



Sociology and Halakha

Tradition in Transition: Orthodoxy, Halakhah, and the Boundaries of Modern Jewish Identity
by DAVID ELLENSON

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Review Essay: Sociology and Halakha

***Tradition in Transition: Orthodoxy, Halakhah, and the Boundaries of Modern Jewish Identity* by DAVID ELLENSON (Lanham: University Press of America, 1989).**

Study of the responsa literature of all periods and in all of its aspects has recently become very popular. Scholars are now making extensive use of the vast historical, sociological and theological information found even in modern works. It should be obvious that any study of responsa requires that neither the halakhic nor non-halakhic elements be neglected. However, this is all too often not the case, as Zvi Zohar has noted:

Unfortunately, students of Jewish history who deal with this period as historians or sociologists hardly glance at the abundant halakhic literature. Students of halakhic development, for their part, rarely study modern Halakhah. They also tend to ignore the underlying ideational and value content of rabbinic legal rulings and what these reveal about the attitudes of the rabbis to the statics and dynamics of the societies in which they functioned.¹

David Ellenson's researches have attempted to rectify this problem. This collection of previously published essays concerns a wide range of subjects. Some are more historical than others; all of them deal with the issue of halakhic development in the past two hundred years. Ellenson devotes a great part of his book to developments in Germany, his area of specialty. Germany is of significant general interest due to the numerous outside pressures that were brought to bear on German Orthodoxy and which are reflected in the responsa of its halakhists. As Ellenson has become a leader in this area of research and has begun to influence other scholars,² an examination of his methodology is certainly warranted. All the more so because his methodology contains major flaws which, in turn, lead Ellenson to a number of unfounded statements about halakha and its development.

However, before looking at the larger questions relating to Ellenson's methodology, a number of other points should be noted. First, Ellenson continues the time-worn, but entirely mistaken notion of identifying Orthodoxy with European Orthodoxy. He describes his book as "analyzing and reflecting upon the variety of paths Orthodox Judaism has followed in response to the changed social and religious conditions of the modern era" (p. 3). What Ellenson should have said is that his book is an analysis of European Orthodoxy. The very same issues dealt with in this book are also found in the responsa of the Sephardim. In seeking to describe Orthodoxy as a whole, which Ellenson often tries to do, he should have taken them into consideration.

Other problems in Ellenson's book relate to the numerous misinterpretations of the literature under consideration. To list them all is not necessary, but the examples I will give are representative of the many errors that lead to egregious misinterpretations. Some examples:

Ellenson claims that R. Jacob ben Asher authored a code of Jewish law entitled "the *Tur*, *Shulhan Aruch*" (p. 16).

Ellenson writes that R. David Hoffmann "allowed a *kohen* to study medicine" (p. 49). His source for this statement is *Melammed leHo'il, Orah Hayyim*, no. 31. Actually, Hoffmann's responsum is unequivocal in forbidding a *kohen* to study medicine. The issue before him was whether or not such a *kohen* may be called to the Torah for the first *aliyah*. Hoffmann decided in the negative.

In discussing R. Ezriel Hildesheimer, *She'elot uTeshuvot Rabbi Ezriel*, vol. 1, no. 187, Ellenson claims that Hildesheimer gave a lenient decision regarding a *shohet* who was forced to attend a synagogue with an organ because he feared that, if the *shohet* did not acquiesce, the community might hire another *shohet* who was not reliable. But Hildesheimer explicitly disregards this fear. His lenient decision is based on concern over how the *shohet* would support his family. Not mentioned by Ellenson is Hildesheimer's responsum no. 133, in which he uses the same rationale in a case where the *shohet* even plays the organ on the Sabbath.

On the same theme, Ellenson cites *She'elot uTeshuvot Rabbi Ezriel*, vol. 1, p. 362, as saying that a Jew could not enter a synagogue with an organ even during the week, much less the holidays or the Sabbath. However, in this source Hildesheimer was only concerned with the actual playing of an organ, not with whether one may enter such a synagogue.

In his chapter dealing with rabbinic attitudes to conversion and intermarriage, Ellenson writes:

The halakhic argumentation over this issue aside, it seems justified to exclude Israeli Orthodox rabbinic authorities writing on the Israeli scene from this paper precisely because the thesis developed in this paper—that Orthodox attitudes toward conversion and intermarriage have hardened in the contemporary period because the Orthodox are no longer responsible or accountable to non-Orthodox Jews in a voluntaristic-pluralistic community—would not necessarily apply in Israel (p. 82).

Yet after this passage Ellenson does not see anything strange about discussing the view of R. Isaac Herzog who happened to be the first Chief Rabbi of the state of Israel. Even stranger is that Ellenson does not seem to realize that the citation of Herzog, in a responsum dated 1947,³ severely weakens, if not entirely disproves, his entire case. Ellenson correctly cites Herzog as adopting one of the stringent views regarding conversion; but according to Ellenson's system, he should have had a lenient view. In fact, those aware of Herzog's career know that there probably was no other rabbi in this century who personally carried a greater burden in his halakhic decisions. No other rabbi's decisions affected as great a number of non-orthodox Jews as did Herzog's in the period of the British Mandate and in the early years of the State. It was Herzog who felt responsible to ensure that the newborn state would develop in a fashion true to halakha and this heavy responsibility can be seen by all who have had a chance to examine his recently published three-volume work entitled *Constitution and Law in a Jewish State According to the*

Halakhah.⁴ Yet it is precisely he who is strict in matters of conversion and thus stands in total opposition to the Ellenson thesis.

Because Hoffmann refused to permit a Jew to donate money for the building of a church, Ellenson writes that he “can be seen as adopting an attitude toward Christianity which ran counter to the spirit of halakhic interpretation which marked such authorities as Emden, Bacharach and Kalischer” (p. 151). Of course, this is an unfounded conclusion, as nowhere do Jacob Emden, Yair Bacharach and Zvi Hirsch Kalischer permit one to donate money to a church. Equally unfounded is his assertion that Hoffmann saw no difference between Christianity and idolatry. In fact, he wrote an entire volume whose purpose was to show that halakha does not regard Christians in the same light as the idolators of old.⁵ It is only as far as Jews are concerned that Christianity has the status of idolatry; for non-Jews this is not the case. This opinion is not at all stringent and Bacharach, Emden and Kalischer were in agreement with it.⁶

I think these examples are sufficient to show the inaccuracies found in this book. However, much more significant is a major methodological error that flows through all of Ellenson’s writings. This flaw can be best illustrated by examining chapter 2, which is probably the most significant chapter of the book. In this section, Ellenson examined some halakhic decisions of the three most prominent *poskim* in late nineteenth and early twentieth-century Germany: Ezriel Hildesheimer (1820-1899), of Berlin; David Hoffmann (1843-1921), also of Berlin; and Marcus Horowitz (1844-1910), of Frankfurt. By utilizing Kai Erikson’s approach to deviance theory, he attempted to show how these *poskim* identified certain Reform practices as being beyond what was “acceptable.” In doing so, the *poskim* were also establishing the identity of Orthodoxy.

Ellenson rightly notes the fact that it was not worth taking a hard stand on all inroads of Reform. It was only in certain areas that each *posek* established as the boundary beyond which he was not prepared to allow any compromise. This same process is also found with regard to matters of belief. Ellenson attempts to show that deviance is socially defined and that “what is permissible in one context may not be in another” (p. 46).

Still, throughout his book, and in his aforementioned chapter in particular, Ellenson neglects to take account of the fact that often *poskim* are aware that they are setting boundaries and state that this is so. In such a situation, one is justified in using a sociological approach to understand matters. In addition, there are times when the *posek* may not realize his decision is actually a response to the social situation and his own innate feelings on issues. Still, the outside observer can detect this clearly.⁷ There are other times where things are more subtle. It is in these cases that one has to be careful in one’s conclusions.

The weakness in Ellenson’s approach is that he neglects the objective part of halakhic decision making. Not every decision on areas dealing with Reform can be traced to this need to make boundaries. There are times when it is the objective reading of sources by the *posek* which determines the answer. Of course, Ellenson may argue that no *posek* is objective when approaching sources. Still, unless one can specifically point to ways in which the *posek* could have decided differently, one must assume that the decision is not influenced by the surrounding milieu—in this case Reform—but is simply an affirmation of the accepted halakha.

As Ellenson notes, one of the halakhic issues that was a major boundary marker

for Hildesheimer was the *mehitza*. He adamantly agrees with the Hungarian rabbinate that it must be high enough to prevent the men from even seeing the women. At a time when many people were beginning to disregard the requirement of *mehitza*, it was imperative for Hildesheimer to declare forcefully that the *mehitza* was not simply a custom, but rather a law required in all synagogues. The law, according to Hildesheimer, was that men were not allowed to see women at all during prayer.

Regarding this decision, Ellenson writes: "The Orthodox, Hildesheimer among them, chose a stringent instead of lenient interpretation on this matter, from the viewpoint of deviance theory, precisely because it allowed them to distinguish themselves from the Liberals" (p. 45). But for Ellenson to be correct, he must supply some proof showing that Hildesheimer (or the other Hungarian rabbis) *could* have been lenient and either consciously or unconsciously chose not to. In order for Ellenson's view to stand up, he must show a valid halakhic tradition which would have given Hildesheimer the opportunity to be lenient. He does not do this.

The fact is that the practice in Germany, not to mention Hungary, was to have *mehitzot* which prevented the men from seeing the women. This notion predated the rise of the Reform movement and was based on a common understanding of halakhic sources, including the comment of Maimonides⁸ that in Temple days the *ezrat nashim* was designed so that the women could not be seen by the men.⁹ In this case, Hildesheimer was not adopting a strict view. An examination of his decision shows clearly that he was simply expressing in the strongest terms what to him was the *only* way to interpret the law—independent of Reform. We do not have here a response to Reform causing a stringency in the law.

To give another such example, Ellenson tries to prove his point regarding deviance theory by pointing to a responsum in which Hoffmann does not allow *kaddish* to be recited with less than ten men present.¹⁰ Ellenson claims that Hoffmann rules as such, not because the sources say so, but rather to prevent the copying of a Reform custom. "In other words, the practice of praying with seven was absolutely proscribed because Hoffmann, like his teacher Hildesheimer, saw *hiqui ha'apiqorsim*, an imitation of the heretics, as a pressing legal ground for issuing a strict opinion in this instance" (p. 48).

Although it is true that Hoffmann mentions that one must not imitate Reform, this is not the reason for issuing his prohibition. There was a rabbinic source (*Massekhet Soferim* 10:7) which, as Hoffmann indicates, the Reformers cited (and misinterpreted!) in order to support their practice. Yet this source was of no relevance as far as practical halakha was concerned. It was ignored by all *poskim* and codes.¹¹ Hoffmann's negative reaction, in essence, had nothing to do with Reform. From all relevant halakhic sources there was no other way he could have ruled. Simply put, there is no identity formation here.

Using Ellenson's logic one can be led to many erroneous conclusions. For example, one can point to times where Hoffmann speaks out harshly against intermarriage or Sabbath violation and thereby be led to conclude that, had there not been a Reform movement, Hoffmann would not have felt so strongly regarding these areas. Hoffmann's actions in cases such as these cannot be viewed as a process of *defining* these practices as deviant, for it was obvious that they were deviant. In the chapter we are looking at (pp. 34-35), Ellenson himself makes the point that deviance is socially defined. To take this a step further, it makes no sense to talk of those things (such as the height of the *mehitza* and the number of men for

a *minyan*) which are not socially defined (that is, those issues which evoke the same negative response *regardless* of the social situation).

Despite these numerous criticisms, Ellenson nevertheless has raised many important points and has constructed a valuable model. There are certainly numerous examples of halakhic authorities raising minor misdemeanors to the level of grave transgressions. Such an attitude was often seen with regard to the Reform movement. It was in this battle that the *poskim* saw themselves forced to take extraordinary measures in order to combat the widening threat. These measures varied from country to country, yet the principle that a *posek* may attempt to secure Orthodoxy by unprecedented stringencies was accepted by all and could be supported by Talmudic citation. Sociological data can surely help illuminate these examples.

To show the value of Ellenson's model in more concrete form it is worthwhile to analyze a few responsa of R. Yehiel Ya'akov Weinberg (1884-1966), the leading *posek* of the final generation of German Jewry, on some of the very same issues dealt with by Ellenson in his discussion of earlier German respondents. Through an examination of the way Weinberg approaches some of the very same issues which confronted his predecessors, we will be able to shed light on religious conditions in Germany in the generation before the Holocaust. Of course in most matters of Jewish law, and this includes matters relating to Reform, Weinberg was in agreement with his predecessors. It is in those areas in which he disagrees where we can learn a great deal. This analysis will lend further support to Ellenson's basic contention that deviance is socially defined in rabbinic responsa. These few responsa of Weinberg's will also clearly illustrate the fact that the social environment which confronted German Orthodoxy in its final years was different from that of the generation of Hildesheimer and Hoffmann.

Yehiel Ya'akov Weinberg was born in Ciechanowiec, Poland. His early years were spent at the Slobodka yeshiva where he became known as an *illui*. Following a period as Rabbi in the Lithuanian town of Pilwishki, Weinberg made his way to Germany in 1914. Here too, his renown as a Talmudist spread. After a short period at the University of Giessen, Weinberg was asked to join the faculty of the Berlin Rabbinical Seminary to lecture in Talmud. This followed the premature death of Rabbi Abraham Elijah Kaplan, the Seminary's rector and Talmudist.

Once on the Seminary's faculty, Weinberg became recognized as the leading halakhic authority in Germany. It was he who answered the many questions which were directed to the Seminary, in addition to the numerous personal inquiries people made of him. He was the true successor of Hoffmann, who had previously held the distinction of being the leading *posek* of Germany. Shortly before the Second World War, Weinberg was appointed the fourth rector of the Seminary, after Hildesheimer, Hoffmann, and Kaplan.

Although his roots were in Lithuania, it is clear that both his time spent in Germany and the position he was granted enable us to classify him as a *posek* who operates from a German perspective, much as Hoffmann was a transplanted Hungarian.¹² Weinberg's decisions determined the practice of vast numbers of German Jews and he thus was forced to take into account the German halakhic tradition.¹³ Surviving the Holocaust, Weinberg settled in Switzerland where he continued to write on halakha. Till the end of his life he regarded himself as a continuance of the German halakhic tradition.¹⁴ It is thus only logical to examine his views on some of the issues discussed by Ellenson.

In the chapter we have been considering, Ellenson rightly notes that it is also in matters of belief, and not only in practice, that the *poskim* established boundaries. Hildesheimer, the earliest of the *poskim* discussed, was still in a generation that had not resigned itself to the continued existence of either the Reform movement or to the so-called Positive-Historical school of Zechariah Frankel. In such an environment, one in which heresy hunting was the rule and not the exception, it is understandable that Hildesheimer should have adopted a very uncompromising position regarding both of these developments. Indeed, the heat of the moment was such that even had Hildesheimer wanted to, he probably would not have been able to step back and look at things in a broader spectrum.

We see this particularly in the way he reacted to Frankel and his seminary in Breslau. In Hildesheimer's day, it was no secret that the Breslau school did not represent the same type of Judaism commonly identified with Orthodoxy. Frankel himself was also suspect and had to fend off attacks on his religiosity by Samson Raphael Hirsch, who viewed his works as heretical.¹⁵ The air was very heated and people were being forced to declare their position on various issues of belief.

Hildesheimer came down firmly on the side of Orthodoxy. In his mind, Frankel, Graetz, and other professors at Breslau were heretics. Not only was Frankel a *meshumad*—which made him even worse than an *apikores*—but it was perhaps even a *mitzva* to burn his book *Darkhe haMishna*.¹⁶ Hildesheimer had the same view regarding the graduates of Frankel's seminary.¹⁷ This harsh view was broadly shared among the German Orthodox. Yet as time went on, some elements of German Orthodoxy were able to take a more balanced look at both Frankel and his work.

With this change, certain segments of Orthodoxy, especially the Berlin variety, began to adopt a more sympathetic approach to Frankel and the sort of scholarship he represented.¹⁸ Horovitz adopted a more positive attitude than his teacher Hildesheimer. In referring to Frankel, he prefaced his name with the compliments usually reserved for Orthodox scholars.¹⁹ However, he did very conspicuously neglect to add the customary "of blessed memory" after his name; a fact which did not go unnoticed.²⁰

Hoffmann makes good use of Frankel's works. Whether this is a sign of a positive attitude to Frankel is not certain for Hoffmann's practice was to quote anyone without concern for their religious beliefs. He recognized that good scholarship cannot limit its choice of sources or neglect proper historical methodology.²¹ Thus, whether Hoffmann held the same view of Frankel that Hildesheimer did cannot be definitely established. Even a close examination of Hoffmann's writings will not settle the question for he was always very respectful in what he wrote, even when confronting those who denied the very basis of what to him was holy.²² However, the general impression one gets from the way he approaches Frankel's works is that Hoffmann, much like Horovitz, had a positive, or at the very least neutral, opinion of Frankel.

With Weinberg, we see more than we have seen so far. For him, not only was Frankel not a heretic, he was actually a good Jew. Weinberg calls him Rabbi and on occasion affixes the phrase *zikhrono livrakha* after his name; a sure sign of respect, and one that is notably missing when Weinberg mentions Geiger.²³ He cites the *Darkhe haMishna* throughout his works and considers this book to be a basic text and a forerunner for Hoffmann's later studies of the Mishna. He also defends Frankel against Isaac Halevy's harsh attacks throughout the latter's *Dorot haRishonim* attacks in the spirit of Hildesheimer.

Weinberg claims that Halevy's attacks imply that Frankel, "a very wise man whose work benefits all, including Halevy,"²⁴ was a complete heretic who intentionally wanted to destroy Judaism. This is something Weinberg would not accept.²⁵ In fact, a fitting equivalent of Frankel in Weinberg's day was Louis Ginzberg. If anything, Ginzberg could be questioned on religious grounds more than Frankel. Yet, as with Frankel, Weinberg makes a point of referring to Ginzberg as a "Rabbi L. Ginzberg of blessed memory."²⁶

In general, Weinberg and Hildesheimer had very similar views and certainly had the same ideas regarding what constituted the fundamentals of faith. Still, the two came to different opinions regarding Frankel. Since both of them had examined Frankel's writings and both of them had the same notions regarding Orthodoxy, how then to explain the difference? I would venture to say that the different eras were responsible for the change in perspective. In Hildesheimer's day the issues raised by Frankel and the Breslau seminary went to the heart of the definition of Orthodoxy. Hildesheimer felt threatened and therefore it was natural for him to stress the differences he had with Frankel. The atmosphere was such that it was very easy to call him a heretic.²⁷

In Weinberg's day, the atmosphere had calmed. The different segments of German Judaism were each secure in their place. There was no apparent threat to Orthodoxy from the Left. Only at this later date was it possible to take a close and impartial look at Frankel. This Weinberg did, and what he discovered to his satisfaction was that Frankel was not a heretic.²⁸ This revelation opened the way for Weinberg to adopt a similar respectful attitude towards graduates and faculty of the Breslau seminary. Although the first signs of this positive attitude can be seen with Horovitz and Hoffmann, it is not until Weinberg that it finds full expression.²⁹

The introduction of the organ was one of the most divisive issues in nineteenth-century Jewish life and in particular in Germany. It also inspired a great number of responsa on the topic.³⁰ The Orthodox rabbinate was vigorously opposed to this innovation. Hildesheimer reflects this when he rules that it is forbidden to step foot into a synagogue which uses an organ, even at a time when the organ was not being employed.³¹ This is so, even though he admits that there is no actual prohibition against merely stepping into the synagogue.³² In other words, the critical situation of the times called for such stringencies in the battle against Reform.

Weinberg had a much more lenient view. Not faced with the tension between Reform and Orthodox which was seen in earlier generations, "extra-halakhic" factors did not have to come into play. In a responsum to a rabbi in Dresden, he says simply that, whereas it is forbidden to use an organ in the synagogue, the presence of an organ does not disqualify a synagogue as a place of prayer. If the organ was not being used (e.g. on a weekday), there is no reason not to enter the synagogue. However, Weinberg recognized that there are times when Hildesheimer's stringency would be called for. He therefore concludes by saying that in matters such as these one must take account of the specific conditions of the place involved. Still, as a general principle, the Germany of Weinberg's day did not need the same type of "fences" that it did when Hildesheimer was alive.³³

A case which should have been cited by Ellenson, for it is an excellent example with which to prove his point, concerns the planting of flowers at graves. This question shows more clearly than others the importance of sociology in looking at questions of halakha. The sources on this question are even more fascinating than the others

because the influence of Reform is seen implicitly in the actual halakhic reasoning of the respondents.

The first rabbis to deal with this question were Hildesheimer, Samson Raphael Hirsch, Manfred Lehmann, and Seligmann Baer Bamberger.³⁴ This was in an era when the battles between Reform and Orthodox were at their peak. Clearly, many of Reform's practices were simply imitations of Christianity. It was difficult for these rabbis to recognize the positive intentions of any new custom instituted by Reform. To them, the planting of flowers at a grave was simply another way for the Reformers to destroy Judaism. As such, it is only natural that these rabbis would use the prohibition of *hukkot ha'amim* as one of the reasons to proscribe such a practice.

In the next generation, things were calmer with regard to the Orthodox-Reform conflict. As such, Hoffmann was able to approach matters in a more detached fashion.³⁵ Such an investigation revealed that the purpose of the Reformers putting flowers on graves was not to imitate the Gentiles; rather, it was a respectful practice. Yet although Hoffmann could admit this much, he would not go as far as to permit the introduction of this custom. He accepted his predecessors' other arguments against the practice, based both on halakha and on the fact that planting of flowers was a custom unheard of in Israel.

Weinberg went further than Hoffmann. He saw absolutely no halakhic prohibition of any kind in planting flowers at the grave. Yet, following Hoffmann, Weinberg still opposed this custom. His reason for this is simply that it goes against Jewish tradition; a tradition in which people pray and bring forth tears upon visiting graves. In Judaism this is what is considered respect for the dead. There is therefore no reason to have to borrow Gentile customs in this regard.³⁶

The earlier rabbis were certainly aware of the responsum of Rabbi Isaac bar Sheshet (no. 158) which permits imitating Gentile customs which are not religious in nature and which have a good reason behind them. Nevertheless, Hildesheimer and his colleagues viewed the planting of flowers as a violation of *hukkot ha'amim*. It is certainly plausible that due to raging religious conflict between the Orthodox and Reform, the former were not able to look at this custom impartially. From their standpoint it was clear that the Reformers were trying to imitate the Gentiles. Indeed, from their perspective how could they think otherwise?

At this time, it was an axiom among the Orthodox that every change in Jewish practice by the Reformers had, as its purpose, the imitation of the Gentiles. This was not a strange reaction when one considers the atmosphere in the mid-nineteenth century. It was a time when such Christian elements as the organ and confirmation, not to mention discussion over abolishing circumcision and transferring the Sabbath to Sunday, were part of the Reform movement. In such an environment, it would have been surprising if the rabbis had not seen the planting of flowers as an imitation of a Gentile custom. In later years, it became obvious even to the most Orthodox that there was more to Reform than simple imitation of Gentile customs. It was this realization which would not allow Weinberg, or Hoffmann for that matter, to see the planting of flowers at graves by the Reform adherents as a violation of *hukkot ha'amim*.

There is much more that can be said on this issue, both with regard to Weinberg and with regard to other German authorities. For now it is sufficient to note the importance of the halakhic tradition. Only with an understanding of the sources of a *posek* can one truly be able to point out where the *posek* is giving a ruling

in response to outside pressures. On the other hand, this understanding will also enable us to show where the *posek* is simply reflecting the halakha as he understands it, *irrespective* of any outside influences. If, in his future writing, Ellenson takes this into account, we shall have much to look forward to.

NOTES

1. Zvi Zohar, "Halakhic Responses of Syrian and Egyptian Rabbinical Authorities to Social and Technological Change," in Peter Y. Medding, ed., *Studies in Contemporary Jewry II* (Bloomington, Indiana, 1984), p. 18. See also Jacob Katz, *Halakha veKabbala* (Jerusalem, 1984), pp. 1-6, and the important comments of Simon Schwarzfuchs, "Les responsa et l'histoire des Juifs d'Afrique du Nord," in Michel Abitbol, ed., *Communautés juives des marges sahariennes du Maghreb* (Jerusalem, 1982), pp. 39-47.
2. See, e.g., Daniel H. Gordis, "David Hoffman on Civil Marriage," *Modern Judaism* 10 (February, 1990), pp. 85-103.
3. R. Isaac Herzog, *Pesakim uKhetavim* (Jerusalem, 1990), vol. 4 no. 89.
4. *Tehuka leYisrael al pi haTorah* (Jerusalem, 1989).
5. *Der Schulchan Aruch und die Rabbinen über das Verhältnis von disk der Juden zu Andersgläubigen* (Berlin, 1894). See esp. p. 150, where he mentions both Emden and Bacharach.
6. Admittedly, Emden was somewhat inconsistent with regard to Christianity. He often declared that Christians followed the Seven Noahide laws. However, in some sources, although he accepted the view that Gentiles are not prohibited from *shittuf*, he interpreted this to mean that they accept one Supreme God who has intermediaries assisting Him in governing the world. This is clearly not an acceptance of the trinity as being a proper form of *shittuf*. See Mor uKezia (New York, 1953), no. 224; *She'elat Ya'avetz* (Lemberg, 1884), vol. 1, no. 41 (p. 36b).
7. A good example of this can be seen in the halakhic debates regarding the state of Israel. Zionist rabbis author responsa showing how one must live in Israel, serve in the army, say Hallel on *Yom haAtzmaut*, etc. Non- and anti-Zionist rabbis write halakhic treatises proving the exact opposite. Often, both sides claim to be approaching the sources with objectivity, but it is clear to the outside observer that this is not the case. It is no accident that each side finds support in tradition for its own views and does not "discover" that the other side is correct. It is clear to the outside observer that these *poskim* are building a halakhic decision in large part upon ideology and not vice versa. The fact that the various *poskim* line up on the same sides in case after case of unrelated problems whose only connection is that they are concerned in some way with the state of Israel is ample proof for this very obvious proposition. In general, I believe all would agree that this does not call into question halakhic decisions; man is not meant to be a robot. Still there are exceptions such as when a rabbi rules that one should preferably bow down to a hundred idols rather than speak Hebrew; that one who speaks Hebrew denies the entire Torah; that one who rejoices on *Yom haAtzma'ut* or even simply accepts the existence of the state of Israel denies the entire Torah and is worse than an idolator; that there is no sin in the entire Torah worse than joining the Knesset; and that it is forbidden to read the writings of "heretics" such as R. Abraham I. Kook. All of these opinions, along with hundreds of similar ones, are found in the writings of R. Joel Teitelbaum. For the ones just mentioned see his *VaYoel Moshe* (Brooklyn, 1961), p. 371; *Al haGeula ve-al haTemura* (Jerusalem, 1982), p. 29; *Divre Yoel* (Brooklyn, 1983), vol. 2, nos. 131-132; *Divre Yoel* (Brooklyn, 1975), *Yitro*, p. 92; *Hiddushe Torah* (Brooklyn, 1957), *Devarim*, p. 158; *Divre Yoel: Mikhtavim* (Brooklyn, 1980) vol. 1, p. 126; Alter Goldberger, *Gahale Esh* (Monroe, N.Y., 1984), vol. 1, p. 304. Many would assert that what we are dealing with in these cases is simply propaganda masquerading as halakhic discourse. See, also R. Raphael Blum, *Petah haOhel* (Bedford Hills, 1979), p. 186, that it is forbidden to read the works of any rabbi who has a connection to the state of Israel. R. Moses Stern, *Otzerot Yerushalayim*, 5735, no. 421, writes that it is forbidden to read any book written by a member of Yeshiva University's faculty. Unfortunately, this list can go on at length.
8. Commentary to *Sukka* 5:2.
9. See Meier Hildesheimer, ed. *Rabbiner Dr. Israel Hildesheimer, Gesammelte Aufsätze* (Frankfurt am Main, 1923), pp. 20 and 26. For another responsum of Hildesheimer on the issue of *mehitza* see Avigdor Berger, ed., *Hesed leAvraham* (Bnei Brak, 1989), p. 61. For other German authorities who hold Hildesheimer's view see R. Meir Lerner of Altona, *Hadar haKarmel* (London, 1970), vol. 1, Orah Hayyim, no. 5; and R. Simhah Bamberger of Aschaffenburg, *Zekher Simha* (Jerusalem, 1972), no. 19. (Admittedly, his short German responsum is a little unclear as to whether mixing with women or seeing them is the crucial issue. Since he quotes the *Tosefot Yom Tov*—who places the emphasis on sight—it is probably safe to

- say that he agrees with this view.) See also R. Yehiel Ya'akov Weinberg, *Seride Esh* (Jerusalem, 1977), vol. 2, no. 11 that the practice in Germany, as opposed to Poland and Lithuania, was to have *mehizot* which prevented the men from seeing the women. Hungarian *poskim* are, as far as I can tell, unanimous on this issue.
10. *Melammed leHo'il, Orah Hayyim*, no. 2.
 11. Hoffmann, *loc. cit.*, states that the view found in *Massekhet Soferim* "has been rejected by all *poskim* and not even one of them agrees that this view can be relied upon in a time of great need."
 12. See, e.g., *Seride Esh*, vol. 2, no. 8, where Weinberg emphasizes the greatness of the German rabbis, to the detriment of rabbis from Lithuania and Poland.
 13. See e.g. *Seride Esh*, vol. 2, no. 49, where he counsels a community to reject a Lithuanian custom in favor of a German custom.
 14. See e.g. *Seride Esh*, vol. 1, *Introduction*, vol 2, nos. 8 and 30; vol. 3, no 93; and vol. 4; pp. 360-374.
 15. See Noah H. Rosenbloom, *Tradition in an Age of Reform: The Religious Philosophy of Samson Raphael Hirsch* (Philadelphia, 1976), pp. 107-108.
 16. *She'elot uTeshuvot Rabbi Ezriel*, vol. 1, no. 238.
 17. See Ezriel Hildesheimer, ed., "MiMikhtevei haRav Hildesheimer al Beit haMidrash leRabbanim beBreslau uMenahalo," *HaMa'ayan* 1 (1953), no. 1, p. 72.
 18. The followers of Hirsch in Frankfurt were never able to see anything positive in Frankel, or for that matter, in *Wissenschaft* as a whole. They had a phrase to sum up this idea: "Better a Jew without *Wissenschaft* than *Wissenschaft* without Judaism." To my knowledge this quote first appears in an article of Hirsch dated March 15, 1861; see his *Gesammelte Schriften* (Frankfurt 1912), vol. 6, p. 393. For good treatments of the entire issue, see Mordecai Eliav, "Gishot Shonot leTorah im Derekh Erez," in Yitzhak Rafael, ed., *Sefer Avi'ad* (Jerusalem, 1986), pp. 77-84, and Mordecai Breuer, "Hokhmat Yisrael: Shalosh Gishot Ortodoksiyot," in Shaul Yisraeli, et. al., eds., *Sefer Yovel liKhvod Morenu haGaon Rabbi Yosef Dov haLevi Soloveitchik* (Jerusalem, 1984), vol. 2, pp. 856-865.
 19. See his *Introduction* to R. Aaron Fuld, *Bet Aharon* (Frankfurt, 1890), p. VI: הרב מורי זכריה פרנקל, חרב הנודע מחורירי זכריה פראנקל et al.
 20. See Solomon Schechter's comment in the *Jewish Quarterly Review* 3, Old Series (1889), p. 315.
 21. This attitude got Hoffmann into trouble and, as is well known, Hirsch viewed portions of Hoffmann's writings as heretical; see Alexander Marx, *Essays in Jewish Biography* (Philadelphia, 1947), pp. 204-206; Mordecai Eliav, ed. *Rabbiner Esriel Hildesheimer Briefe* (Jerusalem, 1965, Letter 74 (German section); David Ellenson and Richard Jacobs, "Scholarship and Faith; David Hoffman [sic] and his relationship to *Wissenschaft Des Judentums*," *Modern Judaism* XIII: 1 (Feb., 1988), p. 30; Breuer, *Judische Orthodoxie im Deutschen Reich 1871-1918* (Frankfurt, 1986), pp. 170ff.; *idem.*, "Hokhmat Yisrael: Shalosh Gishot Ortodoksiyot," p. 860. Breuer makes the point that Hoffmann and Hirsch shared the same dogmatic beliefs and only differed with regard to Hoffmann's method (see also Joseph Wohlgemuth in *Jeschurun* 7 [1920], p. 511). Yet this view does not seem to take seriously Hirsch's assertion that he found heresy in Hoffmann's work. It is hard to believe that Hirsch would come to this view merely based upon Hoffmann's method of discussing sources.
 22. See Weinberg, *Seride Esh*, vol. 4, p. 249.
 23. E. g. *ibid.*, vol. 3, pp. 364-365, vol. 4, p. 233, et al.
 24. *Ibid.*, vol. 3, p. 365.
 25. *Ibid.*, vol. 4, p. 228.
 26. *Ibid.*, Vol. 3, p. 179. On a similar note. R. Abraham I. Kook is careful to affix *zikhrono livrakha* to Solomon Schechter's name. See his *haskama* to R. Zev Biednovitz, ed., *Tosefot Rid: Yevamot* (Jerusalem, 1931).
 27. Weinberg actually suggests this reason with regard to Halevy's attitude to Frankel; see *Seride Esh*, vol. 4, p. 228.
 28. Already in the mid-nineteenth century, R. Eleazar Horovitz of Vienna had come to this condition; see Meir Herscovics, "Rabbi Eleazar Halevi Ish Horovitz," *Areshet* 5 (1972), p. 242. This is due, no doubt, to both Horovitz's tolerant nature and the fact that Vienna was never a center of Reform Judaism; a fact which ensured that relations between the different branches of Judaism were much better here than they were in Germany. Regarding Vienna at this period see the excellent article of Marsha L. Rozenblit, "The Struggle over Religious Reform in Nineteenth-Century Vienna," *AJS Review* 14 (1989), pp. 179-221. R. Zvi Hirsch Chajes refers to Frankel as האון פראנקעל הרב הגדול and האון פראנקעל זכריה הכהן הכלל מ"ה זכריה פרנקל; see Meir Balaban, "Iggeret Rabbi Zvi Hirsch Chajes le-Shir," *Abhandlungen zur Erinnerung an Hirsch Perez Chajes* (Vienna, 1933), p. 179, and *Kol Sifre Maharatz Chajes* (Jerusalem, 1958), vol. 2, p. 874. Bruria Hutner David writes: "It seems that, at the time, Chajes was not aware of the difference between such leaders as Rabbi Samson Raphael Hirsch and Rabbi Jacob Ettlinger, who were staunch adherents of concompromising orthodoxy, and Frankel, who also opposed Reform but followed a road different from

- the orthodox—that of ‘Conservative’ Judaism.” See her “The Dual Role of Rabbi Zvi Hirsch Chajes: Traditionalist and *Maskil*” (Unpublished Doctoral Dissertation, Columbia University, 1971), p. 426. However, even if Hutner David is correct in this assumption, it is not of great importance and there is reason to believe that Chajes’ attitude would not have changed even had he known the exact situation in Germany. This is so for two reasons: 1. Despite the fact that Krochmal’s ideas were probably more radical than Frankel’s, Chajes continued to remain close to him and referred to Krochmal as *החכם הכולל* as containing heresy. *החכם הגדול מהרמ”ל*; see *Kol Sifre Maharatz Chajes*, vol. 2, p. 909 (all throughout Chajes’ writings Krochmal is referred to in such a manner). 2. Chajes, *ibid.*, p. 874, praises Frankel’s *Vorstudien zu der Septuaginta* (Leipzig, 1841), which Hirsch, *Gesammelte Schriften*, vol. 6, pp. 380-382, singles out as containing heresy. Thus, Chajes may not have known of the religious politics in Germany (something I highly doubt) but he was certainly aware of Frankel’s writings, which were always the source of contention between Frankel and the German Orthodox as Frankel’s religious observance was never in question. Chajes, *ibid.*, p. 873, even refers to Zunz as *החכם הגדול מהרמ”ל*. Chajes was not the only rabbinic figure to do so. See R. Isaiah Meir Kahana Shapira, *Sefer Zikaron* (Eydtkuhnen, 1872), p. 31: *החכם הגדול מהרמ”ל* צוץ; R. Hayyim Dembitzer, *Kelilat Yofi* (New York, 1960), vol. 2, p. 92a: *החכם הגדול מהרמ”ל* צוץ זייל; R. Jeruchem Fischel Perla, “Al Sefer Besamim Rosh,” *Noam* 2 (1959), p. 318: *החכם הגדול מהרמ”ל* צוץ זייל.
29. Similarly, Weinberg’s friendship with Professor Samuel Atlas, who taught at the Hebrew Union College, is well known. See the letter by Weinberg in Atlas’ *Netivim beMishpat halvri* (New York, 1978), p. 154, where he is unrepentant about including a responsum to Atlas in *Seride Esh*. vol. 2, no. 78.
30. See Alexander Guttman, *The Struggle over Reform in Rabbinic Literature* (Jerusalem and New York, 1977), pp. 19ff.
31. *Rabbiner Esriel Hildesheimer Briefe*, Letter 20 (German section).
32. *She’elot uTeshuvot Rabbi Ezriel*, vol. 1, no. 187.
33. *Seride Esh*, vol. 2, no. 11.
34. See H.-J. Zimmels, “Inyane Hukkot haGoyim biShe’elot uTeshuvot,” in *Sefer haYovel leRabbi Hanokh Albeck* (Jerusalem, 1963), p. 417.
35. *Melammed leHo’il*, vol. 2, no. 109.
36. *Seride Esh*, vol. 3, no. 111.