



Halachah and Reform Judaism

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This essay tries to describe some lines of demarcation between the holy and the profane, the permitted and the prohibited. Although we may be living in a 'post-halachic' age, we must still take halachah seriously, for Jewish law, even when no longer operative, still forms the very foundation of our tradition.

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The difference between the sacred and the profane in the Jewish tradition is a matter of lines of demarcation. That is already implied in the meaning of the biblical word *kadosh*, "to set apart." We sanctify by setting something apart from the rest, and, when we step over the limit, we move from the realm of the sacred into the profane, or vice versa.

The [halachah](#) came to codify the rules pertaining to the lines of demarcation in its emphasis on *issur* and *heter*, that which is forbidden and that which is allowed. The clarification of the borders between the prohibited and the permitted has remained the principal aim of the halachic process today.

The trouble with borders, however, is that they create fences. Hence the *siyag*, "fence," around the Torah. And fences often imprison in the guise of protecting. Reform Judaism correctly perceived much of *halachah* as a prison that inhibited Jews and Judaism. The Reform approach to *halachah* was to free its captives and, thus, release Jewish creativity.

It has achieved much of what it set out to do. The question is now whether it can retain its gains, or if they will be squandered; whether the victory over what was perceived as halachic tyranny may not deteriorate into liberal libertine anarchy; whether the protest against unjust fences will become the tearing down of barriers altogether, thus making Judaism indistinguishable from other religions. Our opponents accuse us of precisely that, and they may have to be put in their place by way of apologetics. But that does not mean that their strictures should always be ignored, for they may not be totally unwarranted.

This essay tries to describe some lines of demarcation between the holy and the profane, the permitted and the prohibited, as guidelines for our Reform halachic decisions. Although we may be living in a "post-halachic" age — that is, at a time when Jewish law has ceased to be legally binding for Jews — we must still take *halachah* seriously, even when we choose not to follow it. For Jewish law, even when no longer operative, still forms the very foundation of our tradition.

To describe lines of demarcation is no easy task. Once Reform Jews question not only what is the authentic word of God, but if God speaks to us at all through *halachah* — what are the criteria for defining (that is, limiting) the borders? What follows is an attempt to promote discussion by identifying four markers.

First, on the assumption that *mitzvah*, commandment, is fundamental to our understanding of Judaism, we have reason to regard traditional practice, *minhag avotenu veimmotenu beyadenu*, the practices of our ancestors, as a marker. Even if tradition only has a vote, not a veto, it seems reasonable not to go against it, unless there are compelling reasons for doing so. Although it is not

always clear what is tradition and what is not, we must try to uphold the principle that whatever our historic research identifies as tradition should be considered a marker in our endeavour to describe decisions and actions as authentically Jewish.

Take *Shabbat* observance, for example. As much as we may legitimately decide that the halachic fences around Sabbath observance no longer enhance the celebration of the day, and as much as we may want to make the distinction between the divine commandment to keep the Sabbath and the human laws in response to that commandment, as they have evolved over time, there must be some defined limits beyond which Saturday ceases to be *Shabbat*. Even if we do not believe that it is "the Lord's day" literally, tradition has nevertheless set limits about how *Shabbat* should be observed.

True, it may not be possible or desirable to impose observance on our members. But, surely, it is incumbent upon us not only to describe its nature, but also define (and thus limit) it in the manner of *halachah*. In so doing, we would set norms and standards, not to impose them on our constituents over whom we have no power at all, but to articulate our understanding of Judaism, and thus offer guidance to those who wish to take it.

A **second** criterion for setting limits would be *knesset Yisrael*, the well-being and unity of the Jewish polity. *Shabbat* has limits and Jews are not to "make *Shabbos* for themselves."

Take the issue of Jewish status. Whatever its historic origins and subsequent changes, Jewish tradition has developed criteria for who is a member of *knesset Yisrael*. Changing these criteria may lead to a separation within the Jewish people. When we are fighting for Jewish survival — and when we seek to introduce different criteria (for example, patrilineal descent) ostensibly to safeguard Jewish continuity — we cannot ignore most non-Reform Jews, even if we disagree with their stance.

Patrilineal descent may be democratic, just and biblical, but it is not where normative Judaism is today. It may be proper for us to fight for a change from within, but is it justified to go it alone? Is there not a danger that the possible institutional successes that the decision on patrilineality has brought to the Reform movement, may have detrimental long-term consequences for Reform in *knesset Yisrael*?

May it not reduce American Reform to a sect, since normative Judaism, whether we like it or not, is increasingly shaped by the State of Israel? And Israel, for better or worse, has remained within the traditional halachic framework, at least in matters of Jewish status.

And what about the practitioners of Reform Judaism outside the United States who do not share its conviction about patrilineal descent? Do they count for nothing because, in comparison with the United States, they are numerically insignificant?

When we speak of *knesset Yisrael*, it is not the *vox populi* we have in mind. Judaism has never decided issues by way of plebiscites. When the rabbis decreed, *acharey rabbim lehattot*, "we must follow the majority," they had in mind those competent to decide, not decisions to be taken at the ballot box. And today, whatever the popular view and common practice among Jews may be, most Jews we would regard as competent to decide will not side with patrilineal descent; even American Reform is split on the issue.

Third, a main reason for acknowledging the equality between patrilineal and matrilineal descent is *tzedek*, justice and righteousness. Even if tradition is unanimous about a practice, and even if the cognitive minority sanctions it as normative Judaism, if we are convinced that it is unjust, as Reform Jews we are duty-bound to seek to change it. And not only has the purpose to be *tzedek*,

but so have the means: *tzedek tzedek tirdof – tzedek b'tzedek tirdof*, "justice with just means shall you pursue." As vague as the term "justice" may be, it is nevertheless an indispensable criterion in our decision-making process.

The status of women is a case in point. The consistent and courageous stance of Reform Judaism has not only brought into the tradition and the community many women who otherwise would have been alienated from both, but it has forced the other movements in Judaism to grapple with the issue. And it was not satisfied merely to give women certain rights in roundabout and underhanded ways. The means by which justice was to be pursued had also to be just.

The outlook of individual rabbis and the respective rabbinic bodies will determine the nature of their partisanship. Thus it is reasonable to expect, and fully consistent with the "post-halachic" stance of Reform Judaism, that the Central Conference of American Rabbis would pay greater attention to *tzedek* and *darchey shalom*, "communal unity," than to *minhag avotenu veimmotenu beyadenu* and *knesset Yisrael*. That would make it different from its sister organizations.

But, surely, this does not mean that tradition and community must always yield. One way Reform rabbis can epitomize prophetic Judaism is by going against the grain and acting as correctives and critics to the unacceptable aspects of contemporary social trends. Even when we take expediency into account, we need not do it at the expense of other markers.

Fourth, it may also be possible to satisfy the demands of all, or most, lines of demarcation simultaneously by making the halachic distinction between *reshut hayachid*, "private practice," and *reshut harabbim*, "public policy."

We can probably meet the needs of our members by not castigating them for lax *Shabbat* observance in their homes, and yet maintain a standard of observance in our congregations that is traditional and consistent with practices in the community. Similarly, we may welcome individual Jews and, where needed, deal with their Jewish status in a manner appropriate to their circumstances. We can do so without making public pronouncements about how we intend to change the criteria for Jewishness, or disregard traditional notions of the conduct of rabbis.

We are, naturally, tempted to label such distinctions as hypocritical. But not to distinguish between individual conduct and collective standards may point to a legalistic literalism worthy of extreme Orthodoxy and unknown in our Reform tradition. A responsive and responsible *posek* or *poseket*, (a person deciding on matters of Jewish law) should be able to reconcile seemingly contrary demands, and remain firmly within the limits without putting up offensive fences and without deserving the charge of hypocrisy.

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