It's All Relative: The Contemporary Orthodox Jewish Family in America

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"It's All Relative: The Contemporary Orthodox Jewish Family in America"
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I recently received an inquiry for an interview from a journalist who was writing a story about the Orthodox Jewish family. The interviewer assumed that Jews "used to live together in one place for generations in previous generations," and was interested in "what changed and why." Although I should be used to it by now, I am regularly struck both by the prevalent assumptions about the idyllic nature of the Jewish family in Eastern Europe and by the assumption that the imagined Eastern European Jewish family is the model of the "authentic" Jewish family.

All too frequently, discussions of "the Jewish family" are based on the assumption that there is one single model of that family and it is typically that of the stereotypical Jewish family in Eastern Europe. Actually, there is no one single model of the Jewish family. From as early as 598 b.c.e., Jews have been and continue to be "a nation spread out and separated among the nations." In every society that they have dwelled, Jews acculturated to one degree or another and internalized cultural patterns from the larger society. That is a major source of the differences in the traditions of Ashkenazim, Sephardim, Jews from North Africa, Asia, and so forth, and between those of the various groups among all of them. Hence, the Polish Jewish family was different from the German Jewish family, the German was different from the Turkish, the Turkish from the Moroccan, and so forth. (This raises an interesting and important question that cannot be discussed here, as to whether one can speak of "Jewish culture" and even "Jewish identity" as if there are such things when there are actually different Jewish cultures and different Jewish identities.)

One more point about many discussions of the Jewish family, is the tendency toward nostalgia, to romanticize "good old days" that, in many ways, as the late Prof. Nathan Goldberg would consistently remind his students at Yeshiva College, were actually not so good at all. Nor were most Jewish families there like the stereotypical large, extended family in which people married young, were cared for by parents and in-laws while they had many children, and all of the extended-family members lived near each other and shared warmth and bliss.

Shaul Stampfer, for example, rejects the notion that the Eastern European family was patriarchal. As he convincingly demonstrates, women had active and independent roles in economic matters; very many if not most wives worked to help support their families; and wives made the most important daily decisions for the family, including what household items should be purchased; disciplining children; and finding spouses for the children ("How Jewish Society Adapted to Change in Male/Female Relationships in 19th / Early 20th Century Eastern Europe," pp. 65–84 in Rivkah Blau, ed., *Gender Relationships in Marriage and Out*, Orthodox Forum 17 New York: Yeshiva University Press, 2007). He likewise shows that the age of marriage among Eastern European Jews rose during the nineteenth century, and rose even more significantly during the inter-war years of the twentieth century ("Marital Patterns in Interwar Poland" pp. 173–197 in Yisrael Gutman, ed., *The Jews of Poland Between Two World Wars*, Hanover, NH: University Press of New England/Brandeis University Press, 1989). If that is not enough, evidence also indicates that there was a high level of divorce in Eastern Europe traditional Jewish society.

That having been said, I turn now to the American Jewish family, in general, and the American Orthodox Jewish family, in particular. (I omit any discussion of the frequency and impact of intermarriage, as that topic is beyond the scope of this article.) Until recently, evidence indicated that, although Jewish men and women in the United States married somewhat later than non-Jews, this was not a reflection of a declining significance of marriage and family for Jews. Jews were more likely than non-Jews to eventually marry, less likely to divorce and remain divorced and, at almost every age, a lower percentage of Jews than non-Jews were either previously married or widowed. The most recent evidence questions whether the Jewish values of marriage and family remain as strong as they were. According to the 2008 Pew Forum on Religion and Public Life/U.S. Religious Landscape Survey, the gaps between Jews and Christian white Americans have narrowed and, in some cases, are non-existent. Thus, on the one hand, the percentage of people who are divorced/separated among Jews (9 percent) is lower than that of Mainline Protestants (12 percent), Evangelical Protestants (13 percent), and Catholics (10 percent). On the other hand, the percentage of married people among Jews is the same as for Mainline Protestants (57 percent), but lower than Catholics (58 percent) and Evangelicals (59 percent), and the rate of never-married among Jews (19 percent) is higher than that Mainline Protestants (15 percent) and Evangelical Protestants (14 percent) as well as Catholics (17 percent).

At least since the nineteenth century, Jews in the United States have had lower birth rates than those of non-Jews. Jews marry later, want and expect fewer children, have the most favorable attitudes toward contraception, and have been its best practitioners. Data from various studies show that U.S. Jewish families today have fewer children than the minimum necessary to maintain group size, that is, zero population growth.

That being said, it must be stressed that, primarily because they are such a small percentage of the U.S. population, most surveys of American Jews do not distinguish between the various wings or denominations within American Judaism and the American Jewish population, and there are almost certainly significant differences among them on all of these issues and more. Indeed, the Pew Religious Landscape Survey did indicate differences between Reform and Conservative Jews, and their data indicated a higher rate of marriage for Reform (61 percent) than for Conservative (53 percent) Jews, but higher divorced/separated rates for Reform (11 percent) than for Conservative (7 percent) Jews. We have very limited data generally for Orthodox Jews in the United States because, among others, their numbers are so small, relatively, and many of them are reluctant to reply to surveys and interviews. The U.S. census is unhelpful in this respect because it has no religion question and, thus, we can't even get data for American Jews in general from it, let alone for the Orthodox segment. The 2001 National Jewish Population Survey did contain a reasonable sample of Orthodox Jews, and those data indicate a significantly higher marriage rate, a lower divorced/separated rate, as well as a lower single/never married rate than those of Conservative and Reform Jews. Since Orthodox Jews marry at a higher rate and do so at a younger age, it is not surprising that they are more likely that the non-Orthodox to have children age 17 or younger living in the household. Over one-third (34 percent) of Orthodox Jews have a child living in the household, which is more than double the rate of the non-Orthodox. In terms of future denominational trends, it is especially notable that the Orthodox are

considerably younger than the total American Jewish population; about 40 percent is comprised of children, as compared to 20 percent for the non-Orthodox. More than half (52 percent) of all American Orthodox Jews are younger than 45 years of age, as compared to 44 percent for the total American Jewish population. All of these figures reflect a continued strong emphasis on marriage and family formation among the Orthodox. Unquestionably, there has been an increase in divorce among the Orthodox. However, the absence of divorce, especially in previous decades, was not necessarily an indication of a stable and healthy marriage. In any event, the Orthodox divorce rate is still significantly lower than that of the non-Orthodox.

Needless to say, not all Orthodox Jews have strong marriage and family values, nor do they manifest them in the same way or even positively. We do not have hard data on spouse abuse for either the broader American Jewish community or for the Orthodox community, Modern or Hareidi and, in her study of responses to it in Hareidi communities, Roberta Rosenberg Farber ("The Programmatic Response of the Ultra-Orthodox American Jewish Community to Wife Abuse: Social Change Within a Traditional Religious Community," *Contemporary Jewry* 26, 2006, pp. 114–157) reports of professionals who believe that spouse abuse is as common among Jews as it is in the general population. Likewise, with respect to sexual abuse within families, Michelle Friedman reported of her study of over 400 observant Orthodox women in the United States and Israel ("On Intimacy, Love, *Kedushah* and Sexuality: Reflections on the 5th Annual YCT Rabbinical School/Community Yom Iyyun in Conjunction with Congregation Ohab Zedek," *Milin Havivin* 2, 2006, p. 187), "Sadly, we found the same statistics for sexual molestation and abuse of girls and teens as in the secular population." Neither Farber and Friedman nor any other studies suggest that there has been an *increase* in either spousal or sexual abuse of minors within families among Orthodox Jews. What is significant here is that there is likewise no evidence of any *decrease* in either of these horrible sins.

Be that as it may, there have clearly been American social and cultural changes, including technological changes, that have affected the Orthodox Jewish approach to family and family behavior. To begin with, sex is much more public than it was just several decades ago. Not only are words and scenes that were previously taboo on television now normal prime-time fare; the Internet has broken all barriers. There are no longer any taboos, and it is increasingly difficult not to be bombarded with pornography. Whatever one thinks of the freedoms of the press, the airwaves, and the web, they impact on religious behavior, especially for young adults. Some parents refuse to allow television and some refuse to allow the Internet into the home, while others implement various net filters, but none of these is fool-proof and nobody is immune. Of course, none of us was ever totally immune, and the Orthodox community is struggling to adapt as best as it can. It appears that the only ones who are talking publicly about the problem are those who have decided to completely ban the new technologies, but not too many appear to be following them.

One social pattern that is apparent, especially among the Modern Orthodox, is a growing tendency of later marriage. There has been a noticeable growth of singles communities such as the one in the Katamon neighborhood of Jerusalem (which is the subject of the popular Israeli television series, *Serugim*) and on Manhattan's Upper West Side. These communities raise challenges even as they resolve others. Some twenty years ago, Calvin Goldscheider pointed to the rising Orthodox divorce rate and suggested that the primary challenge is the potential religious alienation of the divorced individuals that results from their not being in families. Likewise, he pointed to the growing pattern of later marriage as challenging in that it results in increasing numbers of Jews who are rejected due to their unmarried status and become religiously alienated (Calvin Goldscheider, "Family Changes and the Challenge to American Orthodoxy: The Implications of Recent Social Science Data," *Tradition* 23:1 (Summer 1987), pp. 71–81). The new Orthodox singles communities undoubtedly serve as a buffer against the religious alienation upon which Goldscheider focused, but on the other hand they may be making it increasingly acceptable and less inconvenient to remain single longer. The growth of these singles communities potentially challenges the Orthodox growth rate, and, assuming that there has been no significant change in libido patterns—I know of no studies indicating any such change—challenges ritual observance with respect to a number of sexual matters.

Abstinence from all sexual activity prior to marriage has been a Jewish religious norm for at least the past 2,000 years, and presumably, it was always difficult. Anyone who says otherwise has forgotten what it was like to be a teenager. Also, as was indicated, late marriage is not new, nor are some of the

religious challenges it presents. What has changed is the frequency and openness of male-female interaction and, perhaps even more significant, the religious, ethnic, and sexual statuses of the males and females in the interaction. Their increased social and cultural equality often removes social-psychological barriers that prevented the development of intimate interaction. Today, those barriers are no longer supported externally and, thus, there appear to have been changes even among the Orthodox.

During the 1960s, Rabbi Irving ("Yitz") Greenberg was a very popular professor at Yeshiva College, and in an interview that appeared in the college newspaper, *The Commentator*, on April 28, 1966, he made some remarks that were interpreted by some as his advocating "a new value system and corresponding new halakhot about sex" for non-married as well as married men and women. This caused somewhat of a storm and, in the May 12th issue, Greenberg wrote a lengthy letter to the editor in which he adamantly disavowed any such notion, clarified his views, and apologized for being insufficiently clear and precise in the interview. Despite his clarification, he was taken to task by Rabbi Aharon Lichtenstein in his lengthy letter to *The Commentator*, in the June 2nd issue. (I thank Menachem Butler for providing me with copies of those letters. This episode and the much broader Greenberg-Lichtenstein debates are astutely recounted and analyzed in David Singer, "Debating Modern Orthodoxy at Yeshiva College: The Greenberg–Lichtenstein Exchange of 1966," *Modern Judaism* 26:2 (May 2006), pp. 113–126.)

In their mid-1980s study of varieties of Orthodox Jews, sociologists Samuel C. Heilman and Steven M. Cohen (*Cosmopolitans and Parochials: Modern Orthodox Jews in America*, Chicago: University of Chicago Press, 1989, pp. 173–179) found, across the range of Orthodox people they studied, "younger respondents consistently reported more indulgent attitudes toward the practice of premarital sex than their older counterparts"; that almost a quarter of those they labeled as "centrists" (not to be confused with what scholars at Yeshiva University term "centrist"; see David Berger's highly critical review of the Heilman-Cohen book, *Modern Judaism* 11:2, (May 1991), pp. 261–272) do not disapprove of sexual relations between couples who are dating seriously, and as many as 40 percent do not disapprove for those who are engaged to be married; and that among younger centrists, only about half disapproved sexual relations for those dating seriously, and less than half disapproved for engaged couples.

Although these figures reflect attitudes, it is hard to imagine that there was a highly significant gap between attitudes and behavior. The popularity of the expression "tefilin date" also apparently reflected a reality of otherwise observant Orthodox Jews who spent the night with their dates but prayed wearing tefilin the following morning.

Most recently, Zvi Zohar ("*Zugiyut al-pi haHalakha lelo hupa veKidushin*," *Akdamot* 17 (Shevat 5767), pp. 11–33) argued, based on the opinions of Nahmanides (1194–1270), Rabbi Abraham ben David (Rabad, 1125–1198), and Rabbi Shelomo ben Aderet (Rashba, 1235–1310), as well Rabbi Jacob Emden (1697–1776) that there is no prohibition against sexual relations without marriage so long as the relationship is not illicit, that is, it is consensual and monogamous, and the woman observes the laws of *niddah* and *mikvah*. His thesis was strongly rejected (in the same issue of *Akdamot*) by Rabbi Yehuda Herzl Henkin, Shemuel Ariel, Mikhal Tikochinsky, and Rachel Shprecher Frankel. Despite their rejections of its halakhic legitimacy, sexual relations among the unmarried was apparently perceived to be significant enough of a phenomenon in the Orthodox and traditional communities that the Ashkenazi Chief Rabbi, Yonah Metzger, issued a ban on allowing unmarried women to use *mikvaot*. The effectiveness of that ban is anyone's guess.

Relatively recent technological developments have had significant impact on Jewish family life in that for the first time in history human beings can conveniently and effectively control reproduction. This has had major impact on attitudes toward sexual behavior, making it less threatening to the unmarried and those married who do not currently want to bear children. It also has fostered new medical techniques that enable previously infertile couples to bear children. With all of these developments, however, come a myriad of halakhic issues. One of the first and most controversial addressing the problem of infertility was that of artificial insemination.

Beginning in the late 1950s, concerning different types of artificial insemination—one in which the donor was Jewish, one in which he was not, and the third in which the husband was the donor—Rabbi Moshe Feinstein issued lenient rulings and was staunchly attacked by numerous opponents, including

Rabbi Yoel Teitelbaum, the Satmar Rebbe. Since then, a body of literature has emerged not only on matters of fertility and halakha (see, for example, Richard V. Grazi, *Overcoming Infertility: A Guide for Jewish Couples*. New Milford, CT: Toby Press, 2005, and all of the sources to which he refers), but also on the much broader question of the role of the posek, including the extent to which his own perspectives and sentiments, as well as social and psychological forces, have a place in the process of halakhic determination. With respect to the specific issue at hand, in his Masters thesis analyzing Rabbi Feinstein's method of ruling in a series questions related to childbearing ("Rabbi Moshe Feinstein's Rulings Regarding Questions of Fertility, Contraception, and Abortion," Talmud Department, Bar Ilan University, 5766 [Hebrew]), Baruch Finkelstein argues that R. Moshe's lenient rulings on artificial insemination "were motivated by his compassion for the infertile woman." Going further, in an address at a conference at the Ramban Synagogue in the Katamon neighborhood of Jerusalem, on the occasion of a the publication of a Hebrew translation of Richard Grazi's book (*Horut nikhsephet: Etgar haPiryon beMabat rephui veHilkhati.* Jerusalem: Magid, 2009), Rabbi Benny Lau emphasized the impact of *hashkafa* on halakha, and he lauded the declaration by the rabbinic head of a leading fertility institute that, "There is no halakhic infertility," and "We will go the entire route with this couple in order to resolve the problem," as a leadership declaration. By contrast, in a review essay of the Grazi volume ("Technology in the Service of the First Mitzvah," *H?akirah, the Flatbush Journal of Jewish Law and Thought* 6 (Summer 2008), pp. 259–267), Gideon Weitzman rejects the notion that compassion figured in to R. Moshe's *pesak halakha*. He asserts that, for R. Moshe "and all other posekim," it is halakha that influences their approach to ethical problems, rather than vice versa, and the halakhic decision is based on the careful analysis of the sources.

As indicated, the issue is much broader than that of infertility and artificial insemination. As I indicated elsewhere ("Toward a Sociology of *Pesak*," in Moshe Z. Sokol, ed., *Rabbinic Authority and Personal Autonomy*" Orthodox Forum 1, Northvale, NJ: Jason Aronson, 1992, pp. 217–238), there are those who argue that "authentic" or "pure" *pesika* is that which is rendered by a posek in a computer-like manner, solely on the basis of characteristics inherent to the specific case involved and impervious to psychological and/or social forces, while others see a role for those forces in the halakhic decision-making process. Rabbi Joseph B. Soloveitchik, "the Rav," seems to suggest an intermediary position when he wrote,

. . . the mutual connection between halakha and an event does not take place within the realm of pure halakha but rather within the depths of the soul of the halakhic man. The event is a psychological impetus, prodding pure thought into its track. However, once it begins to move in its specific track, it performs its movement not in surrender to the event, but rather in obedience to the normative-ideal unique to it. . . To what is this comparable? To a satellite that was launched into a particular orbit. Although the launching of the satellite into orbit is dependent on the force of the thrust, once the object arrived at its particular orbit, it begins to move with amazing precision according to the speed unique to that orbit, and the force of the thrust cannot increase or decrease it at all.

The Rav's approach has echoes of Max Weber and his approach to the place of values in sociological research, namely, that the sociologists' values surely influence the choice of subjects whom they study. However, once the research has begun, the rules of scientific research take over, and evaluation is made solely on the basis of the empirical evidence. Value neutrality, in the sense of excluding one's own preconceived values in the subject of one's studies, is a cardinal requirement. Of course, anyone who has studied the social sciences knows that the goal of value-neutrality is difficult, if not impossible, to achieve. We are, after all, human, and we are influenced in many ways of which we are unaware. Similarly, Rabbi Aharon Lichtenstein cites the Rav's distinction between the "psychological impetus" and "pure thought" in the halakhic process and suggests, "It is a nice distinction, and I confess that I am not certain it can be readily sustained in practice." ("The Human and Social Factor in Halakha," *Tradition* 36:1 (Spring 2002), p. 12) it might be argued that Hazal recognized it's unsustainability in practice, and therefore decreed that certain type of people, such as very old people, eunuchs, and the childless, should not be appointed as judges to a Sanhedrin. Maimonides (*Hilkhot Sanhedrin* 2:3) provides the reasons, namely, that very old people and eunuchs should not be appointed because they have a cruel streak, and the childless should not be appointed because the judge should be

merciful. In other words, it was recognized that judges have an impact on "the orbit" of the law.
In an article published a year earlier, Rabbi Lichtenstein had already indicated the human element in the decision of the posek, and he averred that

A sensitive posek recognizes both the gravity of the personal situation and the seriousness of the halakhic factors. In one case, therefore, he may tend to view the points of contention in one way, while in a second case exhibiting slightly different details, he may tilt the decision on these points in the other direction. . . He might stretch the halakhic limits of leniency where serious domestic tragedy looms, or hold firm to the strict interpretation of the law when, as he reads the situation, the pressure for leniency stems from frivolous attitudes and reflects a debased moral compass. This approach is neither evasive nor discriminatory. The flexibility arises from a recognition that halakhic rulings are not, and should not be, the output of human microcomputers, but of thinking human beings; a recognition that these rulings must be applied to concrete situations with a bold effort to achieve the optimal moral and halakhic balance among the various factors. (Aharon Lichtenstein, "Abortion: A Halakhic Perspective," *Tradition* 25:4 (Summer 1991, p. 12)

Abortion is another issue where the question of whether the perspectives of the posek have any influence on his halakhic decision-making came to the fore. To support his argument that a halakhic decision is immune to the perspectives of the posek, Gideon Weitzman (referred to above) cites as evidence R. Moshe's pesak (*Iggrot Moshe, Hoshen Mishpat* 2 (1976), 69, p. 300), in which he rejects a more lenient pesak by Rabbi Eliezer Waldenberg (*Tzitz Eliezer* 9 (1967), 51:3, pp. 239–240) and prohibited an abortion for a women carrying a fetus with Tay-Sachs disease. "Can we possibly claim that Rav Feinstein did not have compassion on those unfortunate couples who are both carriers of Tay-Sachs?" Weitzman asks. To him, it is obvious compassion had nothing to do with R. Moshe's rulings on abortion, artificial insemination, or any other issue. Interestingly, Rabbi Benny Lau cited the same halakhic decisions of R. Moshe as well as that of Rabbi Waldenberg and their respective arguments as proof that the perspective of the posek does influence his halakhic decision. He argued that the reason R. Moshe took such a strict stance on abortion was to counter what he perceived as the larger social and cultural patterns in which abortion was becoming too commonplace. Indeed, in the final paragraph, R. Moshe explicitly states that he wrote the entire responsum in light of "the huge breach in the world that the governments of many countries have allowed the killing of fetuses, including Israeli heads of state, and countless fetuses have already been killed, such that at this time there is a need to make a fence (safeguard) for the Torah . . .". In other words, under other social conditions, he might have ruled differently.

In line with R. Moshe's wishes, though more as a result of greatly improved and much more widely used contraception methods, the number of abortions worldwide has decreased during the past decade and more. However, abortion is readily available and used in Israel and, more to the point, it has increased in the religious community there. Over the past decade, awareness of the possibility of abortion has increased in the religious community. According to estimates by several medical professionals, religious women don't speak of it publicly but at least 70 percent of the religious women do an ultrasound to detect Down syndrome and, if detected, at least 90 percent have an abortion. For more serious defects, where the fetus will not survive, even Hareidi women will abort. Also, not all religious women, Hareidi and not, seek rabbinic advice; some decide on their own, as has always been the case. The difference, according to the head of the ultrasound unit of Hadassah University's Obstetrics and Gynecology Department, is that there has been a revolution in the medical knowledge of rabbis. They now understand the complexities better, are more sensitive to all of the issues, and are better able to help the pregnant woman decide to abort. Prof. Simcha Yagel claims that religious women cope better with that difficult decision because they have religious authority assisting them with it. (Yifat Ehrlich, "*Beten Meleia*," *Dyokan* Magazine, *Makor Rishon*, May 8, 2009, pp. 10–14).

The Internet has had impact on the entire area of halakha and Jewish family life with the introduction, especially in Israel, of a relatively new phenomenon: Internet responsa. Indeed, it is an interesting question why the phenomenon is so prominent in Israel and yet is relatively absent elsewhere. Perhaps it has to do with the differences in the nature of the role of rabbi in Israel and elsewhere. Also, Israeli Orthodoxy is more pluralistic because of the much wider ethnic mix there and because of the non-

denominational character of Israeli Judaism.

Be that as it may, in Israel the Internet has dramatically altered the role of the rabbi, in a number of vital ways. The anonymity of those engaged in the discussion allows people to ask very intimate and demanding questions that they might not have asked if their identity was known. In addition, the limits of the community that a rabbi serves have been expanded from finite physical boundaries to almost infinite virtual ones. Finally, for our purposes, the Internet provides greater public awareness of a particular rabbi's decisions, which, on the one hand, makes him more vulnerable to criticism but also, on the other hand, enhances his stature as prominent rabbi.

An examination of topics covered in Internet responsa reveals that family and sexual issues play a major role among the questions raised. Thus, of the three volumes of such responsa by Rabbi Yuval Cherlow, the head of Yeshivat Hesder of Petah Tikva and the most prolific of the Internet rabbis, the largest volume, *Reshu"t HaYahid*, is wholly addressed to issues concerning modesty, couples and family. In published Internet responsa on the leading Internet site for the *dati-leumi*/Modern Orthodox communities, www.kipa.co.il, as well as on a range of other Jewish religious Internet sites and blogs, family issues are central. Among the issues discussed there are: early marriage—a concern especially for students in *yeshivot hesder*; singles; premarital sex; *agunot* whose spouses refuse to give them a *get* ; gays and lesbians in the Orthodox community; and others.

An issue related to the artificial insemination matters that R. Moshe discussed (but not specifically discussed by him) is one that also addresses an aspect of the singles phenomenon, namely, voluntary single motherhood. One of the earliest sociological studies of the phenomenon (Jane D. Bock, "Doing The Right Thing? Single Mothers by Choice and the Struggle for Legitimacy," *Gender & Society* 14:1 (February 2000), pp. 62–86) focused only on the Reform branch of Judaism and found it to be basically accepting. Since then, Conservative Judaism has become likewise increasingly accepting. Mainstream Orthodox Judaism opposes voluntary single motherhood on social policy, if not "pure" halakhic grounds, but it is gaining acceptance at least among some Modern Orthodox. Dvora Ross, herself a voluntary single mother, has not dispassionately reviewed the "pure" halakhic and social policy aspects and staunchly defends single motherhood (Dvora Ross, "Artificial Insemination in Single Women," in Micah D. Halpern and Chana Safrai, eds., *Jewish Legal Writings By Women* Jerusalem: Urim, 1998, Hebrew Section, pp. 45–72). Most of the Orthodox criticism of Ross' article is not on grounds of pure halakha but on the basis of the phenomenon's negative consequences on the Jewish family unit (See for example, Rabbi Aharon Feldman's scathing review-essay, "Halakhic Feminism or Feminist Halakha?" *Tradition* 33:2 (Winter 1999), pp. 61–79. The reference to Ross' article is on p. 74). To many, as Rabbi Aharon Lichtenstein points out in his seminal essay on the role of social factors in halakha (cited above), such concerns are within the purview of the halakhist. Others, such as Rabbi David Stav, one of the heads of the Yeshivat Hesder of Petah Tikva, argues that the only halakhic issue is that the father's identity is unknown and that might, conceivably, present a problem when the child wishes to marry. Other than that, "on the halakhic level, there is no argument between the posekim that there is no prohibition for a woman to become pregnant through artificial insemination…. This is not a halakhic question but one that is in the realm of social policy." When weighing the anguish of single women who yearn to have children against the fear that women might not want to get married—and include the admittedly remote halakhic complication from not knowing the identity of the father—leaves Stav unable to decide. However, his colleague, Rabbi Yuval Cherlow, is reported to allow artificial insemination for single women who unsuccessfully sought to marry by the age of 37.

This issue is surely one of a group of contemporary issues in which the extent to which the halakha can remain in its own orbit and its unique speed without being the force of the thrust increasing or decreasing it, to use the Rav's analogy, in cases that involve major cultural clashes, is somewhat dubious. We saw this with the issue of women's prayer groups and the "pesak" of the "RIETS 5," which was clearly much more about the role of women in society than about the laws of tefilla. The issue of voluntary single motherhood, likewise, is one that is controversial and emotionally charged in American society, in general. Even at the highest levels of analysis, there are some scholarly works that view it as very harmful to the children involved and, ultimately, society as a whole (See, for

example, David Popenoe, *Life Without Father: Compelling New Evidence that Fatherhood and Marriage Are Indispensable for the Good of Children and Society*. Cambridge: Harvard University Press, 1999). There are other works (see, for example, Rosanna Hertz, *Single by Chance, Mothers by Choice*. New York, Oxford University Press, 2008) that present evidence indicating that although some women became mothers in a "radical" way, they were motivated by normative family values and aspirations, and their family lifestyles are actually very conventional. In terms of Orthodox voluntary single mothers, although the rabbis and others may debate the halakhic and meta-halakhic issues involved, the meager evidence available suggests that the many of the women involved are making their choices individually, without careful consideration of those issues.

Perhaps the most emotionally charged family and sexual issue of our time is homosexuality. In terms of its prevalence, recognizing the difficulty in determining rates due to the variety of definitions of homosexuality and the unwillingness of many people to offer information about their sexual behavior, the empirical evidence suggests that there has not been any significant increase in homosexuality in the past half-century and more. We have no studies of it prior to the 1940s, so we really do not know if there has been any increase in the behavior. Shaul Stampfer found hardly any references to it among Eastern European Jews during the nineteenth and twentieth centuries, but it is difficult to believe that the phenomenon was non-existent. In fact, it is reasonable to assume that there actually has not been any significant increase in homosexuality. Rather, the phenomenon is now much more open, primarily because of the rise in identity politics in Western society and culture during the 1960s and 1970s. On the other hand, perhaps it has actually increased because the tolerance of it allows those with surmountable homosexual tendencies to avoid undertaking the effort to change. (I thank Prof. Martin Lockshin for this suggestion.)

Judaism across the spectrum incorporated the biblical condemnation of homosexuality as an abomination ("*to'eva*") and had, until recently, not only vehemently censured the act but ostracized the offenders as well. With the growing acceptance of homosexuality in the broader society, Reform Judaism was the first branch of American Judaism to alter its stance, when, on March 29, 2000, the Central Conference of American Rabbis (CCAR) overwhelmingly approved a resolution giving rabbis the option to preside at gay and lesbian commitment ceremonies. Not long afterward, the movement's temple and synagogue organization, the Union of American Hebrew Congregations (now called the Union of Reform Judaism) called for full legal equality for homosexual couples, including legal recognition of their relationships.

During that same period, on March 25, 1992, Conservative Judaism's Committee on Jewish Law and Standards (CJLS) voted in favor of a lengthy responsum written by Rabbi Joel Roth that reiterated the traditional stance of homosexuality as an abomination. It also rejected castigations of some social activists who labeled the decisors as callous, and proclaimed, "It is possible for a decisor to be understanding, empathic, sensitive, caring, and without irrational fears, and yet conclude that the halakhic precedents are defensible, warranted, and compelling." In a postscript, Roth went on to distinguish between halakha and civil law and, in the realm of the latter, saw "no justification for civil legislation proscribing such acts." Thus, while the Rabbinical Assembly reaffirmed its traditional prescription for heterosexuality, it supported complete civil equality for homosexuals; deplored violence against them; reiterated that they
are welcome as members in their congregations; and called upon the entire movement to increase "awareness, understanding and concern for our fellow Jews who are gay and lesbian."

Awareness of homosexuality in the Orthodox community increased by the award-winning documentary, *Trembling Before G-d* (2001), which portrayed the conflicts experienced by Jewish gays and lesbians between their strong bonds with God and the Orthodox Jewish tradition, on the one hand, and Judaism's very strong condemnation of homosexuality, on the other. A number of Orthodox rabbis, Hareidi as well as Modern Orthodox, have expressed compassion for individual homosexuals while, at the same time, affirming the condemnation of prohibited homosexual activity, and have urged that those violators not be shunned any more than are other sinners, such as Sabbath desecrators. Among the more Hareidi of those who profess compassion, one senses an outreach approach that aspires to enlist them in programs aimed at reorienting them from their homosexual tendencies (See,

for example, Avi Shafran, "Dissembling Before G-d," *Jewish Journal of Greater Los Angeles*, Feb. 21, 2002). There is much debate in society at-large as to the feasibility of such reorientation, based on the question as to whether homosexuality is hereditary or learned behavior.

For the Orthodox community in particular, the publication of Steven Greenberg's *Wrestling With God and Men: Homosexuality in the Jewish Tradition.* Madison: University of Wisconsin Press, 2004) had the potential to create a real stir and perhaps even change some attitudes. Greenberg, after all, has ordination from the Rabbi Isaac Elchanan Theological Seminary of Yeshiva University, and considers himself as part of the Orthodox community. However, as Asher Lopatin elucidates in his extensive sympathetic yet forthright critique ("What Makes a Book Orthodox?" *Edah Journal* 4:2 (Kislev) 5765/2004), the book is not and will not be seen as an Orthodox work because the author is admittedly not fully committed to Orthodoxy; because its methodology and style are not those of Orthodox works; and it is insufficiently creative halakhically. That and the facts that it was published by a university press with limited distribution and, even more, that has an erotically suggestive painting on the cover, have made it a non-event in the public Orthodox community. How widely it was read under wraps in that community is anyone's guess. Not surprisingly, Greenberg replied to Lopatin's critique (*Edah Journal* 5:2 (Sivan) 5766/2006), stating that his intent

was not to settle the thorny halakhic issues, but to set the stage for richer halakhic engagements that in time will follow. It is my view that a full-fledged halakhic "solution" to the problem of homosexual relations is premature. . . .There is still too little understanding, let alone empathy, in the Orthodox community for the gay religious person and too much entrenched fear about the consequences of any partial, let alone full-fledged acceptance, of embarking on such a project.

If one were to assume from this that there has been little change in the Orthodox community, one would be very mistaken. There definitely has been change. There are now several openly gay Orthodox groups in Israel. One, *Havruta*, held its first anniversary event in Jerusalem recently, where the guest of honor was none other than Rabbi Yaakov Medan, who is one of the heads of Yeshivat Har Etzion. A number of other prominent Orthodox religious personalities participated as well (Yair Ettinger, "Of Pride and Prayer," *Haaretz*, Feb. 26, 2009). Also, the second season of the Israeli television series, *Serugim*, will include homosexuals, and there are even several gay Hareidi web sites (such as Mendy's Blog and Homo Hareidi).

Does all of the change documented lend support to Blu Greenberg's famous assertion that, "Where there's a rabbinic will there's a halakhic way?" As a historical statement it may. Orthodox Judaism is, by definition, conservative, and all conservative religious groups manifest stronger family values that the non-traditionals do. On the other hand, no group is immune to the broader social and cultural patterns, and their families of today are not quite what they were a half-century ago. However, if the assertion is taken to be a political call to action, none of what has been discussed should necessarily be taken as supporting that assertion. All too frequently, such calls backfire and lead to a reactionary impulse, because they are seen as undermining halakhic authority, and serve to make it even more difficult to achieve the very objective intended by the call. As several of the issues discussed above suggest, working with halakhic authorities, rather than attacking them, is much more productive.

As the world shrinks—and technological innovations assure that it does—broader social and cultural patterns will change even more rapidly, and they will increasingly impinge on the Jewish family, including the Orthodox family. Nor is there anything novel about it. As R. Yehudah Heh?asid (c. 1150–1217), the author of the *Sefer haHassidim*, recognized centuries ago, "As is the custom of the gentiles, so are the customs of the Jews in most cases." How Orthodoxy will respond to these new challenges is anyone's guess. It is increasingly obvious that digging one's heels in, furthering the "*she'erit haPeleta*" ("saving remnant") approach, and trying to ignore the changes does not work, as a look at the rising divorce rates among the Orthodox, including Hareidim, indicate. Perhaps increasing numbers of Orthodox rabbis and other communal leaders will decide to learn more about the broader societal and cultural patterns, to work with experts in society-at-large, as well as with each other in attempts deal with the changes within a halakhic framework. The latter, of course, presents a formidable challenge of agreeing on an appropriate halakhic framework. One might be tempted to say

that only Mashiah will be able to bring that about, but unless he arrives shortly, we may not be able to wait.