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ORTHODOX AND NON-ORTHODOX JUDAISM: HOW TO SQUARE THE CIRCLE

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Once again, Israel and the Jewish people have won a momentary respite from a head-on confrontation over religious issues that could lead to a split in the Jewish people. Finance Minister Yaakov Neeman, his committee, and the parties involved have gone back to the negotiation table, if not to the drawing board, for three more months to try to bring about what in effect is a squaring of the circle of Judaism: the development of operational ways to maintain Jewish religious unity in the face of the confrontation of two binary opposite perspectives. At the root of the problem is the fact that both the Israeli Orthodox establishment and the American Conservative and Reform movements are right from their respective perspectives. Worse than that, an objective observer would probably also have to agree that both are right, at least in some ways.

Two Contrary Understandings of Judaism

The Chief Rabbinate and the Israeli religious establishment, and, for that matter, probably an overwhelming majority of Israelis as well, regard-

less of their own religious practices, understand Judaism to be an overarching structure, an edifice erected over thousands of years, not simply based upon a Divine plan but constructed through the Bible, the Talmud, the great codes, and the great interpretations of those codes; as a complex but standing structure that technically never changes but is only reinterpreted in a limited way to function within changing realities. For those who believe and observe, this edifice gives them their daily, even hourly, marching orders. For those who observe less or do not observe at all except perhaps at the very margins of the edifice, the edifice still stands and they expect Jewish individuals, when they do act in religious ways, to do so within it. To steal an example from another religion, Judaism is like a great cathedral. It stands there and delivers its religious message whether worshippers enter or not, and while there can be discussions about what are the contents of that message, the character of the edifice is unmitigable.

American non-Orthodox Jews, who are the vast

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majority in the United States (the number of American Jews who identify with Orthodoxy at a maximum is 10 percent, whereas something like 75 percent identify with the various non-Orthodox movements), see Judaism from an American religious perspective that has been shaped by the Protestant experience, as a matter of personal spirituality and belief first and foremost; which means that Jews must begin by personally accepting the fundamental beliefs and traditions of Judaism in some way but then are free to apply them operationally in ways that they find meaningful and satisfying. True, Conservative Judaism accepts the existence of the edifice of Torah and *halakhah*, but understands Torah more as a constitution than as a detailed code, a constitution which can and must be reinterpreted in every age according to its spirit and not merely according to the plain meaning of the text or something close to it.

Reform Judaism formally does not even accept that. For it, *halakhah* is not binding but is merely one of the sources of Jewish religious tradition to which attention should be paid. True, Reform Jews have been moving back to traditional observances for some 80 years now and some even are calling for observance of traditions such as the laws of family purity, whose observance Reform Rabbi Richard Levy, president of the CCAR, the Reform rabbinical organization, has recently suggested ("The Holy Makes Us Whole") should be considered by Reform Jews, something that would surprise and gratify the most Orthodox. But Liberal Judaism makes these issues matters of personal choice and also is prepared to allow Reform rabbis to personally choose to officiate at mixed marriages, although the Reform movement as a movement has just reconfirmed its long-standing formal rejection of mixed marriage.

These two approaches to Judaism or religion in general not only are fundamentally opposed in their theory, but have in recent decades been driven further apart in reality by the attempt of the Orthodox right to advocate even greater *halakhic* stringency than had been accepted in Orthodox ranks in the immediate past (or perhaps ever), and by the greater emphasis on freedom of choice among the American non-Orthodox in their effort to adjust to and compete in the American religious marketplace.

Hence, we have a confrontation between, on one hand, an Orthodoxy with thousands of newly Orthodox coming from backgrounds in which they did not grow up within Orthodox frameworks and thereby acquired the patina of accommodation that living reality imposes on every legal system, among whom observance of the

letter of the law as most stringently interpreted is an ever greater necessity, while, on the other hand, among the American non-Orthodox, the existence of thousands of children of Conservative and especially Reform Jews marrying non-Jews yet wanting to maintain their connections with Judaism and the Jewish community has necessitated the development of a whole series of accommodationist strategies that, at the very least, are departures from traditional Jewish norms. Both of these tendencies put extraordinary pressure on the middle groups, those who had functioned as bridgers between Orthodoxy and non-Orthodoxy over the past 200 years.

The Problem Emerges and Grows

When Israel was founded fifty years ago, it inherited the Orthodox rabbinical establishment that had in part existed in the land since the Ottoman conquest and in part had been reorganized under the British Mandate. While many Israeli Jews prided themselves on having become secular, almost none had adopted Reform or Conservatism. Indeed, the only Reform Jews were a few refugees from 1930s Germany who had brought German Reform with them and had two congregations, one in Jerusalem and one in Haifa. There were no Conservative congregations since the Jeshurun Synagogue, which had been established in the 1920s with half an eye to becoming a Conservative congregation at a time when the distance between Conservative and Orthodox Judaism was minimal, had long since been absorbed into standard Israeli modern Orthodoxy.

For the first thirty years of Jewish statehood, there were few problems of defining who is a Jew. They either involved groups of Jewish olim such as the Bene Israel of India who did not fall fully within *halakhic* Judaism, as understood in Europe, or individuals such as DeShalit (who wanted his children registered as Jews although his wife was non-Jewish) and Brother Daniel (a Jewish convert to Catholicism) who sought to gain status as Jews, even though they violated certain basic Jewish norms accepted by virtually all Jews in Israel, not only those required *halakhically*. The Bene Israel were recognized as Jews and Brother Daniel was not, even by the secular Israeli Supreme Court. Otherwise, problems were few and far between. In no case did any group come forward and ask for recognition as an alternative form of Judaism.

American Jews were busy building up their own Conservative and Reform movements as part of their final steps toward full integration as Americans. Either they were not interested in introducing their movements into Israel or, while recognizing the utility of those

movements for their own situation in America, did not view them as "authentic Judaism" and hence saw no good purpose being served by having them introduced into the Jewish state. The few efforts that were made failed because movements resting on voluntary funding could not attract enough people willing to support such efforts in Israel.

It was only after the Six-Day War that small but meaningful groups of Conservative and Reform Jews settled in Israel as olim and established congregations and local institutions, partly for themselves and partly to establish a movement presence in Israel. The Reform movement, which was beginning to make a greater international effort at that time, even established its international headquarters in Jerusalem. The issue of who could perform weddings and conduct conversions began to emerge, but it was still possible to deal with those issues in informal ways without confrontations. The Chief Rabbinate granted selective permission to the more *halakhically* learned Conservative rabbis to perform weddings in Israel and others found ways to work jointly with recognized Orthodox rabbis, since officiating was not the *halakhic* problem but witnessing. Non-Orthodox converts to Judaism generally were converted before coming to Israel or in a few cases were sent abroad to complete formal conversion after studying in Israel, but the numbers were so small that the issue was a minimal one. Most important, aliya from the West continued to be very small, even if more vocal than in the past.

It was only two decades later with the arrival of the mass aliya from the Soviet Union and then former Soviet Union, which included many half-Jews who claimed to be Jews but could not meet the *halakhic* criteria, that the issue became a real one for Israel as well as the diaspora. At the same time, Reform and Conservative pressure for recognition was stepped up. In the interim, American Conservative Judaism had moved further away from traditional *halakhic* interpretation to develop more radical interpretations which they still claimed to be within *halakhah*, including empowering women for all or virtually all roles in Jewish life and allowing practices that Orthodoxy had ruled were not *halakhically* permitted on Sabbaths and holidays. It was this newly aggressive Reform and Conservative Judaism which confronted an equally new, fervently Orthodox militant stance. Hence the problem of squaring the circle arose in force to plague us all. No matter that the actual number of cases affected was small, even minuscule; matters of deep religious principle were involved on both sides. Beyond that,

the issue also brought real pain to American Jews who wanted to live in Israel and to be accepted by it as they are.

In many respects, the issue had come down to who was a rabbi. The problem of who is a Jew could be solved in various ways by the Israeli religious establishment if it chose to do so, but the demand of Reform and Conservative rabbis for recognition was a whole different issue. Not only that, but this demand was being used in non-Orthodox pulpits throughout the United States to build up a case against the Israeli religious establishment, which was not difficult for them to do, given the American perception of religion as a personal matter and of radical separation of church and state. The Jews, as a non-Christian minority in Christian America, had embraced the latter position wholeheartedly, one might even say religiously.

Earlier Squaring of Circles in Zionist History

This is not the first time the need to square circles has confronted the Jewish people since the establishment of the state. From the beginning of Zionism, the need to unite religious and militantly secular Jews in the common enterprise involved squaring circles. This was done pragmatically through a system of proportional allocation of resources in every sphere of enterprise from governance to sports.

After 1948, the issue was raised as to how a Jewish state might affect the status of diaspora Jews, whether it would create problems of dual loyalty that were unacceptable to the other countries in which Jewish communities had made themselves at home and had been accepted. This problem also was worked out pragmatically because, fortunately, with the exception of the period in the late 1940s when the Yishuv was struggling with the British to gain independence, no Western democratic Jewish community was ever put in a position where its Jewish loyalties, and the ties to Israel which they brought, came into serious conflict with their countries of citizenship and residence. (The admirable and brave stance of British Jewry in those years deserves to be remembered.) Otherwise, the only countries in which that issue was raised were totalitarian states in the Communist bloc where Jewish identity itself was punished and where the efforts of Jews to maintain their Jewish loyalties, including those to Israel, were applauded by the rest of the world. Obviously, that issue disappeared after the collapse of the Soviet Empire.

A more difficult problem was how could Israeli Jews and diaspora Jewry work together in common

projects, especially of aliya and state-building. How could a politically sovereign state and voluntary communities find ways and means to work together in a cooperative manner without sacrificing either the political sovereignty of the state or jeopardizing the Jews in the voluntary communities?

Israel's original efforts to solve that problem were quite heavy-handed. It was assumed by Israel's founders that, as the Jewish state, Israel naturally would speak for all of world Jewry. The President of Israel would be looked upon as the President of the Jewish people. The Israeli Chief Rabbinate would become authoritative for all of world Jewry. Even the Knesset would have responsibilities beyond Israel's borders. Indeed, the establishment of the Knesset with 120 members on the model of the ancient Anshei Knesset Hagedolah, the assembly of the days of Ezra and Nehemiah, was designed to symbolically reflect the whole people with its 120 members as the equivalent of a *minyan* for each of the twelve tribes. In those naive salad days there were even discussions of how the Israel Defense Forces could be used to protect Jews anywhere.

This Israeli view was emphatically rejected by the diaspora, especially the North American diaspora. American Jewry even forced Ben-Gurion to formally repudiate it in the famous Ben-Gurion/Blaustein letters of the early 1950s, in which Ben-Gurion was compelled to write to the then-president of the American Jewish Committee abjuring any special role for Israel with regard to American Jewry, in order to retain the support of the wealthy and influential American Jews. The operational issue still remained. It was not settled until after the Six-Day War with the reconstitution of the Jewish Agency as the instrumentality that could represent the governing powers of both Israel and the diaspora communities in the pursuit of common tasks. The new Jewish Agency partnership meant that 50 percent of the Agency's governing institutions would be in the hands of diaspora "fund-raisers," which, in North America and a few other countries where the vast bulk of funds for Israel were raised, meant the Jewish community federations, locally developed communal institutions, and their instrumentalities, including the UJA. The "fund-raisers" were also, and perhaps even more so, leaders of their communities, thus bringing the Jewish community federations of the United States and Canada and some equivalent bodies in other countries directly into the Jewish Agency to represent their constituents.

As far as Israel was concerned, representation was

through the "Zionist parties." No longer did state institutions claim a direct role in world Jewish governance; rather, parties that stood in Israeli elections as Zionist parties — that is to say, all but the separate Arab parties, the Communist party of Israel that explicitly rejected Zionism, and the ultra-Orthodox parties — were entitled to represent the Israeli 50 percent of the Jewish Agency partnership in the World Zionist Organization. In JAFI those parties would form a wall-to-wall coalition with seats allocated among them based on the results of the last Knesset election, thus counting every Israeli Jew, with a few exceptions, as a Zionist and giving their Knesset votes a double meaning (of which most of them were unaware).

This clever device established the Israeli-diaspora partnership in the work of aliya, klita, and state-building through the Jewish Agency. That partnership has lasted until now and has some great achievements to its credit such as organizing the mass aliya from the former Soviet Union, Project Renewal in Israel, and the range of Zionist and Jewish educational activities in Israel and abroad.

Resolving the Present Issue: The Real Choices

The issue of relations among Orthodox, Conservative, and Reform Jews requires another clever step or set of steps to square that circle, an even more difficult task. Within the reorganized Jewish Agency it was possible for Orthodox, Conservative, and Reform Jews to sit together, to work on common programs, and even to support each other's institutions without untoward difficulties because they did not have to recognize each other religiously. Fortunately, since the very beginnings of the Jewish people, the Jewish polity has recognized a separation of domains into those of Torah, civil rule (in Hebrew, *malkhut*), and priesthood (in Hebrew, *kehunah*). All three have their own *halakhic* and historic legitimacy, so what could not be done within the domains of Torah and priesthood because of differences in religious understanding could be smoothed over in the domain of civil rule by representatives of the same groups. That is what we did. Now, however, the challenge has come in the other two domains over the issue of who is a rabbi and what interpretations of Torah are religiously legitimate.

Here is where the Neeman Committee's solution is so ingenious and important, precisely because it does appear to square the circle to everyone's advantage in some ways and to everyone's disadvantage in others. The Israeli rabbinical establishment will have to give up its exclusiveness by accepting Reform and Conserva-

tive involvement in common operational matters such as training for conversion, performance of marriages, and handling the provision of religious services to the Israeli Jewish population. At the same time, by having a majority in every body making decisions in those areas, they will keep control and be able to honestly claim that the decisions are *halakhic* from their standpoint and based on their standards. The Reform and Conservative movements and their rabbis will win a measure of recognition as partners in the Jewish religious enterprise, something that has been totally denied to them as movements in Israel in the past, but they will in turn have to accept the ultimate Orthodox power in determining what is *halakhah* in these matters. Orthodox Jews should be very pleased with this because it will bring Reform Judaism back to the recognition of the binding character of *halakhah*, at least in Israel, an achievement of no small proportions if their interest is honestly religious and not merely a question of who has political power. A step in this direction recently was visible at the recent UAHC biennial in Dallas, Texas.

In fact, I would argue that the compromise should not only be agreed to for Israel but for the rest of the world as well, thereby creating a basic and *halakhic* uniformity for issues such as conversion and marriage. That would be a great achievement, especially if in doing so we also recognize that we do live in a world of plural expression. There is no getting around that, not only with regard to Jews and non-Jews but within the Jewish people itself.

Nor should anyone make the mistake of thinking that the alternative will be the preservation of the present status quo. Professor Aharon Barak, President of Israel's Supreme Court, wisely has attempted to keep the court out of this issue and to press the political authorities in Israel to work out a decision through negotiation and compromise. He well understands two things: A court decision of any kind has to be a clear yes or no decision and does not allow room for compromise once made, and, most important, Israel as a democratic state, especially under the Basic Laws enacted in 1992 providing for the protection of individual rights, makes the character of the decision almost inevitable. The Orthodox religious establishment will lose its monopoly and the door will be opened for recognition of Reform and Conservative Judaism and their religious leaders, independently of any Orthodox framework, to do whatever their movements do.

Hence, the Orthodox community does not have a choice between keeping the non-Orthodox out or not, but only a choice between bringing the non-Orthodox into their framework by expanding the framework or allowing them full leeway to do what they will.

By the same token, the Reform and Conservative may win such a victory in the Israel Supreme Court, but it would be a pyrrhic victory for them as well as for the Orthodox because of the religious conflicts that would intensify as a result of it. I like to think that this understanding is why there has been a reluctance on both sides to cross the brink, but sooner or later we must bite the bullet and that time has now come. The Neeman Committee has provided us with an elegant way to do so. It would behoove all Jews to embrace that way for the maintenance of Jewish solidarity which is so necessary for a small and still in many ways embattled minority in this world.

A Final Word

Over the past century or perhaps century and a half the Jewish world has gone through tremendous upheavals, population movements, and reconstitution, leading to the establishment of the State of Israel as a Jewish and democratic state, along with the Jewish community in the United States becoming probably the freest, most prosperous diaspora Jewish community in history. Together the Jews in both communities plus those in other diaspora communities have successfully undertaken enormous tasks of rescue, relief, rehabilitation, and reconstitution which have enabled Jews to reverse two millennia of loss and persecution raised to unprecedented heights by the Holocaust.

We are now at the edge of completion of the great tasks of the past century. It would be nothing less than a tragedy if the successful completion of those tasks caused the Jewish people to founder and split apart on the shoals of what should be our greatest bond and our greatest glory — Judaism.

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**Kinship and Consent:
The Jewish Political Tradition and Its Contemporary Uses**
2nd Edition, Revised and Enlarged

Edited by Daniel J. Elazar

The Jewish political tradition has found expression in every age in Jewish history wherever Jews have resided, grounded in the idea of covenant as the organizing principle of human affairs. A major dimension of modern Jewish life has been the revival of conscious political activity on the part of the Jewish people, whether through reestablishment of the State of Israel, new forms of diaspora community organization, or the common Jewish fight against anti-Semitism and on behalf of Jewish interests in the world political arena. Precisely because contemporary Jewry has moved increasingly toward self-definition in political terms, a significant part of the search for roots and meaning must take place within the political realm.

Kinship and Consent brings together a number of major scholars, leaders in their fields, to explore the Jewish political tradition from their several disciplinary perspectives from biblical times to the present. Contributors include: Ella Belfer, Gerald J. Blidstein, Stuart A. Cohen, Eliezer Don-Yehiya, Daniel J. Elazar, Menachem Elon, Gordon M. Freeman, Shlomo Dov Goitein, David Hartman, Charles S. Liebman, Peter Y. Medding, Eliezer Schweid, Dan V. Segre, Bernard Susser, and Moshe Weinfeld.

The essays collected here demonstrate the connections between the earliest days of the Jewish political tradition through the expression of that tradition in the Land of Israel and in exile to modern and contemporary times. *Kinship and Consent* will be of deep and lasting interest to political scientists, historians, social scientists, and historians of all persuasions.

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