

On November 19, 2006, Professor Mark Washofsky was honored for being named the Solomon B. Freehof Professor of Jewish Law and Practice, an appointment reflecting Dr. Washofsky's enormous contribution to the field of Talmud and Jewish law and his service to the Reform Movement as an expert on responsa literature. A distinguished product of HUC-JIR's rabbinical and graduate studies programs, he demonstrates the excellence of the College-Institute in preparing great Jewish scholars and leaders. He is a most fitting successor to his illustrious teacher and mentor, Dr. Ben Zion Wacholder, who inaugurated this Chair in 1989.

The Freehof Chair was created by beloved members of the Board of Governors – Allen and Selma Berkman, of blessed memory, the parents of our esteemed Governor, Richard Lyle Berkman. Allen and Selma Berkman established this chair as a tribute to their rabbi and friend, Dr. Solomon B. Freehof, a noted rabbinical alumnus of the College-Institute and the foremost authority on traditional Jewish law and Reform Jewish practice of his era.

SOLOMON B. FREEHOF AND REFORM HALAKHAH

Dr. Mark Washofsky

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It would have been an honor for me to have received a named professorship here at HUC-JIR, no matter *what* name was on the professorship. But when the professorship is called the Solomon B. Freehof Chair of Jewish Law and Practice, then that is a *singular* honor. Much of my own academic work as a student of *halakhab*, the tradition of Jewish law, explores the possible points of connection between *halakhab* and the religious life of Reform Judaism. This academic passion finds a partial expression in my role as chair of the Responsa Committee of the Central Conference of American Rabbis. Responsa are learned opinions in Jewish law, rabbinical rulings that answer questions of religious practice from the texts and sources of the *halakbic* tradition. And if there is one thing with which the name Solomon B. Freehof will be forever associated, it is his contribution to the writing of Reform responsa.

Freehof was by no means the first Reform rabbi to write responsa. But as the author of eight published volumes of responsa, containing 520 individual opinions, he dominates the history of this enterprise. It is primarily he who teaches us what Reform responsa are and what it could possibly mean to write them. In

that sense, even though I never met him or personally studied with him, Solomon B. Freehof is my teacher.

Now it is a virtue for a student to be jealous for his teacher's reputation and to defend it against unjustified attack. And that is my purpose today, for there are those within our Reform Movement who find fault with Solomon B. Freehof's work in the field of Jewish law. These critics do not primarily attack Freehof's method in writing responsa or his conclusions with respect to any individual question. Rather, they criticize the very legitimacy of Reform responsa in the first place. Reform Jews, after all, do *not* believe in law. The Reform movement originated as a revolt against much of the legal heritage of the Jewish tradition, rejecting many of the ritual and ceremonial expressions of Jewish religious life.

In recent decades, this rejection has tended to express itself in the concept of *autonomy*: the assertion that each individual Reform Jew is free to make his or her own self-determined choices in the realm of religious practice. Autonomy means that we reject the *authority* of Jewish law. We make our own decisions about how to worship, about how to

celebrate Shabbat or the festivals, about whether and how to observe the dietary laws. We make those decisions in accordance with our own conscience or judgment; we do not decide to do or not to do something merely because the *halakhab* tells us so. That's autonomy; that sort of freedom is what Reform Judaism is all about. But if we believe in autonomy, and if we do not believe in law, then what place can there be for responsa, *legal* rulings, in the world of Reform Judaism? What business does a Reform rabbi have quoting *halakbic* sources – the Talmud, the codes, the commentaries, and the responsa of earlier rabbis – when we have declared that *halakhab* exerts no authority over our religious lives?

Accordingly, a number of Reform Jewish thinkers have through the years criticized Solomon Freehof's work. They complain that while Freehof may have been a great *halakbic* scholar, he was a bad *theologian*: that is, he never came up with a coherent, systematic defense of his study of Jewish law from the standpoint of Reform Jewish religious doctrine and belief. It would have been one thing for Freehof to have pursued his *halakbic* studies out of a purely personal or academic interest.

Scholars, after all, tend to be interested in weird things; or, as Tolstoy might have put it, every quirky person is quirky in his own way. But Freehof obviously wrote his responsa for Reform Jews to study and to use for religious guidance. And *why* should they do that, when Reform Jewish theology has declared that we are no longer bound to follow the dictates of Jewish law? Since Freehof supposedly never answered that question, many of his critics declare that his responsa, this literary enterprise to which he devoted so much of his time and energy, were essentially a *waste* of his time and energy, because they are irrelevant to the religious life of the Reform Jew.

work of any academic scholar or religious thinker, including the writings of Freehof's critics. The point is that, like the critics, he makes a serious argument that commands our attention. This argument appears in various writings, most notably in the introductions to the collected volumes of Freehof's responsa. It appears as well in a lecture he delivered almost forty years ago here, at the Cincinnati campus of the Hebrew Union College, then – as now – the academic and intellectual center of North American Reform Judaism. The lecture was entitled "Reform Judaism and the Law," and as is the fate of many such occasional speeches, it was published, printed, and for the most part

thought to *why* he wrote responsa and that, as it turns out, he was a pretty good Reform Jewish religious thinker.

Freehof's argument for the relevance of *halakhah* to Reform Judaism rests upon two primary insights. The first of these is the absolute centrality of the law to the Jewish religious experience. Judaism, he reminds us, is a religion that expresses itself primarily through concrete ritual and ethical observance. We are more a religion of *deed* than of *creed*; Jews have historically tended to place greater emphasis upon the forms of their religious life than upon abstract theories, dogmas, and ideologies. And if that is so, then we must not forget that the

who claimed that ours was a "prophetic Judaism," that skips over the post-Biblical Rabbinic tradition and that builds itself entirely upon the moral teachings of the Biblical prophets. Our Judaism, Freehof insisted, is not and never has been "Biblical." The Bible may be the source of Judaism's great ethical ideas, but our actual religious life – our liturgy, our Sabbath and festival observance, our religious calendar, our marriage and burial practices and so forth and so on – is born in the Talmud, *not* in the Bible. Thus, said Freehof, "there need be no sharp distinction between Biblical and post-Biblical literature. God may well speak through both." Now *that* was something of a revolutionary



Dr. Mark Washofsky (center), Solomon B. Freehof Professor of Jewish Law and Practice, with Richard Lyle Berkman (left), a member of the Board of Governors, whose parents, Selma and Allen Berkman, established the Freehof Chair in honor of their rabbi and friend, and Rabbi Ellenson.

That is what the critics say. But they're wrong, and today I'd like to set the record straight.

Solomon B. Freehof did not write his responsa in a theological vacuum. On the contrary: he *did* think about why a Reform rabbi ought to write *halakhic* responsa, and he does offer a theoretical justification for that activity. His justification may or may not *persuade* you. But then, we could say the same for the

forgotten. I only know about it thanks to the magnificent resources of the Klau Library. The lecture reads like an *apologia pro vita sua*, a full-fledged defense of the work that has become synonymous with the name "Freehof." I cannot do his argument justice in the time available to me this afternoon. But I want to try to summarize it as best I can. In doing so, I hope to establish that Freehof indeed gave a great deal of

traditional literature that derives and defines and describes these forms of action is the literature of the *halakhah*. Simply put, Judaism as we know it is created and takes its form in the books of Jewish law; you cannot live a Jewish life in any recognizable sense of that term without the guidance of the texts and sources of the *halakhah*.

Freehof meant this insight as a response to those Reform Jews

statement for a classical Reform rabbi like Solomon B. Freehof to make. And *that* is what Solomon B. Freehof said.

The second element of Freehof's argument concerns the *study* of Jewish law, which the tradition refers to as the *mitzvah of talmud Torah*. He notes that precisely because the study of the *halakhah* was considered a religious duty, "Jewish life became essentially a

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vast educational system in which the essential part of the universal curriculum was the study of the law.” For many centuries, the study of the Talmud and *halakhah* has been the focal point of Jewish intellectual activity; the Jewish mind was shaped and educated in the *yeshivot*, the law schools of our tradition. This study, carried on by generation after generation of Jews, both laypersons and scholars, produced a tremendous outpouring of literature – commentaries, codes, responsa – that in turn became the subject of study for future generations. Freehof spares no superlatives in describing this accomplishment:

Jewish one, we must become students of the *halakhah*, the literature that our people have produced in their ongoing effort to understand God’s will for their lives. That was a provocative statement for a classical Reform rabbi to make. And *that* is what Solomon B. Freehof said.

By combining these two insights Freehof poses a challenge to his fellow Reform Jews. He asks: what do we mean when we say that we are “Jews”? What is the form and substance of this religion of ours that we insist on calling “Judaism”? If “Judaism” to us is no more and no less than the sum total of our own choices, a creation of this time

Jews are entitled to think or say or do whatever we want and to call it Jewish. But if we *choose* to live an authentically Jewish life, a life that is modern, yes, and liberal and Reform, but *Jewish* all the same, then we have *no* choice but to nurture a strong and vibrant relationship with the *halakhah*. And if that means we have to accept a notion of structure, of continuity, and of legal discipline within our Reform practice, then so be it. That was a daring statement for a classical Reform rabbi to make. And that is what Solomon B. Freehof said.

Now Freehof was and remained a classical Reform rabbi. He was no starry-eyed romantic;

has changed with them; we are right, therefore, to declare our independence from those parts of our ancient and medieval legal system that have become frozen in place. But, as Freehof makes clear, the attempt of radical Reform Judaism to abandon the legal tradition in its entirety was an overreaction, a serious mistake. Better, he says, for us to take our part in *halakhah*, the central discourse of historical Jewish religious life, even as we criticize what others have said in its name. Better, he says, that we make our own unique and creative liberal contribution to the development of Jewish law.

Let me put this in another way.

I t is in the sources of Jewish law that we encounter the foundations of Jewish religious experience, the patterns and institutions of Jewish religious behavior, and the arena in which the Jewish people have over the centuries exercised the lion’s share of their intellectual and cultural creativity.

Jewish law studies are “the essence and the climax of Jewish culture,” an intellectual activity “widespread to an extent never before achieved or since paralleled in any historic social group”; “we must conclude,” he says, “that the Jewish study of the law was the greatest suffusion of intellectual activity that the world has seen.” The study of the law, he concedes, is not necessarily the deepest kind of study nor the most important subject with which to preoccupy the mind. But for two thousand years it has been the central preoccupation of the *Jewish* mind. Therefore, if we want our *Reform* religious culture to be an authentically

and place, then surely we are free to define it any way we wish. But if *our* Judaism is not entirely our own creation; to the extent that it is rooted in the heritage of *am Yisrael*, the collective religious and cultural Jewish people, then we cannot with any intellectual honesty ignore the tradition of the *halakhah*. For it is in the sources of Jewish law that we encounter the foundations of *Jewish* religious experience, the patterns and institutions of *Jewish* religious behavior, and the arena in which the *Jewish* people have over the centuries exercised the lion’s share of their intellectual and cultural creativity. Yes, we are free to choose; we Reform

his interest in *halakhah* was no Fiddler-on-the-Roof-inspired nostalgia trip, let alone evidence of a trend toward “creeping Orthodoxy” in the Reform Movement. Like the good modernist he was, Freehof always maintained his capacity to approach the law with the critical eye of the trained academic scholar. He freely acknowledged that elements of the *halakhah*, particularly as these are interpreted by contemporary Orthodox rabbis, contradict some of the most deeply-held intellectual, aesthetic, and ethical commitments of Reform Judaism. The times have changed; our religious outlook

Freehof challenges us not to allow our Reform Judaism to come to resemble a cut flower that, though beautiful to behold, is severed from the roots that nourish it and give it strength. And so he wrote responsa, through which step by step, piece by piece, and question by question, he plants our Reform Jewish religious life right back into the *halakhic* tradition, the ground from which all Judaism springs. That was an unusual thing for a classical Reform rabbi to do. But that is what Solomon B. Freehof did. And it is fitting, especially on this occasion, that we acknowledge his deed in lasting gratitude. ■