A Judaism of Laws or of People

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An Orthodox colleague recently created a controversy after writing a blog post explaining why he no longer recites the blessing *shelo asani isha* - thanking God for not creating him as a woman. Several Orthodox rabbis criticized this position for various reasons with one even questioning the author's right to call himself "Orthodox," ostensibly for deviating from the traditional liturgy through his omission. In the grand scheme of Orthodox Jewish history this rabbi's personal choice is relatively trivial. However, in the subsequent squabbling over one rabbi's legitimacy, the Orthodox rabbinate inadvertently exposes the inherent cognitive dissonance prevalent in the contemporary Orthodox community.

Contemporary Orthodox Judaism tends to resist innovation and change as a matter of principle. Preserving the authentic tradition is the highest priority, especially when faced with potentially corrupting external influences. For just one example, when confronted with the question of mixed seating in the synagogues, R. Joseph B. Soloveitchik exhorted the Rabbinical Council of America to "be ready to fight for an undiluted Halachah which is often not in the vogue."[1] The problem of course is that Jewish history is replete with exactly such instances when common Jewish practice has changed, either through adapting existing practice or introducing new innovations.

Consider one such example from the liturgy. In the section of morning blessings, the same part of the service which includes *shelo asani isha* - virtually all *sidduim* contain the blessing *ha-notein la'ya'ef koach* - blessing God for giving strength to

the weak. R. Yosef Karo (1488-1575) opposed not only the recitation of this blessing (O.H. 46:6), but the legitimacy of its very existence stating, "since it is not mentioned in the Talmud, I do not know how this person had permission to create it" (Beit Yosef O.H. 46:6). The difference between omitting a blessing and reciting an unauthorized one is substantial; in the former one only does not fulfill a rabbinic obligation (T. Berachot 6:18) but in the latter instance one violates a biblical prohibition of taking God's name in vain (Shemot 20:6, B. Berachot 33a). And yet for contemporary Judaism, one such liturgical change is accepted if not required, while the other is deemed unorthodox.

The methods of how Orthodox Judaism selectively incorporates or rejects changes is beyond the scope of this essay. However, there is a more fundamental question which can be extremely uncomfortable for most traditional Orthodox Jews: are the boundaries and definitions for acceptable Orthodox Judaism objective or subjective? Based on the sanctimony emanating from Orthodox Judaism it would be reasonable to assume the former. But if there are objective criteria for Orthodox Judaism, then this criteria must not only be defined and defended explicitly, but more importantly applied consistently to every instance. This would mean that even well established "traditional" opinions or rabbis who violate this criteria would have to be held accountable to this standard, and perhaps be reconsidered as beyond the scope of Orthodox Judaism.

On the other hand, if the criteria for Orthodox Judaism is subjective, meaning it is a floating target meant to include or exclude as a need arises, then Orthodox Judaism is as arbitrary as the other denominations which they criticize. Despite the rhetoric of preserving Torah, if the criteria is subjective, then Orthodox Judaism is so only because its adherents say so.

To paraphrase John Adams, the question which Orthodox Jews must inevitably confront is if it is a religion of laws or of men. If the former, then the laws must be applied universally to exclude that which violates it and to accept that which falls within its range of acceptability, regardless of a an individual's stature or affiliation. But if Orthodox Judaism is primarily defined by its community, then the arbitrariness would be justified, albeit at the expense of its alleged adherence to being shomerei Torah.

This question must be addressed by anyone who ventures into the debate as to what qualifies as "Orthodox Judaism." But from my own experience I have found that the Law provides its own answer and the Men provide theirs.

1. Soloveitchik, Joseph B. "Message to a Rabbinic Convention." The Sanctity of the Synagogue The Case for Mechitzah: Separation Between Men and

Women in the Synagogue Ed. Baruch Litvin Ktav 1987. p. 109