

November 11, 1983

Needed:
A Universal Jewish Family Law

The Reform rabbinate in the United States has made a decision which angered its Orthodox colleagues far more than any prior decision in at least half a century. Hereafter they will recognize as Jewish any child born to a Jewish father, even if the mother is not Jewish. They will require that the child be raised as a Jew, but they will no longer be bound by the time-honored definition that makes the Jewish mother the key to a person's Jewishness.

The reaction of many Orthodox rabbis was so negative that they wanted their Orthodox rabbinical organization to sever what minimal ties they had with the Reform rabbinate in such mixed Jewish groups as the Synagogue Council of America. In that body six organized rabbinic and congregational bodies are represented and deal with issues involving the total Jewish community, especially in its relationship to the non-Jewish world. All the council's actions must have the unanimous approval of the constituent organizations.

To prevent the Synagogue Council from taking any steps whatever in any matter that comes before it, the Orthodox need only exercise their right to veto. Therefore, withdrawal from the group of six was not a step which might have had practical significance. The group could be emasculated now by its existing mode of operation.

It was obvious that withdrawal was suggested only to demonstrate how far the Orthodox want to remove themselves from any association with rabbis who commit such a horrendous flouting of the tradition. It was to be an act symbolic of anger or disgust and a way of telling the world that the Orthodox do not want to be linked in any way with those who ride roughshod over virtually irreversible halachic rules.

At least one Orthodox rabbi suggested that the radical move of the Reform rabbinate was an expression of its own anger that the Orthodox continue to be so totally unresponsive to any proposal that comes from the more tradition-loving Reform rabbis to arrive at some understanding as to who is a Jew. To be more specific, this minority of Reform rabbis wants an understanding that all the requirements of the Halachah for conversion to Judaism must be fulfilled but that in the application of these requirements there should be a greater measure of flexibility. Such concessions are not without precedent, even among Orthodox rabbis in Israel and in America. But the Orthodox rabbinate was not sympathetic. Consequently, radical reformers in the Reform majority made their countermove.

Perhaps this analysis is correct. However, anger on neither side will rebound to the advantage of anyone, and hereafter children whose parents were married by Reform rabbis will have an even harder time when and if they want to marry into Orthodox or Conservative families. They will have to prove that they are Jews as well as legitimate. Not a very happy outlook. Yet I do not anticipate that the situation will be much worse than in the past. Hundreds of thousands will not be affected. Perhaps not even tens of thousands. What really concerns me is that while there are moves in Israel toward achieving one family law for all Jews, the anarchy in the Diaspora will be exacerbated. This may be the price that Jews must pay for an open society, but it is a high price. Even in modern Jewish history, we have had problems achieving status as Jews for Falashas and Jews from India. This recognition is still denied to Karaites, who are few. America will now contribute materially to the increase in the number of unrecognized Jews.

Recently I was invited to lecture before an assembly of distinguished Reform laymen on pluralism in Jewish history. I made the point that the Jews have always had internal differences. We are a thinking people, and a thinking people cannot be regimented to believe and act like a herd.

I also pointed out, however, that in Jewish history there was one area in which the rabbis were quite insistent that dissenters yield to the majority and become conformists. This area was the Jewish calendar - and especially the dates of Jewish holy days.

Even in Talmudic times there were differences of opinion as to when a new moon appeared and consequently when the Day of Atonement occurred. We are told that the head of the Sanhedrin once ordered a colleague who dissented from the majority decision to observe the Yom Kippur that the majority had fixed and to desecrate the day that he held was the sacred one. (*Rosh Hashana* 25a) In the early medieval period there were disputes between Babylonian scholars and those in the land of Israel with regard to the calendar, and the rabbis who prevailed showed their strength. There would today be bedlam in the Jewish world if there was anything other than total uniformity on the dates of holidays.

Once I was a pulpit rabbi. I can imagine how I would have reacted if a member of my congregation had come to me to tell me that by his computation we were observing the wrong day as Yom Kippur and that he wanted the cantor, the choir, and me to be on duty for him on the day that he regarded as the Day of Atonement! The Christian world has several calendars, and all their holidays do not coincide. This could easily have happened to Jews, too. Indeed, the Reform rabbinate once wanted to move the Sabbath to Sunday. I spent my youth in a city where this was Reform policy. Fortunately, experience prompted the return to the tradition of observing the Sabbath on Saturdays.

At the conference at which I spoke to Reform laymen, I expressed the hope that Jews will do with Jewish family law what they did with the calendar - and there would be one law for all of us. I referred to the fact that there were Reform rabbis - one of whom is a revered friend and devoutly religious - who have reservations on ethical grounds with some points of Jewish law. On ethical grounds, they cannot reconcile themselves to being conformists. Yet, I had hoped that they would find a way to give greater consideration to the damage that the lack of conformity would do to the total Jewish community by comparison with the hurt that some ancient rules of law caused isolated individuals. This point is not only mine. Some of their own colleagues raised it before I did.

I want to add but one point. If all Jews will be committed to one family law, I am sure that the desired liberalization in Jewish family law will be achieved. Then there will be no unethical situations

to give concern to those who are troubled by them. Ways will be found to help the deserted wife and the illegitimate child. Jewish law contains within itself this potential. The failure to realize the potential is due precisely to the fear that in the present climate no encouragement must be given to radical reformers. Orthodox reaction to radical reform is generally to put the Halachah into a deeper freeze.

Not too many years ago, the great Rabbi Moses Feinstein handed down a remarkably liberal decision permitting a woman to remarry without a Jewish divorce. I wrote enthusiastically about his courageous ruling. He was told by the more rigid and intransigent Orthodox that he merited the punishment of praise from one the likes of me. True, the number of such rigid Orthodox Jews is growing. But they will not be able to halt the creativity within Jewish law to cope with the just and ethical demands of the greater number of Jews who want one family law for all but a family law that in the future, as in the past, is one of the most progressive in the legal systems of all mankind.

Every move away from the applicability of one Jewish family law to all Jews delays the advent of that hoped for day.