain their positions both in front of each other and in private meetings with me. The ACTION is a series of open-ended questions followed by active feedback which permits me to listen for clues about what is driving the parties...The RESULT in this stage is that the parties have a chance to air their perspectives and feel confident that they have been heard. Often, too, this communication discloses hidden values and interests.

#### Stage Four: The Negotiation

The TASK was to begin the bargaining dance between the parties...The ACTION I took was to suggest to Bob that he and his attorney start considering options for settlement...The RESULT we were trying to achieve was "flexibility and innovation." This would allow us to close the gap in the negotiation and ultimately come together.

### Stage Five: Closure

My remaining TASK was to finalize the agreement. The ACTION I took was to discuss with Miriam and her counsel the commitment she must make...and what it meant to her to put this case behind her. The RESULT here was that both parties would make an "Informed Decision" about settlement...<sup>130</sup>

While the ordering may differ, the principles employed in the above-mentioned mediation share common themes with Fisher. The goal is to provide a forum for open, honest communication, to discover the essential issues of conflict, and to create an environment in which creative, mutually acceptable forms of resolution can be achieved. But in addition to overarching principles, Lowry's use of concrete sub-categories within the five stages -- 'task', 'action', 'result' -- provide an additional structure for mediators and parties to follow.

### Dudley Weeks and The Eight Essential Steps to Conflict Resolution

A third source of secular guidance in mediation comes from Dr. Dudley Weeks, author of The Eight Essential Steps to Conflict Resolution.<sup>131</sup> Weeks' theories revolve around what he terms the "Conflict Partnership Process", where parties in dispute are empowered to build mutually beneficial, rather than mutually destructive relationships.

The eight steps in the Conflict Partnership Process include:

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<sup>130</sup>Ibid.

<sup>131</sup>Los Angeles: Jeremy P. Tarcher, Inc., 1992.

### *Create an Effective Atmosphere*

It is more likely for mutual agreements be reached when atmosphere is given careful consideration. When thinking about atmosphere, Weeks suggests that both the consultant and disputing parties remember these ideas:

- *Personal preparation* -- doing all you can to ready yourself in positive ways to approach issues honestly and openly.
- *Timing* -- choosing a time that is best for all parties involved. A time in which no one is feeling pressed to move on or pressured in other ways.
- *Location* -- where you meet is as important as when you meet. It is best to pick a place where all parties can feel comfortable and at ease.
- *Opening statements* -- try to start out on a good note. Good openings are ones that let others know you are ready and willing to approach conflict with a team-like attitude that focuses on positive ends. They should also ensure the trust and confidentiality of the parties involved.

### *Clarify Perceptions*

It is essential to clarify individual perceptions involved in the conflict. After all, a problem cannot be solved without understanding the core issues involved. Weeks reminds disputing parties and mediators to avoid what he terms 'ghost conflicts' -- issues that distract one from the heart of the matter in dispute. Additionally, parties must recognize that they need each other's cooperation to be most effective. Careful listening may allow parties to avoid stereotyping one another, while clearing up any misconceptions that exist between them.

### *Focus on Individual and Shared Needs*

Weeks asserts that parties must determine what shared needs exist between them. By being focused on meeting the common needs of all concerned, those in dispute may discover that some aspects of the conflict may disappear.

### *Build Shared Positive Power*

Power, to Weeks, is made up of people's outlooks, ideas, convictions and actions. A positive view of power is one which promotes building together and strengthening partnerships. When parties have this outlook, they can encourage each other to develop alternative solutions to conflict. This gives an ultimate advantage to all involved because each person's positive energy is being drawn upon for a worthwhile solution.

### *Look to the Future, then Learn from the Past*

Do not dwell on negative past conflicts, or you won't be able to deal positively in the present or the future. Try to understand what happened in the past and avoid repeating the same mistakes over. Do not get stuck in a rut. It is better to learn from past conflicts and be forgiving of yourself and others. Make the essential distinction between being mad at a person's behavior, and at the person for who they are.

### *Generate Options*

Beware of language which limits consensus among parties. Also, make sure that the options generated are feasible for all parties involved. This is a time to set aside disagreements, bypassing options that will not work for all involved. Further, when looking at options, do not let past experiences cloud present perceptions and decisions.

### *Develop "Doables" -- Stepping-Stones to Action*

"Doables" are specific actions that have a good chance at being successful:

- ideas that are founded on shared input and information from all parties
- steps that never promote unfair advantages on any sides
- trust builders - they add confidence in working together
- actions that meet shared needs

### *Make Mutual Benefit Agreements*

Mutual-Benefit Agreements should give one lasting solutions to specific conflicts. Instead of demands, focus on developing agreements and find shared goals and needs. Build on "Doable" things by working on the smaller stepping-stone solutions. Pay attention to the needs of the other person in addition to your own interests.<sup>132</sup>

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<sup>132</sup>Summaries provided by the Conflict Resolution Class at Quinebaug Valley Community-Techincal College, Danielson, Connecticut.

Dr. Weeks, like Fisher, reminds us that effective conflict resolution is not deciding who gets their way. Using conflict partnership skills can help you find a resolution that is "getting our way," even with people who seem locked in a pattern of "either your way or mine." And like Lowry, Dr. Weeks views the mediation process in terms of essential stages and sub-stages, ranging from providing comfortable work space for parties, to developing "doable" actions which lead to consensus.

Yet Weeks adds a stage to mediation which sets him apart from the above thinkers. Weeks explicitly states that it is vital to reflect on past conflicts and to forgive not only your adversary, but also yourself for negative actions. It is through such 'absolution' that parties can truly distinguish between being mad at a person's behavior and at the person for who they are. As we will see, this theme is prevalent through the various forms of religious mediation which are described in the next section.

### **Examples of Religious Methods of Conflict Resolution**

As we have seen in previous chapters, conflict between spiritual leaders and followers is as old as the Bible itself. And, as we have discovered, the sources of conflict are as numerous as the personalities of various clergy and laity.

Fortunately, resources for dealing with conflict exist in the religious world, just as they do in the world of secular mediation. In modern times, religious thinkers such as Rabbi Edwin Friedman and Reverend Speed Leas (see below) have linked the tools of psychology and systems thinking to the world of religious conflict resolution. Rabbi



Friedman uses Family Systems Theory<sup>133</sup> to understand the underlying tensions which permeate congregational conflicts. Reverend Leas, after applying systems theory to clergy/lay disputes, has developed diagnostic tools for consultants to determine the level of conflict which exists in a religious setting. Using his diagnostic system, a consultant can determine if the level of conflict between clergy and lay leader(s) is within the parties' ability to repair.

Rabbi Edwin Friedman

In religious institutions experiencing conflict, clergy and laity often identify the cause of the conflict as being one or more of the following issues, usually relating to the spiritual leader:

- *Preaching*: "Inadequate" preparation, delivery and content
- *Personal Preferences*: "Unsatisfactory" grooming, attire, home, car, vacations, spending, hobbies, friends, and politics
- *Personal Qualities*: "Lack" of warmth, enthusiasm, listening skills, accessibility; poor relations with both sexes, youth, people all ages, families, singles
- *Family Members*: "Unacceptable manners" by which...
  - the spouse dresses, drinks, drives, acts, looks, dances, prays, sings, and cooks
  - the children behave in school, church/synagogue, home, community
  - other miscellaneous, non-church/synagogue related items
- *Congregational Administration*: Issues can be related to any item of the church/synagogue, including the budget, the time clergy spends in office, visitations, committees, community involvement.

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<sup>133</sup>Edwin H. Friedman, Generation to Generation: Family Process in Church and Synagogue. New York: Guilford Press, 1985, 14ff.

- *Pastoral Availability*: "Neglect" of pastoral duties, adult education, sick visitations, choir, fund raising, retreats, Religious School curriculum, teacher training, officiating at ceremonies, recruiting new members.
- *Theological Attitudes*: "Dislike" expressed for the prayers chosen, order of prayers, texts selected, music chosen, rites administered, traditions observed, etc.<sup>134</sup>

Friedman asserts, however, that these are just "symptoms" of deeper issues, indications of greater anxiety beneath the surface of what is expressed by laity and clergy as primary concerns.<sup>135</sup>

In his work Generation to Generation, Friedman maintains that the real reasons for congregational conflict consist of the following:

#### *Lay Over-Commitment*

"The intensity with which some lay people become invested in their religious institutions makes the church...a prime arena for the displacement of important, unresolved family issues".<sup>136</sup>

#### *Change in Homeostasis*

Examples of changes in the 'status quo' of a religious community include:

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<sup>134</sup>Friedman, 206.

<sup>135</sup>Friedman, 202ff.

<sup>136</sup>Friedman, 198.

- Changes in the clergy's personal and/or professional life
- Changes in professional leadership; hiring, firing of key professional staff
- Changes in the life of the clergy's extended family
- Rise or elimination of interpersonal conflict between two key leaders
- Divorce, affair, sexual misconduct involving professional or lay leadership
- Change in average age of congregation's constituency
- Granting of tenure to clergy
- Change in organizational philosophy
- Death or retirement of a founder, builder or charismatic organizer
- New, renewed, or prolonged community involvement
- Extension of Contract
- Restructuring of the lay/professional hierarchy
- ...Or any other recent change which may trigger individual responses.<sup>137</sup>

### *Life Cycle Events*

There is great stress before/during/after various rites of passage (e.g. births, namings, marriages, divorces, funerals).<sup>138</sup>

### *Pastoral Over-Functioning and Burnout*

Clergy who try to do it all and become responsible when others do not carry out their responsibilities are prone to burn out (inability to self-differentiate). The most dangerous thing about over-functioning, asserts Friedman, is that "If over-functioning is

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<sup>137</sup>Friedman, 203-4.

<sup>138</sup>Friedman, 214.

a manifestation of anxiety, it will serve to promote it as well".<sup>139</sup>

### *Triangulation*

In its most basic form, triangulation refers to the proliferation of in-direct communication between two principle parties by involving an additional third party to carry the messages between the two principal parties.<sup>140</sup>

When looking at causes for conflict, one must look beyond the presented or "content" issues. As Friedman writes,

It is almost never the issue per se that is destructive but, rather, the overall homeostatic conditions that give to any issue its destructive potential.<sup>141</sup>

Before any intervention, Friedman essentially reminds us: 'The Issue Is Not The Issue.'

### *The Role of the Consultant in Clergy/Lay Dispute*

Sometimes it is too difficult for parties involved in conflict to gain the kind of

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<sup>139</sup>Friedman, 211.

<sup>140</sup>Friedman, 212.

<sup>141</sup>Friedman, 204.

perspective Friedman advises us to seek. In order to gain a perspective outside of the conflict, a congregational consultant may be useful. Consultants — whether from the secular or religious world — provide churches and synagogues with skilled facilitators, for both preventative programming and conflict mediation.

According to Mr. Art Mealer, a contributor to Melbourne-based *John Mark Ministries*, church consultants provide the following essentials to disputing parties:

#### *Facilitation of Processes*

Church consultants do not tell churches what to do. Good consulting, in their view, is more asking good questions than giving good advice. They assist churches in discovering and focusing on their own calling, goals, strengths and weaknesses. They are skilled at eliciting needs and wants, defusing fears, and guiding the process. Change is stressful, and conflict resolution is a necessary skill to keep progress positive.

#### *Objective Viewpoint*

Having no personal, vested interest in what the church is presently doing, or will do in the future, allows the church consultant to be somewhat emotionally removed from the decisions. This objectivity can bring valuable input into the assessment, planning and implementation processes.

### *New Ideas*

From experiences in a wide variety of churches, and from the ability to focus their time and energy on church growth issues, church consultants bring a wide array of new ideas. Along with a fresh perspective and objective viewpoint, the pastor and leadership team will come up with new ideas of their own, that might otherwise never be considered.

### *Change Management Skills*

Church consultants are skilled at understanding the process, and navigating direction and speed in change. They can help to insure that people and ideas are not lost, and minimize the stress of change. Rather than the change process being disruptive and divisive, they can help you to proceed with change in healthy and productive ways.

### *No Relationship Baggage*

Church consultants do not have any history with the various members, or past and present leadership. There are no hidden agendas, no sacred cows, and no people-oriented constraints in their thinking, proposals, and assessments. They often can say and do things that those present cannot.

### *Fresh Perspective*

Pastors and their leadership teams gain the benefit of someone with a fresh perspective. Sometimes the possibilities and problems can take on new meanings, offering new potentials, from seeing them from a new perspective. Church consultants bring a broad perspective and insights from many other churches to the table.

### *Strategic Expertise*

Having the time to keep abreast of research data and to sort through what is simply fad and gimmick versus what is real and working in church growth, church consultants bring specific expertise to the process.<sup>142</sup>

Consultants cannot do the work of mediation without the assistance of the clergy and lay leaders who are in dispute. As we will see below, the NCRCR (National Commission on Rabbinical-Congregational Relations) asserts that without the express desire of both rabbi and temple leadership to invite an intervention team to their congregation, efforts by such a team will almost certainly fail.<sup>143</sup>

Church consultant Barbara Schmitz, in "What To Do When The Conflict

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<sup>142</sup>Art Mealer, "Church Consultants", *Newsletter*, John Mark Ministries, Melbourne, Australia, Fall 1998. <http://www.pastornet.net.au/imm/alpt/alpt0114.htm>

<sup>143</sup>UAHC/CCAR, National Commission on Rabbinic-Congregational Relations, "What You Should Know About The NCRCR".

Consultant Comes", lists several necessary steps clergy and laity must take, in order to maximize the effectiveness of consultants in conflict situations:

- Be on time for appointments with the consultant; return phone calls promptly. Have any materials that the consultants requested ready and on good, clean copy.
- Don't be defensive. Listen carefully. Don't interrupt when the consultant attempts to articulate his/her view of the situation.
- Don't unload on the consultants. Rather, get a colleague/coach who can help you process the emotions you are going through. Remember, the consultants are not your confessors.
- Don't do anything that isn't your very best behavior. Don't give the consultants any reason to believe that you are anything but a gentle and kind, competent clergy person/lay person.
- Avoid getting into detail about specific complaints made against you by the clergy or laity.
- Help the consultants to focus on recurring, destructive patterns of behavior (e.g. gossip, withdrawal, criticism, etc.), rather than personalities in the system.<sup>144</sup>

### *The Work of the Conflict Consultant in A Religious Setting*

The Missouri Synod of the Evangelical Lutheran Church of America (ELCA) has prepared and distributed a workshop entitled The Circuit Counselor in Conflict Ministry.<sup>145</sup> The work, prepared by Reverend Erwin Kostizen, prepares pastors and specialists to understand the issues surrounding conflict between clergy and laity.

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<sup>144</sup>Barbara Schmitz, "What To Do When The Conflict Consultant Comes", Conflict Communiqué, Vol. 2, No. 1, 1997.

<sup>145</sup>Compiled and edited by Reverend Erwin Kostizen, Vice-President, Michigan District-Lutheran Church-Missouri Synod, 1998. <http://genesis.acu.edu>



As articulated in the ELCA manual, all substantive conflict can be categorized into the following types:

### *Facts Conflicts*

What are the facts in the matter? Conflict springs up very quickly when people are dealing with different facts. Opinions, emotions, and perceptions are not necessarily factual. The Counselor will be well advised to deal with current, verifiable data.

### *Methods Conflicts*

When rhetoric as "We have always done it this way" emerges during a dispute, there is every likelihood that a methods conflict exists between parties. The ELCA manual points out -- rather aptly -- that God has generally prescribed what we are to do, but has been least specific in how we are to do it.

### *Goals Conflicts*

Congregations may or may not remember to ask such essential questions as 'where are we headed?', or 'what are we trying to do here?' When they do remember to reflect on the mission of the church/synagogue, parties in dispute or more likely to be

able to articulate differences in vision in a productive manner. It is the congregation which does not know how to ask itself the essential questions of direction and vision which will inevitably find itself at odds with one another.

### *Values Conflicts*

What motivates the church/synagogue, its leaders and its members? What values have the higher priority? What beliefs affect and/or shape decision-making processes within the congregation? Does reason guide the community, or are the clergy and laity motivated by a sense of God's commandments?<sup>146</sup>

The Circuit Counselor in Conflict Ministry asserts that factual differences are easiest to work with in a conflict situation, while values differences are usually the most difficult. It appears that people have different emotional and spiritual commitments to each of the four areas and they need to be handled differently. For example, frequently the counselor will be able to de-escalate the conflict by helping the parties to see that they agree on the goal but differ only on the method of achievement.

The ELCA manual also addresses the essential question of why people fight in a religious setting. Drawing upon the systems work of Friedman, Rev. Kostizen suggests that people will choose to fight in their congregation because of deeper, existential

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<sup>146</sup>ibid.

reasons, including:

*A Need for Power* -- Feelings of inadequacy and inferiority move people to show others, and maybe even themselves, how big and strong and important they are.

*Feelings of Neglect, Personal/Professional* -- People inept at finding positive regard gain attention even if it has to be through notoriety and by challenging and contentious behavior.

*Revenge* -- This sole objective is to pay back an eye for an eye, etc. Some past hurt, betrayed confidence, broken trust, failed expectation, will fuel conflict. These motivations are well concealed because folks are cognizant of how inappropriate such motives are in the church/synagogue.

The Counselor needs to be aware that there are levels of intensity in conflict. The levels are not always clear cut, and there may be overlaps of characteristics. However, certain distinguishing characteristics can facilitate diagnosing specific conflict levels.

Here Reverend Kostizen draws heavily upon the work of Reverend Speed Leas, Senior Consultant to the Bethesda, Maryland-based *Alban Institute*. Rev. Leas' determination of five levels of conflict has been instrumental in congregational consulting, enabling mediators and disputing parties to place their conflict in context,

and to determine if the repair of relations between the parties is possible or desirable.<sup>147</sup>

The Five Levels of conflict, in order of ascending complexity, difficulty, and intensity, are:

- *Level I, Problem To Solve:* The Goal is to collaborate to determine a mutually beneficial solution to the dispute.
- *Level II, Disagreement:* The Goal is to problem-solve the issue dividing parties in dispute.
- *Level III, Contest:* The Goal is to win the dispute.
- *Level IV, Fight/Flight:* The Goal is to hurt the opposing parties in a dispute.
- *Level V, Intractable Situations:* The Goal is to annihilate the opposing parties in a dispute.

#### *Level I: Problem to Solve*

Here, the dilemma has gone beyond poor communications and misunderstanding. Identifiable differences exist. People understand their positions, but may have different facts, goals, values, needs, and are pursuing different methods. People feel uncomfortable, deny hostile feelings, and short-lived anger surfaces.

Rev. Leas notes that anger will be present at all levels of conflict: at levels one and two, it is controlled and short-lived; from levels three to five the anger will amplify to

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<sup>147</sup>Reverend Speed Leas, in Moving Your Congregation Through Conflict (Bethesda: Alban Institute, 1985), explains the Levels of Conflict in detail. For the purposes of this work, we will be using Rev. Kostizen's summaries of Leas' five levels as detailed in The Circuit Counselor in Conflict Ministry.

hate and hostility.

At this level, real differences exist between parties. However, emotions have not diffused people's abilities to remain rational amidst discord. Leas suggests that the role of the consultant at this level is one of teacher -- in this case, a teacher of problem-solving and decision-making skills. The goal in such instruction, ultimately, is collaboration between dissenting parties.

The collaborative problem solving process, according to Leas, involves:

- Identifying and defining the problem(s)
- Gathering raw data that will be helpful in understanding the problem
- Listing alternative solutions -- the more the better
- Evaluating the pro's and con's of each proposed solution
- Mutually choosing a solution, preferably by consensus
- Deciding on how the solution will be implemented.

### *Level II: Disagreement*

Here, the concern is still to solve the problem. But now feelings and emotions have become factors in dispute(s) among parties: "Yes, I would like to solve the problem, but my reputation, name, honor, office are at stake." Self-protection is the major concern here: "I want to walk away from this looking good."

In a Level II dispute, people begin to recruit supporters within their system. Problems are discussed publically. Rumors intensify. The parties are as yet not quite

hostile, but they have become extremely cautious around each other. In fact, it may be assumed that each side has begun to avoid the other, and withhold information.

Leas asserts that intervention at this level must begin with exercises in fear reduction and trust-raising efforts before pursuing the problem-solving process.

The consultant's best chance for successful mediation will come through encouraging parties to vocalize their dissent to one another. By modeling active listening, parties in dispute will begin to use clearer language to articulate their concerns about the system and each another.

Parties should be encouraged to express their concern frequently and completely. In this way people will -- hopefully -- develop trust and openness. At Level II, the expressions of feelings is vital to successful problem-solving. Ventilation is very therapeutic for disputing parties at this level. Empathy and humor can go a long way to de-escalate aggression. Kostizen maintains that there is only one way out for the person who feels misunderstood, helpless, even inferior or afraid: to talk through their concerns.

For Level II, mediation is the appropriate form of intervention. Begin the mediating session between parties by having them establish common ground rules for the session:

- no one will storm out, blame or attack, judge motives, make threats
- everyone will use "I" messages, describe their feelings, be specific in their concerns, remember to differentiate between behavior and people

In this way the issues may come forward, rather than assumptions concerning disputing parties.

### *Level III: Contest*

At this level, self-protection is no longer the main issue, but winning is. In a contest there is a winner and a loser and "I have a need to win." Factions of disputants emerge. Allies are recruited of like-minded "thinkers". These roaming armies are looking for victories.

Perceptual distortions are everywhere. People see themselves as more spiritual than their opposition. 'Expert mind readers' emerge in the system, claiming expertise in deducing the thoughts and motivations of all parties.

Absolute language ("everybody," "always," "never") and over-generalization are prevalent in Level III conflict. Personal attacks abound. Threats of leaving the system begin to echo.

The dynamics at this level are very complex and difficult. Intervention strategies should begin with fear reduction, clarification of distorted thinking and speaking, and development of a sense of safety.

Here, the consultant must first build trust -- between parties in dispute, perhaps even between himself and the parties -- before communication skills and problem-solving can be considered. Here, it is essential to help the disputants remember past

relationships of harmony and concord.

Also, the consultant must get the people in conflict to sit down and speak directly to one another. Kostizen and Leas suggest that when people share what they are thankful for about a person to that person, healthy seeds of trust are replanted.

When people begin to trust again, then they may be asked to reflect on how they, through action or inaction, may have energized the conflict that faces them. In a trusting setting, where people have begun to open their minds and hearts to honest and constructive criticism, this may prove to be an essential exercise in vision.

A simple exercise found to be very helpful is to ask three questions:

- What are we trying to achieve?
- What are we trying to preserve?
- What are we trying to avoid?

At this level, a clear and agreed upon decision-making process must be developed. By mutual consent, parties should spell out in writing how decisions will be made. It is hoped that agreement on the method of decision-making will facilitate reaching agreement on the controverted issues.

#### *Level IV: Fight/Flight*

Here the satisfaction is no longer in winning the contest. Rather, opposing parties feel a need to hurt or expel one other from the system. The notion that people



can change or grow has been cast aside. At this level, parties do not care if people are capable of change. They simply want them to disappear. "Get rid of the pastor/priest/rabbi", "discipline the trustee(s)" are now the main objectives. Factions are solidified. Self-righteousness runs rampant. Language becomes shrouded in principles, rather than issues.

The only outsiders welcomed at this level are those who will be perceived as allies that will help get rid of the 'enemy'. There is a high probability of a split in the system, with significant numbers of people leaving.

Local congregational leadership will be totally inept to manage the conflict at this level, except maybe by divine miracle. Threats, tensions, distortions, and aggression have totally obscured congregational planning and vision.

Here, the consultant must present him/herself as one completely neutral towards the system they are entering. The goal here, for better or worse, is to oversee the process by which an impending split between warring parties will be best ameliorated.

#### *Level V: Intractable Situations*

Kostizen remarks that 'Here at the apex of discord there is absolute chaos. Civility, decency, order, and even the concern for human life have been thrown

to the wind.<sup>148</sup>

Issues between parties are now incomprehensible and irrelevant. The objective now has become not just to get rid of, but to outrightly destroy the opposition. There is absolutely no effort to control emotions or expressions. The language is clear about eliminating and destroying each other.

At Level V, consultants are encouraged to see that all things are done 'by the book'. He/she will help ensure that spelled out congregational and denominational procedures are followed as the parties disentangle themselves from one another. In this way damages may be kept to a minimum, legal and religious rights spelled out, conditions for termination/expulsion mediated. Severance packages are negotiated.

A vital task of the consultant at all levels, but especially at Levels IV and V, is to diffuse anger and continually reframe statements into more descriptive and less hostile statements. In this way all disputing parties may hope to make a fresh start in a new setting, taking with them as little baggage from their previous conflict as possible.

*Framing Conflict Resolution in Reform Jewish Terms: Rabbi Harry K. Danziger*

Rabbi Harry K. Danziger, a congregational rabbi for almost 35 years<sup>149</sup>, is a past rabbinic chairman of NCRCR. Using a conflict model presented by Ms. Susan Wildau of

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<sup>148</sup>Kostizen, The Circuit Counselor in Conflict Ministry. (<http://genesis.acu.edu>)

<sup>149</sup>Ordained, Hebrew Union College - Jewish Institute of Religion, Cincinnati, 1964.

CDR Associates in Boulder, Colorado, Rabbi Danziger presented to members of CCAR in 1990 some of the key methods used by NCRCR team members to ascertain the source(s) of conflict in a congregation.

Danziger noted that there are five levels of potential conflict that may be found in a congregational setting:

*Relationship conflict*

If it is a relationship conflict, often that is where the NCRCR or some mediation from outside must be used. If people characterize one another as good and bad or speak of "they go or I go" or attribute evil motives to those with whom they disagree, this is a dangerous relationship conflict. Relationship conflicts come from:

- strong emotions
- misperceptions of reality or stereotypes
- poor or miscommunication
- negative, repetitive behavior which "pushes buttons" intensifying the animosity and reinforcing the conflict among persons ("You always...." "He never....")

Rabbi Danziger emphasized that if the requisite trust and faith in the motives of one another is lacking, there will be no peaceful resolution to conflict. Parties should try to deal with specific behaviors and actions, not presumed motives or character.

### *Data conflict*

If the conflict is on data, then sharing among all parties the full and complete information and determining what information is relevant and how it may be interpreted is the issue. Data conflicts come from:

- lack of information
- misinformation
- different views on what is relevant
- different interpretations of data

Rabbi Danziger related in his talk how he had advised teams to be wary of the use of data. He noted that data seldom make the solution to conflict self-evident, by virtue of the fact that data are open to multiple interpretation.

### *Interest conflict*

If it is an interest conflict, solutions must be addressed to the interests of the parties which must be spelled out as specifically as possible and, one hopes, in such a way that hard-line unyielding positions are not the only possible result. Interest conflicts are based on:

- substantive concerns, i.e., tangible goods, policies, actions
- procedural concerns, i.e., satisfaction with the process of deciding
- psychological issues so that everyone's ego must be left intact in the resolution

Danziger emphasized that teams must attempt to understand the concerns without judging the interests expressed. Interests held by various parties should be clarified so that a proposed solution can take cognizance of them. He suggested that parties in dispute be directed to ask the question: "What do you need from me?" He asserted that the question will be answered truthfully, even if the answer doesn't always make the disputants happy.

### *Structural conflict*

If the conflict is structural, then determining how it will be resolved ought to lead to a decision which, even if not according to everyone's wishes, invites everyone to "buy in" because they have agreed on the process of decision making (e.g., American elections, trial by jury). Structural conflicts come from:

- how a situation is set up
- role definitions
- time constraints
- inequality of power or authority
- unequal control of resources

Teams, in Danziger's view, must attempt to frame their questions in such ways that all parties can agree to a fair and equitable way to resolve their differences, even if the outcome is not to their liking. Teams must also understand the realities of inequality of power and unequal control of resources, and be prepared to deal with them, no matter

how unfair one or another party may find them.

### *Values conflict*

If it is a values conflict, there may be no resolution that everyone accepts, and the resolution must come from agreeing upon data, process or structure, and through two sides trusting one another though they disagree. Values conflicts come from:

- day to day values as to how things are done
- terminal "gut level" values as to what one can live with
- self definition values in terms of who one is

In such a situation, Rabbi Danziger related how he would remind teams that they must be aware of their limitations in getting people to change their values. Team members must consider how unlikely they are to change their own values, even under optimal circumstances. To Danziger, values are the 'bedrock' of who we are. Teams must therefore look for common bedrock, and not the capacity to work values changes by power or persuasion.

### **Structured Approaches to Conflict Resolution Within the Reform Movement**

Now that various secular, Christian and Jewish methods of assessing conflict have been described in general, we turn to the specific vehicles of conflict mediation used within the Reform Movement. Here, the UAHC and CCAR have created two

structures to aid in facilitating conversation between dissenting rabbis and lay leaders.

Within Reform Judaism exists two primary structures for mediating dispute between congregations and their rabbis. It is important to note that both structures -- the UAHC/CCAR Commission on Synagogue Activities (later UAHC Department of Synagogue Management) and the UAHC/CCAR National Conciliation Commission (later National Commission on Rabbinical-Congregational Relationships) -- have from their inceptions been led and staffed by rabbis and lay leaders, using the skills of both the secular and religious world to mediate congregational conflict.

#### UAHC/CCAR Commission on Synagogue Activities

The UAHC/CCAR Commission on Synagogue Activities was formed in 1934, consisting of ten rabbis and ten laymen. Its function, as stated at that time, was to

'study congregational programs in all their aspects and to recommend to the congregations plans and methods for improving, expanding and enriching congregational life.'<sup>150</sup>

The tasks of the commission were outlined as follows:

1. To define and limit the aspects of synagogue life and activity which should be studied, evaluated, guided and stimulated.

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<sup>150</sup>CCAR Yearbook, Volume XLVIII. New York: CCAR Press, 1938, 76-77.

2. To study current activities and tendencies and to evaluate the same.
3. To issue pronouncements from time to time as to such evaluation with special reference to practices and tendencies which should be encouraged and extended, and to those which should be discouraged or discarded.
4. To establish contacts with the congregations in order to secure all necessary information and in order to furnish to the congregations information, advice and stimulation.
5. To make surveys and evaluations of individual congregations on request.
6. To study the problem of the unsynagoged (*sic*) and to cooperate with the congregations in devising methods of attacking and solving this problem.
7. To plan and suggest new activities.
8. To stimulate the best kinds of activities and practices in every possible way.<sup>151</sup>

The commission was first headed by Rabbi George Zepin, secretary of the UAHC until 1941. He was followed by Rabbi Jacob D. Schwartz, who served until the mid 1950's, when Rabbi Eugene J. Lipman took over as director of the commission.

Soon after Mr. Albert Vorspan became an assistant to Lipman, and was named the first director of the Commission on Social Action, which had been spun off of the Commission of Synagogue Activities in 1949.

Around 1957 Myron E. Schoen was named Director of Synagogue Administration, which remained under the umbrella of the Joint Commission, but was reconstituted as a full-fledged department of the UAHC. Mr. Schoen worked with Rabbi Lipman, who continued his involvement in the areas of synagogue worship and administration as Director of the Commission. Mr. Schoen continued as Director of Synagogue Administration until his retirement in 1987, when Joseph Bernstein was named Director.

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<sup>151</sup>Ibid.



At that time the Department of Synagogue Administration became the Department of Synagogue Management. Mr. Dale Glasser, the present director of the department, became director in 1996.<sup>152</sup>

The Department offers a leadership development program which provides management skill building workshops to temple boards:

Workshops...enable congregations to increase their managerial effectiveness....striving to teach leadership skills, enhance Jewish awareness, define temple purpose, improve teamwork, deepen the sense of common purpose, stimulate long-range planning, and aid in recruiting and training new leadership.<sup>153</sup>

The primary goal of facilitating such workshops is to prevent the outbreak of conflict among congregational leaders.

#### UAHC/CCAR National Conciliation Commission

With the development of Reform Judaism across the years, the professional role and status of the American rabbinate has likewise developed with increasing benefit to the spiritual life of the American Jewish community. Our concern with the clarification and maintenance of the high professional status and effectiveness and dignity of the rabbinate as well as the stability and well-being of congregations suggests the importance of a further delineation of the relationship of the rabbi and congregation in the area of tenure and placement. It is recognized that these matters have been under discussion by committees of both the Conference and the Union. It is urged at this time that concerted effort be made by these committees towards the resolution of these two important matters

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<sup>152</sup>Ms. Edie Miller, UAHC, New York, New York. Correspondence of August 5, 1998.

<sup>153</sup>UAHC. Programs and Services, New York: UAHC Press, 19-20.

to the end that their plans long considered and formulated become speedily the standard practice governing our rabbinical-lay relationships on a local and national level.<sup>154</sup>

We are deeply disturbed by the fact that an increasing number of rabbis have suffered improper and unjust dismissal from their pulpits. These all too frequent actions reflect a growing spirit of alienation between the laity and the rabbinate which eventuates in great personal tragedy to rabbis, serious injury to the morale of the community, and harm to the growth of our movement. We, therefore, recommend that a special committee be appointed to study and to report in detail to the next convention on the cause of this situation and to recommend appropriate action to the Conference.<sup>155</sup>

The National Conciliation Commission was created as a Joint Commission of the UAHC and CCAR "pursuant to a resolution of the General Assembly of the Union held at Toronto in 1957, and approved by the conference".<sup>156</sup> Its purpose was to implement the provisions of the document entitled Suggestions for Procedure in Rabbinical-Congregational Relations, recommended by the General Assembly to all Reform Congregations as the basis for establishing and maintaining dignified and equitable relationships between rabbis and congregations.<sup>157</sup>

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<sup>154</sup>CCAR Yearbook, Volume LXVII. New York: CCAR Press, 1957, 109.

<sup>155</sup>CCAR Yearbook, Volume LXXIV. New York: CCAR Press, 1964, 123.

<sup>156</sup>*Ibid.*

<sup>157</sup>Suggestions for Procedure in Rabbinical-Congregational Relationships was revised July 1, 1975, as a revision and enlargement of a statement adopted in principle at the 1969 General Assembly of the UAHC. The work was revised and renamed Guidelines for Rabbinical-Congregational Relationships in 1984, and is commonly referred to as '*The Gold Book*', because of its cover. Section VI of the work, entitled 'Conciliation and Arbitration', deals with the scope, function and procedures of the Commission, which have been summarized in this section. See Appendix for the entirety of '*The Gold Book*'.

The NCC met for the first time in New York on March 11, 1959, and elected Rabbi Emil Leipziger as its chairman, in recognition of his efforts as chairman of the conference's predecessor committee on arbitration and ethics, whose two divisions were spun off from each other into separate entities with the creation of the NCC in 1957. Mr. Sidney I. Cole of Chicago, a member of the Union Board of Trustees, and key lay-architect of the commission, was elected co-chairman.<sup>158</sup> The precedent of shared chair responsibilities between rabbis and lay leaders is one which endures to the present-day.

The Commission was to be used as a preventative body if possible, closing potential breaches between rabbis and congregations. But when such breaches should occur, the NCC was seen as the key body in the movement to be turned to for

'mediation, conciliation and arbitration actions if necessary. Peace and harmony within our congregations is a worthy aim, and to this aim your national conciliation commission is dedicated.'<sup>159</sup>

In 1973, the Joint Commission first submitted its report as the NCRCR -- The National Commission on Rabbinical-Congregational Relations. Rabbi Jacob Shankman, then rabbinic chair of the commission, explained that the name change had been made at the request of the Executive Committee of the CCAR, in an effort to

'avoid the unfavorable semantics of "conciliation"' when tending to the 'steady flow of incidents and cases that come to the commission for consideration'.<sup>160</sup>

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<sup>158</sup>CCAR Yearbook, Volume LXIX. New York: CCAR Press, 1959, 103.

<sup>159</sup>Ibid.

<sup>160</sup>CCAR Yearbook, Volume LXXXIII. New York, CCAR Press, 1973, 97-98.

As in its prior inception as the NCC, The NCRCR was formed as a joint commission of the UAHC and CCAR. Each institution, then and now, appoints an equal number of members to the Commission.

The function of the NCRCR, according to the document *What You Should Know About The NCRCR*<sup>161</sup>, is to

'help resolve disputes between rabbis and their congregations and to institute preventative measures that will help congregations and rabbis work harmoniously together'.<sup>162</sup>

#### How NCRCR Functions in Disputes

When disputes arise that are beyond the power of the congregation to handle locally, either the rabbi or the president of the congregation calls one of the Chairpersons of the NCRCR, or the Director. It is noted by NCRCR that sometimes disputes are resolved at this level of intervention.<sup>163</sup> If the dispute cannot be resolved at that level, the rabbi or the president can request a team of mediators be sent by NCRCR to visit the community. While either party can request a team visit, the NCRCR emphasizes that if both parties are not willing partners in requesting the visit, the work of the team will be made considerably more difficult.<sup>164</sup>

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<sup>161</sup>UAHC/CCAR, National Commission on Rabbinic-Congregational Relations, "What You Should Know About The NCRCR".

<sup>162</sup>Ibid.

<sup>163</sup>Ibid.

<sup>164</sup>Ibid.

When a case arises, the Chairpersons and the Director of NCRCR confer as to the best plan for mediation. One of the three, however, assumes primary responsibility for a given case, assembles a team, schedules a mutually convenient date, and works with the team and the congregation until the work of the NCRCR has been completed.<sup>165</sup>

The Chairperson/Director decides which rabbi and lay leader from the NCRCR will be asked to serve on the team, then contacts the potential team members to ascertain whether or not they are available. The names of the potential team are shared with both the rabbi and president of the congregation, in order to make sure that neither party objects to the involvement of a specific team member. The NCRCR notes that usually there are no objections. If either party does object a replacement is found.<sup>166</sup>

Once a team is agreed upon, a mutually convenient date is set for the visit, which typically lasts from a day and a half to two days. Sometimes it is necessary for a team to return for a second visit. The NCRCR notes that they attempt to allow as little time as possible to elapse between the congregation's/rabbi's request for a team and the actual visit.<sup>167</sup>

When the team arrives, the NCRCR stresses that they spend their time on site listening objectively to all parties concerned, and make recommendations that will be

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<sup>165</sup>UAHC/CCAR, National Commission on Rabbinic-Congregational Relations, "The Scope, Function(s) And Procedures of the NCRCR".

<sup>166</sup>Ibid.

<sup>167</sup>Ibid.

helpful in resolving the existing differences.<sup>168</sup> The NCRCR emphasizes that the rabbi on the team does not represent the rabbi in the congregation and the lay person on the team does not represent the lay leadership of the congregation.<sup>169</sup>

The team members ask the rabbi and president of the congregation to attempt to agree on the issue on which the team should focus. An example cited by the NCRCR: in one case the team was asked to make a recommendation on whether or not the rabbi should continue serving the congregation. If so, what could both parties do in order to make the relationship a more productive one? If not, what would be an equitable way for the separation to occur?<sup>170</sup>

The president and the rabbi are then asked to indicate which groups should meet with the team. The team considers their selections and ultimately decides on the groups and the schedule for the visit. Usually, teams meet with the rabbi, officers, and board of the congregation. Sometimes they meet with "special interest" groups, temple staff, etc.<sup>171</sup>

There are two basic approaches to meeting with these groups that have been followed by teams:

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<sup>168</sup>Ibid.

<sup>169</sup>Ibid.

<sup>170</sup>Ibid.

<sup>171</sup>Ibid.

1. To meet separately with each group and then allow time during the visit for recalling groups or meeting with additional groups.
2. To have one meeting at which all parties are present. Time is set aside for each of the concerned parties to raise their concerns followed by adequate time for responses. The team then meets and processes the information. It then decides on whether separate caucuses with individual groups are necessary.<sup>172</sup>

The NCRCR team, after leaving the site, sends a report and its recommendations to the NCRCR Chairs and Director. The NCRCR will then send the NCRCR's recommendations to the rabbi and president of the congregation, along with other interested parties to the dispute (e.g., the Team, the UAHC Regional Director and the CCAR's Executive Vice President). After the recommendations are sent, the Team will then set up a conference call with the president and rabbi, in order to discuss and clarify the NCRCR's recommendations.<sup>173</sup>

In the final assessment, just how effective are past and current methods of conflict resolution between rabbis and congregants? What, if anything, can be done to improve upon established processes of conflict assessment and mediation? The final chapter of this thesis will attempt to answer these and other essential questions about the effectiveness of outside intervention upon strained rabbinical/congregational relationships.

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<sup>172</sup>ibid.

<sup>173</sup>ibid.

#### ***Chapter Four: Concluding Thoughts on the Role and Effectiveness of Mediation***

So when the numerous factors concerning synagogue conflict are considered, where will the solutions to disputes between rabbi and *kahal* be found?

Perhaps the words and procedures proffered by secular systems experts will prevail in the struggle for open communication between disputants.

Perhaps the ideas of religious 'conflict counselors' will spread healing and hope to those suffering conflict within the congregational world.

Or perhaps the ministrations that aim to heal wounds suffered by clergy and laity will follow the examples of the ancient, medieval and modern worlds of Judaism.

But one thing has been made evident through the research and writing of this thesis, an idea which cuts across all eras and methodologies:

*To achieve lasting reconciliations between rabbis and lay leaders, mediators must not only seek to improve communication between disputants, but also help each conflicted individual attain an improved sense of who they are and why they are here in this world.*

There is a text that speaks to this 'perennial goal' of the mediator, even as it speaks to higher aspirations of human nature. "Desiderata"<sup>174</sup> encourages us to be

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<sup>174</sup>Max Ehrmann, *Terre Haute, Indiana*, c.1921.



builders of bridges between those in dispute, to seek common language of purpose when directing the vision of a holy community. Written by Mr. Max Ehrmann in the early 1920's, the work is a creative effort to understand what truly matters in this universe. Through his prose, Mr. Ehrmann has sought to remind us that the road to godliness lies not in aggression, but rather through humility of self and openness towards others who, like us, are reflections of the divine image.

Each line speaks with the same effect as the historical accounts of conflict and conciliation found in Chapters One and Two. And each idea is echoed in the works of organizational consultants and religious counselors, as detailed in Chapter Three.

The text reads as follows:

*"Desiderata"*

*Go placidly amid the noise and haste,  
And remember what peace there may be in silence.  
As far as possible, without surrender, be on good terms with all persons.  
Speak your truth quietly and clearly; and listen to others, even the dull and ignorant;  
They too have their story.  
Avoid loud and aggressive persons, they are vexations to the spirit.  
If you compare yourself with others, you may become vain and bitter,  
For always there will be greater and lesser persons than yourself.  
Enjoy your achievements as well as your plans.  
Keep interested in your own career, however humble;  
It is a real possession in the changing fortunes of time.  
Exercise caution in your business affairs, for the world is full of trickery.  
But let this not blind you to what virtue there is.  
Many persons strive for high ideals, and everywhere life is full of heroism.*

*Be yourself.  
Especially, do not feign affection.  
Neither be cynical about love;  
For in the face of all aridity and disenchantment, it is perennial as the grass.  
Take kindly the council of the years, gracefully surrendering the things of youth.  
Nurture strength of spirit to shield you in sudden misfortune.  
But do not distress yourself with imaginings.  
Many fears are born of fatigue and loneliness.  
Beyond a wholesome discipline, be gentle with yourself.  
You are a child of the universe, no less than the trees and the stars,  
You have a right to be here.  
And whether or not it is clear to you,  
No doubt the universe is unfolding exactly as it should.  
Therefore be at peace with God,  
Whatever you conceive Him to be,  
And whatever your labors and aspirations,  
In the noisy confusion of life keep peace with your soul.  
With all its sham, drudgery and broken dreams, it is still a beautiful world.  
Be careful - Strive to be happy.*

In this thesis, we have read how the greatest of prophets was tested by his lay leaders, as Korach challenged Moses' authority as lawgiver and judge of the Israelite people<sup>175</sup>. We have studied the words of rebuke which reduced a great king to something less than noble, as the crimes of King David against Uriah were recounted by Nathan<sup>176</sup>. We have analyzed the evolving role of the *mara d'atra*, from ancient codifier

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<sup>175</sup>See above, pp. 38-41.

<sup>176</sup>See above, pp. 43-45.

and judge, to medieval teacher and functionary<sup>177</sup>. And we have learned of the evolving relationship between rabbis and laity, in the world of emancipation. For just as Jews obtained the right to enter modern secular society, rabbis lost the ability to coerce community members to engage in traditional practice<sup>178</sup>.

Through each era, frictions arose between spiritual leaders who envisioned paths to Torah and those who would follow the leader along the way. As this thesis concludes, we discover that every age has held in common certain ideas concerning the needs of rabbis and lay persons in dispute:

1. The need to recognize that good people will differ on issues of substance.
2. The need to understand that, no matter the external issue which divides people, there will always be an internal force which spurs conflict forward. Once we realize that all conflict at some level is internal, we will see that the path to mediation begins within ourselves.
3. The need to hope that even if conflict reaches a level beyond repair, those who part ways recognize that we all possess a Godly spark, our most common link to one another. This realization, more than the efforts of any person or party, will be what keeps us civil even in the most trying of circumstances.

Ancient, medieval and modern methods of crisis intervention are, to an extent,

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<sup>177</sup>See above, pp. 55-56, 64-66.

<sup>178</sup>See above, pp. 64-66.

successful in revealing these ideas to disputants. Such methods are most successful when presented in a spirit of reflection, intended to help rabbis and lay persons assess the motivations, as well as the merits, for conflict. Whereas outside interventions, despite the source, prove least successful when they attempt to alter the behavior of one or more parties for the sake of preserving power and/or authority. This is so because this approach is unmindful of the inner needs of the disputants.

Use the case of Nathan's rebuke of David as an example of reflective intervention. Though the words uttered to David were painful to the extreme, the wisdom gained by them – to understand the consequences of obsession and prevarication – was gratefully accepted by the king. David understood that he had lost his humility and needed rebuke in order to once again become a responsible ruler and human being.

Use the halachic dispute between R. Eliezer and the Sages as an example of unsuccessful mediation. The principle of Torah no longer residing in heaven was important to the sages. Even a divine reminder to be human – that is, to recognize the need for balance when confronting alternate points of view – ended up being ignored. In such a case, even an outside intervention by the Almighty cannot hope to endure.

In Chapter Three of this thesis we discovered the need for mediators to learn that behind every conflict lay the collective backgrounds, sentiments and sensibilities of the disputants. One must remember to take these and the other essential ideas of conflict resolution to heart when faced with dispute. In this way, one's chances for a more open

discussion of difference -- and a more likely opportunity for lasting solutions to conflict --  
may soon follow.

## Appendix

### GUIDELINES FOR RABBINICAL-CONGREGATIONAL RELATIONSHIPS

As adopted and recommended by the UAHC Board of Trustees and CCAR -- Fall 1984

THEODORE K. BROIDO

1927-1984

Guidelines for Rabbinical-Congregational Relationships is lovingly dedicated to the memory of Theodore K. Broido, who was largely responsible for the previous editions of this booklet, and whose wisdom and compassion are reflected on every page of this edition. Ted worked tirelessly to create fair and happy relationships between Rabbis and Congregations, so that in all things Reform Congregations might witness to the very highest ideals of Judaism, and so that God's name might be sanctified in all our dwelling places. Truly, in the word of Torah, here was a man in whom was the spirit.

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## PREAMBLE

Sacred Jewish values underlie the partnership between Rabbi and Congregation. To enhance the unique quality of this partnership the Board of Trustees of the Union of American Hebrew Congregations and the Executive Board of the Central Conference of American Rabbis have jointly drawn up this third revision of Guidelines for Rabbinical-Congregational Relationships.

The procedures set out in this booklet have been tested and refined through decades of experience.

Nothing in this publication is intended to supersede existing applicable law or the constitution and by-laws of the Congregation. However, by-laws generally conforming to these Guidelines assist in shaping harmonious Rabbinical-Congregational relationships. The adoption of these Guidelines by the UAHC Board of Trustees and the CCAR Executive Board does not automatically make them a part of the agreement between a Congregation and its Rabbi. For the Guidelines to apply to the individual Congregation and Rabbi, they must be specifically incorporated into the agreement between Rabbi and Congregation.

Out of their firm conviction that the implementation of the Guidelines will prove beneficial to Congregations and Rabbis alike, the leadership of the Union and the Conference call upon their members to accept them and to pledge faithfully to fulfill their high responsibility to each other.

The CCAR's Code of Ethics also deals with some of the topics covered in the Guidelines. The Code, revised in 1982, presents standards of Rabbinic behavior which the members of the Conference have agreed to maintain. The provisions contained in the Code are interpreted by the Conference's Committee on Ethics.

## THE CONGREGATION AND ITS LEADERSHIP

### A. The Role of the Congregation

For more than two millennia the Synagogue has served our people as Beth Hatefillah, House of Prayer, as Beth Hamidrash House of Study, as Beth Hakeneseth House of Assembly. As it fulfills these classic roles, the modern congregation becomes worthy of the designation Kehillah Kedoshah, a "holy community."

Although historically each Congregation is autonomous, Reform Congregations in North America are voluntarily united in common purpose through the Union of American Hebrew Congregations. Reform Rabbis, who in the tradition of the rabbinate enjoy autonomy in the practice of their calling, are associated in the Central Conference of American Rabbis.



The Union was founded in 1873 by Rabbi Isaac Mayer Wise. In 1875 Rabbi Wise established the Hebrew Union College for the education of Rabbis. In 1950 the College merged with the Jewish Institute of Religion, which had been founded in 1922 by Rabbi Stephen Samuel Wise. The College-Institute, with campuses in Cincinnati, New York, Los Angeles, and Jerusalem, has ordained the great majority of Reform Rabbis serving in North America. The Central Conference of American Rabbis, the third great institution of the Reform Movement, was organized by Isaac Mayer Wise in 1889.

#### B. The Role of the Congregational Leadership

In some communities the Congregation itself is the governing body, charged with the responsibility of administering all the activities of the institution. In most Congregations, however, the Board (of Trustees) has been delegated responsibility for governance. The Board is enjoined to direct the administrative and financial affairs of the Congregation. By virtue of its election by the membership at large, the Board derives authority from the Congregation as a whole, and it should represent the varied points of view of the membership. Those who are invested with positions of leadership, whether officers or trustees, should understand that their responsibility extends beyond the management of congregational business to include involvement in all phases of the Congregation's programs. Officers and trustees should set an example of commitment to the membership at large by participating actively in worship, study, and other activities offered by the Congregation.

The President of the Congregation is usually the person most directly involved with the Rabbi. The President, as elected lay leader, and the Rabbi, as elected spiritual leader, should meet regularly to consider the welfare of the Congregation. They should keep each other informed of the views of individuals and groups within the Congregation, and (to the extent allowed by the need for confidentiality) of significant events in the lives of congregants. They should acquaint each other with the programs they intend to recommend to the appropriate congregational committees or to the Board. They should encourage each other's efforts to introduce new programs and to stimulate the participation of members in congregational activities. The President and the Rabbi should share their knowledge of the special interests and abilities possessed by individual congregants, and they should confer when appointments to congregational committees are to be made.

Discussions between the Rabbi and President on congregational business or on personal matters should be carried on in complete candor, and, when appropriate, in confidence. Each should respect the other's knowledge and experience.

#### C. The Partnership of the Congregational Leadership and the Rabbi

A Congregation is best served when its lay and rabbinic leadership consider themselves partners in carrying on the sacred functions of the Synagogue. Certainly the lay leadership and the Rabbi should interact on all levels of congregational activity. The

Officers, Board, congregational committees, and the Rabbi should work closely together: the lay leadership always calling upon the Rabbi for expert advice, based upon scholarship and experience; the Rabbi respecting the judgment, sensitivity, and commitment of the leadership.

#### D. The Rabbi and the Board of Trustees

The Rabbi should be an ex officio member of the Board of Trustees and of its Executive or Advisory Committee, with full privileges of discussion. In recognition of the fact that there may be religious, ethical, and/or programmatic implications in fiscal or administrative policy decisions, the Rabbi should be free to express opinions on these matters, and the Rabbi's viewpoint should be accorded a regard befitting the position of spiritual leader.

### THE AUTHORITY OF THE RABBI

#### A. The Rabbi's Status in the Congregation

The Rabbi is the Congregation's chosen spiritual leader, called to minister to the religious, educational, pastoral, and communal needs of the membership. While in a legal sense the Rabbi is an employee of the Congregation, the Rabbi is more than a professional staff person.

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. (Specific procedures may differ from Congregation to Congregation.)

## B. The Roles of the Rabbi

### 1. The Rabbi in the Pulpit

The Rabbi always enjoys complete freedom of the pulpit. Rabbis are faithful to the traditions and high demands of their rabbinic calling when they preach and teach Judaism both in its fundamental essence and its application (as each Rabbi sees it) to the contemporary scene.

Only the (Senior) Rabbi of the Congregation may invite another Rabbi or guest speaker to occupy the pulpit.

The conduct of services of worship and life cycle ceremonies should be primarily the responsibility of the Rabbi. 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.

### 2. The Rabbi as Teacher

Rabbis should avail themselves of every opportunity to teach Torah to their congregants.

If the Congregation's staff includes an Educator, the Educator shall consult with the Rabbi in all matters relating to the educational program of the Congregation.

### 3. The Rabbi as Scholar

The calling of the Rabbi requires regular and diligent study. Therefore, the Congregation should provide the Rabbi with ample opportunity for both formal and private study in Jewish and general areas of learning.

### 4. The Rabbi as Officiant

The Rabbi shall officiate at life-cycle functions of congregants. Courtesy and practical considerations require that the Rabbi shall determine rituals and procedures which are to be used at these functions. The Rabbi shall officiate in accordance with his/her convictions and with due regard for the customs of the Congregation. Other Rabbis in the Congregation shall officiate only in conformity with the standards and procedures set by the (Senior) Rabbi. 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.

The Rabbi shall serve those individuals and families who seek rabbinic ministrations. In some instances, in the spirit and tradition of Judaism, pastoral activities may be shared by Rabbi, Cantor, and lay people. The Congregation shall recognize the

desirability of establishing a proper balance between the time needed for the Rabbi's pastoral obligations and other duties.

#### 5. The Rabbi as Counselor

The Rabbi meets with individuals and families who desire personal guidance. Contacts between the Rabbi and those who seek counsel are always held in strictest confidence. When, in the Rabbi's judgment, the situation warrants, the Rabbi makes referrals to specialists.

#### 6. The Rabbi in the Community

Rabbis demonstrate their commitment to Judaism through participation in activities which benefit the general community. Rabbis may rightly identify themselves with causes, movements, or institutions which they judge compatible with the teachings of Judaism.

#### 7. The Rabbi as a Person

Rabbis, as do their congregants, require ample time and privacy to fulfill their responsibilities to their family and to maintain their health of body and of mind through regular physical exercise, study, and recreation. The Congregation is best served in its partnership with its Rabbi when it takes the Rabbi's needs as a person into account.

#### 8. The Rabbi and the Lay Leadership

As has been noted previously (Article I, Section C), 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. They should meet regularly and frequently.

### RABBINATE: (SENIOR) RABBI, ASSISTANT RABBI, ASSOCIATE RABBI

#### A. Engagement of Additional Rabbis

The decision to engage additional Rabbis shall be by mutual agreement between the (Senior) Rabbi and the Congregation or its Board of Trustees.

## B. Titles

Some Congregations designate each member of the rabbinic staff as Rabbi. Others prefer the titles Senior Rabbi (or Rabbi), Assistant Rabbi, Associate Rabbi. An Assistant Rabbi is generally a Rabbi with less than five years' experience after ordination, although older Rabbis may occupy assistantships.

It should be remembered that each member of the rabbinic staff, of whatever title or rank, is an ordained Rabbi. Assistant and Associate Rabbis are as much entitled to the respect and dignity accorded to the rabbinic office as is a (Senior) Rabbi.

## C. The Assistant Rabbi

The selection or re-engagement of the Assistant Rabbi shall be subject to the recommendation and approval of the (Senior) Rabbi. Prior to the engagement of the Assistant, the (Senior) Rabbi, in consultation with the appropriate congregational body, shall define the areas in which the Assistant Rabbi is to function. In performing these duties, the Assistant shall be responsible to the (Senior) Rabbi, reporting to him/her on all matters of policy and program before taking action.

Upon completion of three years of satisfactory service to the Congregation, the Assistant Rabbi, upon the recommendation of the (Senior) Rabbi to the Congregation or Board or its appropriate committee, shall be eligible for promotion to the position of Associate Rabbi.

## D. The Associate Rabbi

The title of Associate Rabbi may be conferred by the Congregation, upon the recommendation and approval of the (Senior) Rabbi and the concurrence of the Board of Trustees, in accordance with one of the following options:

1. An Assistant Rabbi whom the Congregation wishes to retain after the initial three years of service.

2. A newly engaged Rabbi with not less than five years of rabbinic experience.

3. A Rabbi who is engaged with the assurance of succession when the incumbent retires, provided that the Associate will then be eligible under the Guidelines established by the Rabbinical Placement Commission. A Congregation should engage an Associate-Successor only when the (Senior) Rabbi has announced the date of retirement, and when that date is not more than three years in the future.

The duties and responsibilities of the Associate Rabbi shall be determined by the (Senior) Rabbi and the Congregation or the Board of Trustees.

After an Associate Rabbi who has received the title under options (1) or (2) has served the Congregation for three years, the (Senior) Rabbi and the Board of Trustees should decide whether (a) the Associate, if eligible under Placement Guidelines, is to be regarded as successor to the pulpit when the (Senior) Rabbi retires, or whether (b) the Associate is to be invited to remain in his/her present position with the clear understanding that successorship is not to be expected, or whether (c) the Associate is to seek another position, the Congregation allowing ample time to secure placement, or whether (d) the Associate may eventually be considered a candidate for succession to the pulpit, together with other candidates whose names will be provided by the Placement Commission. This determination should be recorded in the Minutes of the Congregation.

#### E. Co-Rabbi

Experience indicates that effective leadership requires that rabbinic responsibility be vested in a single (Senior) Rabbi. The position of Co-Rabbi is not recommended.

#### F. The Rabbi Serving Part-Time

Congregations may engage the service of a Rabbi to serve on a part-time basis, either as Rabbi of the Congregation or as an Assistant or Associate Rabbi or to assist the Rabbi of the Congregation. The duties and responsibilities should be precisely defined in writing, specifying how many hours each week and how many days each month are to be devoted to the part-time post. The Rabbi's privacy should be respected in regard to those hours or days not specifically designated for congregational service. The Rabbi serving part-time is entitled to be elected for a fixed term and to receive prorated pension and other fringe benefits, as provided in subsequent sections of this booklet.

#### G. Temple Staff

The (Senior) Rabbi is the supervisor of the professional staff. The especial competence brought to the service of the Congregation by each professional staff member must always be respected. The selection and engagement of professional staff members shall be upon the recommendation of the (Senior) Rabbi and the appropriate congregational committee. The professional staff, whenever possible, should be chosen from the membership of the American Conference of Cantors (ACC), the National Association of Temple Educators (NATE), and the National Association of Temple Administrators (NATA).

#### H. Pulpit Succession

Congregations seeking a Rabbi to fill a pulpit vacancy and Rabbis desiring a change of pulpit are required to follow the procedures established by the Rabbinical

Placement Commission, an agency under the joint sponsorship of the Union of American Hebrew Congregations, the Hebrew Union College-Jewish Institute of Religion, and the Central Conference of American Rabbis. The address of the Rabbinical Placement Commission is 21 East 40 Street, New York, NY 10016; telephone (212) 684-4990.

The Commission's pamphlet, 'When Your Congregation Seeks a New Rabbi,' and other materials on rabbinic placement will be sent to Congregations and Rabbis on request.

#### 1. Candidates for Ordination

Students about to be ordained by the Hebrew Union College-Jewish Institute of Religion are placed jointly by the College-Institute and the Rabbinical Placement Commission. The date on which senior students will be available for interviews will be announced each year by the College-Institute and the Commission, and meetings between applicants and congregational search committees will be arranged by the College-Institute placement officers at the Cincinnati and New York Schools. Congregations seeking the services of newly-ordained Rabbis are asked to communicate initially with the Placement Commission.

#### 2. Credentials

Congregations should be aware that pulpit vacancies may attract applications from individuals of questionable character and credentials. Members of the Central Conference of American Rabbis will discuss placement only through the Rabbinical Placement Commission. Any application received directly from a Rabbi should be forwarded to the Director of Placement, 21 East 40 Street, New York, NY 10016.

##### I. Former Rabbis

Rabbis who have maintained contact with members of the Congregations to which they previously ministered should be guided by the provisions of the CCAR Code of Ethics, which states:

No Rabbi should offer and/or render such pastoral attentions to members of other congregations, as will disturb the relations between Rabbinical colleagues, between congregations, or between a Rabbi and a member of his/her Congregation.

## THE AGREEMENT BETWEEN CONGREGATION AND RABBI

### A. The Nature of the Agreement

The relationship between Congregation and Rabbi is a covenant through which each party undertakes the obligation of working together in the service of God and the Jewish people. The covenant will be strengthened by regular and candid communication between the congregational leadership and the Rabbi. Every effort shall be put forth to make the covenant harmonious and enduring.

All relationships and agreements between Congregation and Rabbi should conform to the provisions contained in these Guidelines. A statement to that effect should be included in the written terms of agreement. A list of subjects which should be covered in the agreement may be obtained from the Rabbinical Placement Commission. In accepting these terms Rabbi and Congregation agree faithfully to fulfill their responsibilities and obligations to each other.

### B. Tenure Agreements

#### 1. Initial Election

The initial election of the Rabbi should be for a minimum period of two years, except for newly ordained Rabbis, who may be engaged for one or two years, with an option of a second or third year.

#### 2. Renewal

At least four months, but not over six months prior to the completion of the Rabbi's agreed period of service, the Congregation or its Board of Trustees shall ascertain the Rabbi's and its own intentions as to the future of the relationship. If the relationship is to continue, the Rabbi and/or the Rabbi's representatives and the appropriate committee will agree on salary increments and other benefits. Thereafter the Rabbi's re-election shall be recommended to the Congregation, according to the following schedule:

First re-election: At least two years

Second re-election: At least three years

Third, and each subsequent re-election: Five years or more, with periodic review of salary and benefits, or a Continuing Contract.

#### 3. Continuing Contract

A Continuing Contract affords the Rabbi the dignity and security of serving the Congregation without formal re-election, unless a review is requested by either the



Rabbi or the Congregation. Under the terms of a Continuing Contract, salary and other benefits shall be reviewed and negotiated periodically.

#### 4. Evaluation

In considering renewal, some Congregations have undertaken to evaluate the Rabbi through the use of questionnaires and surveys which the general membership is asked to complete. Specialists in the area of evaluation have concluded that the scope of the Rabbi's responsibilities is so broad that an objective evaluation cannot be accomplished in this manner. Moreover, experience has demonstrated that polling the entire Congregation can be destructive to relationships between the Rabbi and the congregants. Therefore such practices are to be avoided. Rather than resorting to polls and surveys, the elected leaders of the Congregation should rely upon their own perceptions and their personal observation of the quality of the Rabbi's ministry in making their recommendations.

#### 5. Life Contract

A Life Contract is an indication of the Congregation's desire to retain the Rabbi's services until the Rabbi reaches the age of retirement. The Congregation shall have the right to offer a Life Contract whenever it shall see fit. When a Rabbi has reached the age of fifty and has served the Congregation for ten consecutive years, the Rabbi so desiring should be eligible for a Life Contract. In accepting a Life Contract, the Rabbi agrees not to seek placement elsewhere.

If the Rabbi and the Board of Trustees agree that a Life Contract is desirable, the appropriate committee shall negotiate terms with the Rabbi. After reviewing the proposed agreement, the Board of Trustees may recommend the Life Contract to the Congregation for its approval. The terms of the Life Contract, as approved by the Congregation and accepted by the Rabbi, should be set out in writing and entered into the Minutes of the Congregation. Copies should be provided to the Rabbi, the Rabbinical Placement Commission (21 East 40 Street, New York, NY 10016), and the National Commission on Rabbinical-Congregational Relationships (633 Third Avenue, New York, N Y 10017).

In planning for the Rabbi's Life Contract, the Congregation should consider the Rabbi's eventual pension, arrangements in the event of disability, and financial protection for the Rabbi's dependents in the event of the Rabbi's death. (See Retirement, Article 4.) A Life Contract checklist may be obtained from the Rabbinical Placement Commission.

## C. Terms of Agreement

### 1. Salary

The ideal of Tsedek, righteousness and rightness, should permeate salary negotiations between Congregation and Rabbi. The following criteria should be considered:

- a. The overall welfare of the Congregation;
- b. The length and cost of the Rabbi's education, both undergraduate and graduate;
- c. Salaries paid by other Congregations of similar size and category;
- d. Salaries received by other Rabbis of similar age, experience and background;
- e. Salaries being received by newly ordained graduates of the HUC-JIR;
- f. Information provided by the annual salary survey undertaken by the Central Conference of American Rabbis.

### 2. Housing

- a. If the Congregation provides housing, the details of that arrangement shall be specified in writing. If the Rabbi dies, the survivors may continue to occupy the home without charge for a minimum of six months, or, where applicable, to the end of the current school year, if the remainder of the school year is more than six months.
- b. If housing is not provided, that portion of the Rabbi's income which is used to house the Rabbi and family, plus all expenses pertaining thereto, shall be declared as 'Housing Allowance' and so recorded in the Minutes of the Congregation, in order to conform to the IRS regulations for tax exclusion.

### 3. Pension and Disability Insurance

The Congregation and the Rabbi should become members of the Rabbinical Pension Plan, as provided to Congregations and Rabbis by the Rabbinical Pension Board of the UAHC-CCAR. This pension program is designed to provide the Rabbi, upon retirement, with a potential income of at least 60% of the highest annual salary received by the Rabbi.

The Rabbinical Pension Plan includes group life insurance to provide for the Rabbi's dependents in the event of the Rabbi's death prior to retirement age. Currently, the Rabbinical Pension Program requires the Congregation to contribute at least 15% of the Rabbi's salary (including housing allowance or value of the parsonage), and the Rabbi to contribute 3%. Since these programs are constantly being reviewed, Congregations and Rabbis are urged to contact the Rabbinical Pension Board (633

Third Avenue, New York, NY 10017, telephone (212) 650-4000) for information on possible amendments. The Rabbinical Pension Board offers disability insurance which the Congregation shall provide for its Rabbi. For reasons of economy, the disability insurance provides for a waiting period of six months before disability insurance payments can be made. During this time the Congregation is obligated to continue the Rabbi's salary and fringe benefits. The Rabbinical Pension Board no longer offers a group health policy. The congregation should provide Basic and Comprehensive Major Medical wraparound coverage. The Pension Board is ready to advise on details. It is desirable for the widow to have coverage continued by the congregation whether pre-retirement or post-retirement death occurs.

#### 4. Convention Allowances

The Congregation shall grant the Rabbi the time and funds necessary to attend the national and regional meetings of the Central Conference of American Rabbis and the Union of American Hebrew Congregations. The opportunity for study and for the exchange of ideas afforded by these gatherings benefits both Rabbi and Congregation. Attendance at these meetings shall not be charged against vacation time.

#### 5. Expenses for Interviewing and Moving

Congregations are responsible for the expenses of travel and accommodation of candidates invited for interviews. On electing a new Rabbi, the Congregation assumes the full reasonable cost of moving the Rabbi's family and possessions.

#### 6. Leisure Time

The Rabbi is always on call, but need not be physically present in the Synagogue throughout the entire day. With the number and diversity of claims upon the Rabbi's time, it is clear that Rabbinic functions are fulfilled in a variety of ways and places, and not exclusively in the Synagogue or in the Rabbi's study.

The Rabbi is entitled to at least one free day each week, or to comparable time, and to a vacation of at least one month during each year of service to the Congregation. Time spent on the staff of UAHC Camps or Conclaves, or time spent in leading trips to Israel shall not be charged against annual vacation time.

The Rabbi's secretary or a congregational officer must be able to contact the Rabbi in the event of an emergency.

#### 7. Maternity Leave

Given Judaism's traditional commitment to the family, Congregations should gladly support the decision of women Rabbis to bear children. Fathers, as well as mothers, should be afforded every opportunity to devote themselves to parenting.

For women Rabbis, Congregations shall grant at least a two month maternity leave at full pay. If additional leave is indicated, the Rabbi may borrow against future vacation time. The Congregation will compensate substitute Rabbis, if their services become necessary during the Rabbi's maternity leave. The Rabbinical Placement Commission, the UAHC Regional Director, colleagues in the Central Conference of American Rabbis, and the Rabbi herself will endeavor to assist the Congregation in finding substitute Rabbis as required. Well in advance of her taking maternity leave, the Rabbi should plan for the continued functioning of the Congregation's programs during her absence.

#### 8. Sabbatical Leave

A Rabbi is customarily granted a Sabbatical leave after six or seven years of service to the Congregation. The leave provides the Rabbi with an opportunity to seek spiritual and physical reinvigoration through a program of study and travel. With the concurrence of its Rabbi, the Congregation may arrange for a substitute Rabbi or for a number of substitute Rabbis to minister during the Sabbatical. A Sabbatical may be granted for a full year, or for part of a year, or may be divided over a period of more than one year. Taking into account the individual circumstances, the Congregation and the Rabbi should work out an arrangement for the length of the leave and for compensation. The Central Conference of American Rabbis can offer guidance on this subject.

#### 9. Sick Leave

Absence caused by illness should not be charged against the Rabbi's vacation time.

#### 10. Assistant and Associate Rabbis, Rabbis Emeritus

All provisions in Article IV, Section C, apply to Assistant and Associate Rabbis as well as to a (Senior) Rabbi. Provisions in Article IV, Section C, paragraphs (2) and (4) also apply to Rabbis Emeritus. Actions taken on the basis of these provisions should be recorded in the Minutes of the Congregation.

#### D. Election of the Rabbi

##### 1. Initial Election

The initial election of the Rabbi shall be subject to a two-thirds vote of the members of the Congregation who are qualified to vote and who are present at a properly called meeting of the Congregation.

## 2. Re-election

The Rabbi's re-election shall be subject to a majority vote of the members of the Congregation who are qualified to vote and who are present at a properly called meeting of the Congregation.

## E. Copies of Agreements

For the protection of all parties, all agreements should be recorded in the Minutes of the Congregation, and copies should be furnished to:

### 1. The Rabbi

2. The Central Conference of American Rabbis 192 Lexington Avenue, New York, NY 10016

3. The National Commission on Rabbinical-Congregational Relationships, 633 Third Avenue, New York, NY 10017

## F. Differences of Interpretation

All differences of interpretation regarding the agreements between Rabbi and Congregation are to be resolved by the National Commission on Rabbinical-Congregational Relationships (See Article VI).

## G. Termination of Service

### 1. Notice

#### a. By the Rabbi:

A Rabbi who is completing three or fewer years of service to a Congregation shall give the Congregation a minimum of four months' written notice of his/her desire to terminate. If the Rabbi is completing more than three years of service, the Congregation shall be given a minimum of six months' notice in writing.

#### b. By the Congregation:

If the Congregation, at a properly called meeting, casts a majority vote to dissolve the relationship at the conclusion of the Rabbi's current commitment, the Rabbi shall be formally notified in writing. If the Rabbi is completing three or fewer years of service, the Congregation shall give the Rabbi a minimum of four months' written notice. If the Rabbi

is completing more than three years of service, a minimum of six months' notice is to be given in writing.

## 2. Time of Pulpit Change

Placement openings occur at all seasons. As a consequence, placement opportunities for the Rabbi cannot always coincide with the termination date of the Rabbi's commitment. While the Rabbi is legally and morally committed to complete any contractual period, and the Congregation has the right to insist that the Rabbi do so, the following procedure has proved equitable:

The Rabbi will not begin to seek or to consider a change of pulpit, nor will the Rabbinical Placement Commission offer placement consideration until more than half of the agreed term of service has been completed if that term is for three years or less. If the agreed term is for more than three years, the Rabbi may begin to seek or to consider a change of pulpit when no more than two years of the agreed term of service remains.

When the Rabbi receives a firm offer of a new position and wishes to accept it, a release from the present commitment must first be secured, the date of release to be determined by mutual agreement of the two Congregations involved, in consultation with the Rabbinical Placement Commission.

## 3. Absences for the Purpose of Interviewing

When a Rabbi's contract will not be renewed, the Congregation will appreciate the Rabbi's need to be absent frequently from the community for the purpose of securing another pulpit. Congregations will understand that interviews are arranged at the convenience of the Congregation that seeks a Rabbi, and that often the Rabbi will have to be away from the present post on days other than the regular day off. This may necessitate the rescheduling of classes and appointments. In its turn, the present Congregation will recognize that it itself will disrupt the schedule of the Congregations whose Rabbis it invites for interviews. The situation calls for forbearance, as well as for the clear commitment of the departing Rabbi to fulfill his/her rabbinic responsibilities to the present Congregation.

## 4. Terminal Vacation

When the departing Rabbi has served the Congregation from Rosh Hashanah to Shavuot, the Rabbi is entitled to annual or terminal vacation with pay.

## 5. Severance Pay

If the Board and/or the Congregation does not renew the contract of a Senior or Associate Rabbi who has served it for five years or longer, the Rabbi is entitled to severance pay, provided that there has been no gross misconduct or willful neglect of

duty. The amount of severance pay will be determined by the National Commission on Rabbinical-Congregational Relationships, using a general guideline of one month's compensation for each year of service to the Congregation. This formula may be adjusted higher or lower, taking into account all of the circumstances, including a provision for offset pay if the Rabbi secures another position during the severance pay period.

## RETIREMENT

### A. Planning for Retirement

When the Rabbi reaches age 55, the Congregation and the Rabbi should begin to plan for the Rabbi's eventual retirement. The Rabbinical Pension Board will provide information as to accrued and anticipated coverage for the Rabbi, and options available for retirement. All agreements relating to the Rabbi's retirement, date of retirement, and financial provisions, should be clearly agreed to by the Rabbi and the Congregation and written into the Congregation's Minutes, with copies provided to all the parties concerned.

#### 1. Age of Retirement

Retirement normally takes place at any time after age 65. It is expected that retirement will occur not later than age 70. Other times for retirement may be specified by contractual agreement.

#### 2. Pension

Upon retirement, the Rabbi is entitled to receive a pension from the Congregation amounting to a minimum of 60% of the highest annual income, regardless of any additional income. "Income from the Congregation" for pension purposes should include salary plus housing allowance, or the fair rental value of housing provided to the Rabbi by the Congregation. When the Rabbi has paid his or her own Social Security Taxes, Social Security is not included in determining pension.

The Congregation shall review every two years the amount of pension received by the Rabbi, or, in the event of death, by the surviving spouse, taking into account the then current US Department of Labor cost-of-living index.

#### 3. Medical Insurance

After the Rabbi's retirement, the Congregation should also continue to maintain any programs of medical insurance in which it has enrolled the Rabbi.

#### 4. The Rabbi's Dependents

In planning for the Rabbi's retirement, the Congregation should also take steps to protect the Rabbi's spouse and dependents in the event of his/her death, such as continuation of health insurance and supplemental pension benefits, provided in accordance with previous agreements.

#### B. The Rabbi Emeritus

##### 1. Granting the Title

If the Rabbi has served the Congregation for five years or more at the time of retirement, the title Emeritus shall be conferred. Other honorary titles may also be conferred by agreement between the retiring Rabbi and the Congregation.

##### 2. The Role of the Rabbi Emeritus

Only one Rabbi can carry the responsibility for the administration of rabbinic functions in the Congregation. When a new Rabbi is elected and enters into office, this responsibility is automatically transferred to him/her. The Rabbi Emeritus should help to establish the successor in the position, and should guide lay people to understand that the new Rabbi is the Rabbi of the Congregation. The new Rabbi has an obligation to accord the Rabbi Emeritus the proper honor and courtesy along the following lines:

The Rabbi Emeritus may sit on the Bimah at all services, and on the platform or at the head table at all significant occasions in the Congregation's life, if he/she so desires. If the Emeritus prefers to sit with the Congregation or to be absent, such wishes shall be respected.

The Rabbi Emeritus may participate in conducting the Synagogue service, preach and/or teach only when invited to do so by the Rabbi of the Congregation. In accepting the invitation to participate, the Emeritus will follow the forms of worship and rituals then prevailing.

The Rabbi Emeritus should not attend meetings of the Congregation's Board of Trustees or of its Executive Committee.

The Rabbi of the Congregation is expected to officiate at life-cycle functions for members of the Congregation and their families. However, when members request the Emeritus to participate, the Emeritus may do so, but only upon the invitation or request of the Rabbi of the Congregation, in accordance with the Code of Ethics of the Central Conference of American Rabbis.

The Rabbi Emeritus shall keep the Rabbi of the Congregation informed of significant events in the lives of the congregants about which the Emeritus has knowledge.



### C. The Deceased Rabbi's Spouse

All of the privileges and courtesies accorded to the rabbi's spouse during the rabbi's tenure should be continued after the rabbi's death.

## CONCILIATION AND ARBITRATION

### A. The Function of the National Commission on Rabbinical-Congregational Relationships

The National Commission on Rabbinical-Congregational Relationships (NCRCR), composed of representatives of the Union of American Hebrew Congregations and the Central Conference of American Rabbis, has been established to interpret the procedures set forth in these Guidelines.

When tensions occur in the relationship between Rabbi and Congregation, the Board of Trustees and/or the Rabbi should promptly call upon the Commission for assistance in resolving the differences at an early stage.

Should a more serious dispute arise, either the Rabbi or the Congregation shall call upon the NCRCR to conciliate or to arbitrate.

Once the NCRCR has the matter before it, Placement service will be suspended for both Rabbi and Congregation until authorization has been given by the NCRCR. During this process the Rabbi shall continue to fulfill all responsibilities and commitments, and the Congregation shall continue to pay the Rabbi's salary and all benefits.

### B. Procedures of the Commission

1. The NCRCR may offer counsel and advice to the Rabbi and/or the Congregation.

2. The NCRCR may appoint a Conciliation Team to ascertain the facts and to recommend solutions. Some recommendations might be offered at the time of conciliation, but normally the team reports to the Commission, which will then officially transmit the report and recommendations in writing to each of the participants. Once the recommendations are accepted, they shall become binding on both parties.

3. If conciliation fails to resolve the dispute, the NCRCR may recommend arbitration under rules which it will determine.

4. In both conciliation and arbitration the NCRCR will be guided by

- a. The facts
- b. Any existing contractual relationships
- c. These Guidelines

5. The parties to all conciliation and arbitration proceedings shall be bound by Rules of Procedure which the NCRCR may adopt from time to time.

6. In all cases involving arbitration, both Rabbi and Congregation shall have a choice of available NCRCR personnel; each shall choose one. The two thus selected shall choose a third.

7. The NCRCR may call upon Rabbis and lay people who are not members of the Commission to represent it, thus widening the possible panel of arbitrators in order to carry out the provisions of paragraph (6).

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