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## **Only in America**

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**Pittsburgh, Pennsylvania, [2009]**

AUTONOMY, HALAKHAH, AND MITZVAH: ONLY IN AMERICA

**urn:nbn:de:kobv:517-vlib-10566**

## AUTONOMY, HALAKHAH, AND MITZVAH: ONLY IN AMERICA

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The paper seeks to clarify four terms authority, autonomy, *mitzvah* and *halakhah*. The understanding of how these four concepts interact is necessary for understanding the way in which Reform Judaism makes decisions. The unique American context of Reform has affected the way in which these terms have come to function in the life of the Movement and in the lives of individual Reform Jews. Each reflects a perception of how decisions are made and what factors count in making such decisions. Since the Movement has no power to coerce and in American society a sense of collective authority has largely faded, the ultimate decisor is the individual. The deracinated individual sees him/herself as fully capable of determining his/her stand on most matters.

The challenge for Reform Judaism specifically and for Judaism in general is to make a compelling case as to why Jewish values and takes should significantly influence the decisions of individuals. Since in the United States Jewish identity and Jewish loyalty is a matter of choice, the Reform movement struggles to influence collective and individual decision making through the use of Jewish texts. The Freehof Institute of Progressive Halakhah and the Central Conference of American Rabbis (CCAR) Responsa Committee are the primary vehicles for sustained use of classical texts in the arriving at Reform Jewish positions on contemporary issues. In addition publications of the CCAR and the resolutions of the CCAR, Union for Reform Judaism (URJ), and the Religious Action Center (RAC) determine institution policy and place contemporary social and political issues into a Jewish context.

Walter Jacob in his article "The Law of the Lord is Perfect – *Halakhah* and Antinomianism," in *Reform Judaism* (CCAR Journal Summer 2004 pp. 72–84) writes, "There are some in our movement who have gone too far in their enthusiasm of *halakhah* and have rejected the rest of Reform Judaism. They have not understood that Reform *Halakhah* seeks to underpin and strengthen the major ideas of our movement, so important to all of Judaism, along with a good deal else. They have often seen the trees but not the forest of Judaism and so they have begun to ask questions about endless detail, perhaps, appropriate for Orthodoxy, but not us. We intend to recreate a *halakhah*, but not one that is either static or hidebound, and unchanging or tied principally to ritual. The strength of our movement has been a sense of balance, not always easily attained, but even as we strive for a better understanding of *halakhah* and incorporate *halakhah* into our Reform Jewish lives, we must remember its purpose is to strengthen and reinforce the major ideals of Judaism. Social justice, personal piety, the eternal Messianic dream of universalism must always be as central as the halakhic approach. Balance is never easy to achieve but it is always necessary." (pp. 81–82) The goal is, in effect, to create a non-binding *halakhah*.

In recent years there have been increasing attempts in the Progressive movement to utilize halakhic material to inform decision making in both the area of observance (*mitzvot bein adam lamakom*) and ethics (*mitzvot bein adam lehaveiro*). The reinvigoration of this enterprise is due in large measure to a changing ethos that has transformed Reform Judaism from a religion that relied largely on the Hebrew Bible, especially on a selective reading of the prophets, to a religion that seeks its authenticity more broadly in the whole of sacred literature. Our move from what might be characterized as a liberal



Protestant model – a kind of modern Karaism to a rabbinic model is the result of many factors, not the least of which are the Shoah, the rebirth of Israel, the rise of ethnicity with an attendant search for authenticity, and the demise of the Western philosophical models for creating authoritative positions.

A chronological examination of the Platforms of Reform Judaism from Pittsburgh 1885 to Pittsburgh 1999 provides a shorthand description of the development of contemporary American Reform Judaism. The Platforms begin with philosophical and theological certainty and move toward greater diversity and ambiguity. Reform Judaism moves from being confident that its break with many traditional rabbinic and biblical patterns represents Judaism as an authentic wave of the future that will supplant the others toward a broadly liberal group seeking relationship with and guidance from the totality of Jewish tradition. To comprehend this development it is necessary to cite the relevant passages from each platform in extenso.

#### Pittsburgh 1885

We recognize in the Bible the record of the consecration of the Jewish people to its mission as the priest of the one God, and value it as the most potent instrument of religious and moral instruction. We hold that the modern discoveries of scientific researches in the domain of nature and history are not antagonistic to the doctrines of Judaism, the Bible reflecting the primitive ideas of its own age, and at times clothing its conception of

divine Providence and Justice dealing with men in miraculous narratives.

We recognize in the Mosaic legislation a system of training the Jewish people for its mission during its national life in Palestine, and today we accept as binding only its moral laws, and maintain only such ceremonies as elevate and sanctify our lives, but reject all such as are not adapted to the views and habits of modern civilization.

We hold that all such Mosaic and rabbinical laws as regulate diet, priestly purity, and dress originated in ages and under the influence of ideas entirely foreign to our present mental and spiritual state. They fail to impress the modern Jew with a spirit of priestly holiness; their observance in our days is apt rather to obstruct than to further modern spiritual elevation.

#### Columbus 1938

Torah. God reveals Himself not only in the majesty, beauty and orderliness of nature, but also in the vision and moral striving of the human spirit. Revelation is a continuous process, confined to no one group and to no one age. Yet the people of Israel, through its prophets and sages, achieved unique insight in the realm of religious truth. The Torah, both written and oral, enshrines Israel's ever-growing consciousness of God and of the moral law. It preserves the historical precedents, sanctions



and norms of Jewish life, and seeks to mould it in the patterns of goodness and of holiness. Being products of historical processes, certain of its laws have lost their binding force with the passing of the conditions that called them forth. But as a depository of permanent spiritual ideals, the Torah remains the dynamic source of the life of Israel. Each age has the obligation to adapt the teachings of the Torah to its basic needs in consonance with the genius of Judaism.

San Francisco 1976

Reform Jews respond to change in various ways according to the Reform principle of the autonomy of the individual. However, Reform Judaism does more than tolerate diversity; it engenders it. In our uncertain historical situation we must expect to have far greater diversity than previous generations knew. How we shall live with diversity without stifling dissent and without paralyzing our ability to take positive action will test our character and our principles. We stand open to any position thoughtfully and conscientiously advocated in the spirit of Reform Jewish belief.

Within each area of Jewish observance Reform Jews are called upon to confront the claims of Jewish tradition, however differently perceived, and to exercise their individual autonomy, choosing and creating on the basis of commitment and knowledge.

Torah – Torah results from the relationship between God and the Jewish people. The records of our earliest confrontations are uniquely important to us. Lawgivers and prophets, historians and poets gave us a heritage whose study is a religious imperative and whose practice is our chief means to holiness. Rabbis and teachers, philosophers and mystics, gifted Jews in every age amplified the Torah tradition. For millennia, the creation of Torah has not ceased and Jewish creativity in our time is adding to the chain of tradition.

#### Pittsburgh 1999

We are committed to the ongoing study of the whole array of [*mitzvot*] and to the fulfillment of those that address us as individuals and as a community. Some of these (*mitzvot*), sacred obligations, have long been observed by Reform Jews; others, both ancient and modern, demand renewed attention as the result of the unique context of our own times.

Commentary to 1999. If “autonomy” was the key word of the Centenary Perspective, “dialogue” is the key word of the Pittsburgh Principles

Reflecting its time, the Centenary Perspective spoke of the need to secure the survival of the Jewish people, but confidently outlined what the Reform Movement had taught the Jewish world in its hundred years, and called on Reform Jews to confront the differently perceived claims of



Jewish tradition by "exercising their individual autonomy, choosing and creating on the basis of commitment and knowledge." It led to the phrase "informed choice" which along with "autonomy" became the watchwords of Reform Judaism.

As the platforms indicate there is an increasing interest in exploring Jewish practice and Jewish values using classic Jewish sources, especially rabbinic literature. This trend is exemplified in publication of two types of halakhic literature: a) codes of Jewish practice exemplified by *Gates of Mitzvah* and *Gates of the Seasons* and (b) those exemplified by responsa and by essays produced by the Freehof Institute for Progressive *Halakhah*.

*Gates of Mitzvah* and *Gates of the Seasons* may be understood as responses to the Centenary Perspective when there is a growing interest in traditional practice and the recovery of personal observance.

**Our Religious Obligations: Religious Practice** – Judaism emphasizes action rather than creed as the primary expression of a religious life, the means by which we strive to achieve universal justice and peace. Reform Judaism shares this emphasis on duty and obligation. Our founders stressed that the Jew's ethical responsibilities, personal and social, are enjoined by God. The past century has taught us that the claims made upon us may begin with our ethical obligations but they extend to many other aspects of Jewish living, including: creating a Jewish home centered on family devotion; lifelong study;



private prayer and public worship; daily religious observance; keeping the Sabbath and the holy days; celebrating the major events of life; involvement with the synagogues and community; and other activities which promote the survival of the Jewish people and enhance its existence. Within each area of Jewish observance Reform Jews are called upon to confront the claims of Jewish tradition, however differently perceived, and to exercise their individual autonomy, choosing and creating on the basis of commitment and knowledge.

*Gates of Mitzvah* is a guide to daily living and to critical moments in the Jewish life cycle. *Gates of the Seasons* is a guide to the sacred calendar. Their goal is to set forth an idealized and maximal Jewish practice. They are aimed at the individual but they were also intended to influence the movement as a whole. They by and large deal with religious practice in the realm of *mitzvot bein adam lamakom*. They offer simple statements that generally begin, "It is a **mitzvah** to do or it is a *mitzvah* to refrain from doing." In each case there is a justification as to why, and notes that seek to offer a source from Jewish literature with the *Tanakh* being the preferred source, followed in order by Mishna, Talmud, Maimonides and then *Shulhan Arukh*. It is clear that they reflect a continuity with the Reform preference for the *Tanakh* over rabbinic literature. Whereas they use the word *mitzvah* to describe the deed, the word remains untranslated and in *Gates of Mitzvah* is the subject of four explanatory essays. *Mitzvah* has become, in Reform, a term that mediates between commandment and good deed. It is a value term that seeks to raise the level of deed above that of mere personal choice, but is careful not to be understood as mandatory. *Gates of Mitzvah* and *Gates of the*

*Season* are descriptive of important opportunities, not mandatory actions. They provide guidance and not governance. The fact that they utilize a quasir halakhic form is significant because it seeks to link Reform Judaism with Rabbinic Judaism and at the same time reflect the view of the Pittsburgh Platform, which maintain only such ceremonies as elevate and sanctify our lives.

The responsa, which in answering specific questions either addressed individual authority or more often to the Responsa committee, are more about a way of reasoning and decision-making that uses Jewish texts as a way of bringing guidance to an issue rather than an attempt to definitely decide the question. For us, halakhah is a way of thinking, not a set of decisions. Responsa seem increasingly to be about *mitzvot bein adam le haveiro*, specifically about the great ethical dilemmas we encounter in contemporary society and the boundary issues between Jews and non-Jews in an open society

Both forms of Reform's halakhic literature seek to reinforce that concept: We must never forget, though that was first and foremost how Jews related to 4000 years of Jewish history and related to 13 million Jews the world over. The burden of proof, therefore, must always be on those who want to abandon a particular tradition, not on those who want to retain it." (Rabbi Simeon Maslin, *Gates of the Seasons*, p. viii).

A single example from *Gates of the Seasons* should suffice to indicate the flavor of the character of *mitzvah* as portrayed in the guidebooks to practice.

In the section on Shabbat the second *mitzvah* listed is the *mitzvah* of joy (*oneg*). The description of this *mitzvah* is as follows:



It is a *mitzvah* to take the delight in Shabbat observance, as Isaiah said; You shall call Shabbat a delight (58:13). *Oneg* implies celebration and relaxation, sharing time with loved ones, enjoying the beauty of nature, eating a leisurely meal made special with conviviality and song, visiting with friends and relatives, taking a leisurely stroll, reading and listening to music. All of these are appropriate expressions of *oneg*. Because of the special emphasis on *oneg*, Jewish tradition recommended sexual relations between husband and wife on Shabbat.

A simple list of activities is not adequate to describe *oneg*, it is a total atmosphere is created by those activities that refresh the body and spirit and promote serenity (*Gates of the Seasons* p. 21).

The goal of this material is to make observance enticing. It is designed to be concrete enough to be clear but to be ambiguous enough for someone serious about to find his or her own definition of what activities are appropriate and what are inappropriate to fulfill this *mitzvah*.

The response literature provides rich examples of way in which the Reform movement seeks to provide guidance. CCAR Responsa 5763.6 Matriarch in the *Tefilah* illustrates both the reasoning of the committee and its own perceived lack of authority. The questioner accepts the concept that the Matriarchs should be included in the first blessing of the *Amidah* along with the Patriarchs raises questions about the way they are to be included, the order of Jacob's wives Leah and Rachel and finally whether Jacob's concubines should also

be included. The responsum is a post hoc justification of current practice.

The Matriarchs in the *tefilah*. [1] It has become the widespread *minhag* (custom) in our congregations to add the names of the *imahot*, the Matriarchs Sarah, Rebecca, Leah, and Rachel, to the names of the Patriarchs in the first benediction of the *tefilah*. [2] The motive for this change in the traditional prayer text was to express our understanding that *all* Jews, both male and female, participate equally in Israel's covenant with God and to give voice to the role of our Matriarchs in the transmission of that covenant to their descendants. This innovation is consistent with the liturgical tradition of the Reform movement, which from its inception has embraced the notion that the formal, public prayer recited in our synagogues should reflect our people's most deeply held values and commitments.

Then in what would be an unusual move in Responsa originating in the Orthodox and Conservative movement is a footnote that is as follows:

It is not the function of this Committee to determine the text, structure, or wording of the new prayer book of the Central Conference of American Rabbis (CCAR). Those tasks belong to the prayer book's editors, as overseen by the CCAR Liturgy Committee. We therefore venture no opinion here as to the appropriate text of the new *siddur*. We consider this



*she'elah* rather because it touches upon a matter of Reform Jewish religious observance and, as such, does pertain to the function of this Committee.

The Committee makes it clear that even within the CCAR it does not have the authority to determine practice. Liturgical innovation in this case was a grassroots phenomenon and it was then sanctioned by the CCAR Liturgy Committee and the responsum provides additional explanatory material and a justification for liturgical innovation in the Reform movement.

A long and complex responsum "On the Treatment of the Terminally Ill" 5754.14, which deals with a myriad of issues including euthanasia and assisted suicide makes clear that there is a tension between historically accepted meaning of a text our Reform concept of finding new readings. The committee accepts the concept that since euthanasia is prohibited by the halakhah, even though some texts could be read as permitting it we should not do so. There must be a clear reason to deviate from the tradition. The responsum formulates it as follows: "As Reform Jews, of course, we consider ourselves free to ascribe 'new' Jewish meanings to Torah texts, to depart from tradition when we think it is necessary to secure an essential religious or moral value." This presents us with an example of the clash between autonomy and the authority of the tradition. If we give primary weight especially in making medical decisions to the patient, autonomy becomes the dominant value in decision making, this could then be supported by a new reading of the text. On the other hand if the value, the sanctity of life, and the concept that our bodies belong to God dominate our core values the committee

believes the new reading is not legitimate. This has become part of the internal dialogue in Reform Judaism.

Before turning to the cases at hand in the responsum the committee provides a telling perspective about how responses are to be understood.

If this conviction leaves us in doubt as to the right answer for particular patients then it is well to remember that moral, religious, and halakhic truth can never be a matter of absolute certainty. There will always be more than one plausibly correct answer more than one possible application of our texts and our values to the case at hand. Our task is to determine the best answer, one that most closely corresponds to our understanding of the tradition as a whole. That search must be conducted by means of analysis, interpretation, and argument. Its outcome will never enjoy the finality of the solution to a mathematical equation; its conclusions will be subject to challenge and critique. Yet this is no reason to shrink from moral arguments; it means rather that we have no choice but to enter the fray, to confront difficult cases, and to do the best we can. We may never be absolutely sure that we are right, but if we are thorough in our thinking, if we read the texts, consider the case, conduct our argument carefully and prayerfully, and that we can be sure that we have done our job.

In contemporary Progressive Judaism we have four concepts authority, autonomy, *mitzvah* and *halakhah*, which



are interrelated. The interplay among them constitutes the inner dialogue of contemporary Judaism. The terms are never fully defined. In the current intellectual climate in the United States it is the dialogue between autonomy and authority and the desire for Jewish authenticity that place Reform Judaism in a unique position. Since we are open to the new and respectful of tradition, we have an opportunity to be creative and responsive. Our *halakhah* is nonbinding and pluralistic.

Authority in Reform Judaism is epistemic. The halakhic positions command obedience only in so far as they have the ability to convince the individual or the group that they are wise. Any Reform halakhic position so to speak is an authority but not in authority, because it has no power to coerce.

Autonomy as I understand the way the term is used in Reform Judaism refers to the concept that ultimately individuals are free to choose what they believe and do unencumbered by an external coercive authority.

*Mitzvah* is the name an individual or group applies to a deed that they believe commands special attention because it is sanctioned by tradition or is in response to a principle derived from tradition and confirms a core value of Reform Judaism. These deeds define individual and group core values and attempt to create or encourage specific practices that demonstrate a commitment to the core values.

*Halakhah* is the crystallization of an ongoing exercise in exegesis that seeks to provide a reasoned case based on traditional sources as to whether some practice is acceptable or not. This is especially true of the responsa literature produced by the CCAR Responsa committee, individual authorities like

Walter Jacob and Moshe Zemer and those who have written essays for the volumes produced by the Freehof Institute.

The progressive halakhic enterprise is a method of analysis designed to shape the behavior and ideas of those who engage in it. It is less about specific decisions than decision-making. It tries to persuade through an analysis of texts that seek to link contemporary decision making to historical tradition and thereby argue that it represents an authentic Jewish approach to contemporary dilemmas.

This confirms what Walter Jacob wrote and I cited at the beginning of the article.

"We intend to recreate a *halakhah*, but not one that is either static or hidebound, and unchanging or tied principally to ritual. The strength of our movement has been a sense of balance, not always easily attained, but even as we strive for a better understanding of *halakhah* and incorporate, *halakhah* into our Reform Jewish lives, we must remember its purpose is to strengthen and reinforce the major ideals of Judaism. Social justice, personal piety, the eternal Messianic dream of universalism must always be as central as the halakhic approach. Balance is never easy to achieve but it is always necessary.



