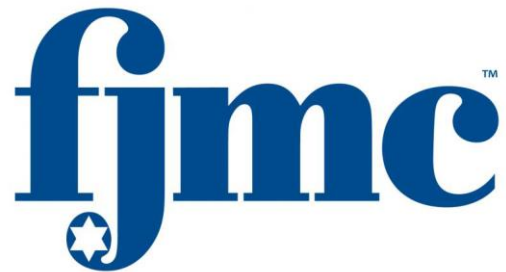


The Elephant in the Room:
Conservative Judaism and the Patrilineal Question

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The FJMC mission is to involve Jewish Men in Jewish Life by building and strengthening Men's Clubs in the Conservative/Masorti Movement. We accomplish this by:

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Introduction

Change and Innovation

Change and innovation in the Conservative Movement have primarily been a result of the broader societal changes and the courage of grassroots leaders. At the same time, when grappling with change Movement lay and professional leaders have traditionally looked for guidance from their umbrella institutions. The drive for egalitarianism in Conservative Judaism and the acceptance of gay and LGBT communities--both microcosms of trends occurring in the larger society -- reflect the most recent innovations.

In such matters, the Conservative Movement has been criticized for following the more liberal streams of Judaism which are not bound by a legal system. The process of acceptance of change via a legal process should be seen as the great strength of Conservative Judaism. This process connects the present with the past. It provides its members with an affirmation that religious life is not chaotic, whimsical or trendy, but is a result of serious thought and wrestling with how an ancient tradition meets the needs of a changing world.

A number of colleagues on both the right and the left criticize the workings of the Committee on Jewish Law and Standards for "overruling abiding rabbinic practices." This has been a consistent activity of the CJLS and should be recognized as a strength not a weakness. In the past, the members of CJLS have challenged the practice of observing the second day of a holiday, agreed to obligate women to observe operative mitzvot, ruled that women may be counted in the minyan, permitted a Kohen to marry a divorcee or a convert, and legitimized the union of homosexual couples--all of which are either prohibited by the rabbis or, in some instances, the way the Torah has been interpreted.

Worldwide Challenges

It is important to note that issues regarding change or evolution are complicated by geography and culture, which together determine how Conservative Judaism responds to modernity. Let me explain.

I was living in Paris in the 1990's when a teenage girl approached her rabbi requesting permission to attend the minyan wearing *tefillin*. She had recently learned that women in America had begun to wrap *tefillin* and, as a feminist and as a serious Jew, she desired to do the same. The community initially didn't know how to address her request because it wasn't part of their culture.

Last year while teaching in Chile and Brazil, I learned that many of our communities, some of which are dually affiliated with Reform, were not egalitarian. It simply

wasn't part of the Latino culture (actually cultures because Chilean culture differs from that of Argentina, Brazil and so on).

While each country has its own particular culture, the issues we confront are relatively similar. All of the countries where Conservative/*Masorti* Judaism exists are concerned with assimilation, intermarriage and yes, patrilineality. Patrilineality is more prevalent in the United States as a result of the decisions made by the Reform Movement sixty-nine years ago, but it doesn't mean families, clergy and Movement Leaders aren't concerned with it in Latin America, Europe, Australia North America and Israel.

The acceptance of patrilineal descent by the growing Reform and Reconstructionist Movements has resulted in a number of challenges for Conservative Judaism. This pamphlet was assembled to foster conversations about patrilineal descent and to challenge the United States Conservative/*Masorti* community to initiate a serious conversation, on an international and on a local level, on how the Movement should respond to this significant demographic development.

The Patrilineal situation strongly differs from the ever increasing number of intermarriages even though, as we currently hold, both parties require certain halachic fulfillment in order for them to be fully accepted.

Most people will readily agree that the demographic challenge which is occurring between a Jew and a person who was raised in another religious or secular tradition far outweighs the patrilineal issue. I certainly do, but the challenge our Movement confronts as a result of the patrilineal situation could be understood as an opportunity that if ignored will be wasted.

The data are intended to inform the conversation by providing a view of what is occurring with regard to patrilineality in our regions and in other non-Orthodox streams of Judaism, and by posing a number of questions for discussion.

The conversation needs to begin on an international level involving Movement leaders from Europe, Latin America and Australia. The question which needs to be answered is, "Are we an International Movement or a United States Movement with several not fully understood and respected appendages?" I have deliberately not included Israel in this picture because that is one place in the world where both Reform and *Masorti* subscribe to the Matrilineal model. If we refuse to act, culture and demographics will determine our future.

Current Problems

The first bat mitzvah occurred because a local rabbi decided to make it happen. The first gay wedding took place in a congregation years before the CJLS began to address the issue, and a similar process, where rabbis have been accepting patrilineal Jews under different

circumstances, has been similarly taking place in the United States for at least fifteen years. It hasn't made the news but conversations with colleagues for nearly twenty years, have taught me that this one attended a patrilineal wedding, and that one officiated when the man was patrilineal because he felt the children would be Jewish anyway. This one felt the couple or individual were serious about raising a Jewish family and would enhance the community. Finally, some of our colleagues just don't know because they rarely review membership applications where this information might appear.

I have listened to colleagues in groups acknowledge that when a couple approaches them with the intent of marrying and one is patrilineal, the person raised in another religious tradition was advised to go to the mikveh but was reassured that the rabbi would perform the ceremony even if she or he chose not to go through said process.

This situation will only continue to grow as current and future rabbis confront changing demographics. The rabbi who ten years ago would describe a person who was born from a Jewish father and a non-Jewish mother as “not Jewish”, today would call him a “patrilineal Jew”. The rabbi who was delighted that his child had found a practicing Jew to marry is now challenged what to say because that child has become involved with someone who was raised within a different Jewish tradition. He or she might be a product of Reform youth groups, have spent a gap year in Israel, and possibly could be a rabbi or a cantor with a non-Jewish mother. The rabbi who was delighted that his or her child had found a practicing Jew to marry now understands that depending upon how this is handled, the future relationship with a son- or daughter-in-law could be at risk. To a great extent for the United States Conservative Jewish community, this means the demographic tide has already swept over us and the only skirmish which remains is who stands under the *Chuppah*.

Further cracks in the determination of who is a Jew have recently appeared as a result of the USCJ's agreement to modify Standard V of their Standards of Congregational Practice. This modification supports congregations in determining their own criteria for membership. While this is an act that acknowledges the self determination of congregations and cedes legal decisions to the Committee on Jewish Law and Standards of the Rabbinical Assembly, it also allows congregations to accept patrilineals in the same manner they could accept people from other religious or secular traditions who have married or partnered with a matrilineal Jew. While some might see this as “too little too late” I believe that the true ramification of this act will become visible in the years to come.

Biblical Support

Conservative Judaism has been traditionally committed to matrilineal descent, as per above. One of the aspects that makes the patrilineal question more compelling is that historical precedent for patrilineal and matrilineal marriage and divorce already exists! Recent findings in the *Cairo Genizah* reveal marriage and divorce documents between *Rabbinites* and *Karaites*.

This has been documented in *Heresy and the Politics of Community: The Jews of the Fatimid Caliphate*, Marina Rustow, Cornell University Press; *Untidy History: Reassessing Communal Boundaries in Light of the Cairo Geniza Documents*, Arnold Franklin; and “Age of Transition: Byzantine Culture in the Islamic World”, The Metropolitan Museum of Art Symposia, New York 2015.

Karaites were patrilineal. They followed a different calendar and had different standards for keeping *kosher*, yet they managed to work out their differences with the *Rabbinites* in a *Halachic* manner.

Challenges

If we are concerned with the future of our Movement, then the time has arrived for serious conversations to take place amongst our institutional leaders in an international forum. Are we an international Movement with similar standards, and if so, what needs to be done to address our common concerns? Or, are we united in our diversity and willing to accept our diversity as a determining factor because we are committed to certain basic ideas like halachic process, kashrut, daily prayer, study and holiday observance? If the latter is the case, then we need to arrive at an understanding that each country or culture should have the right to determine how best to address demographic and cultural change.

It's not like we really have a choice. What we have is a time limited opportunity.

Sources

Why did I assemble this pamphlet? Because I care and because my work over the decades has provided me with a rare understanding of our global Movement. I have built and supported *Masorti* congregations in Europe and Latin America and I have most likely visited more synagogues and interacted with more colleagues in a number of forums for more years than anyone else in our Movement. I believe we are at a crossroads where we need to decide what type of Movement we wish to be and how we wish it to be constructed. This pamphlet intends to raise questions and stimulate the discussions that need to take place in order to seize the rare opportunity we are facing: patrilineality?

This pamphlet is supported by the following included sources:

1. A data overview of global trends affecting patrilineality.
2. Suggested techniques for addressing patrilineal situations.
3. Discussion topics for a synagogue ritual committee and board of directors.
4. An essay written by a retired colleague, Rabbi Richard Margolis,
5. Excerpts from a paper by Dr. Sylvia Barak Fishman written for the Jewish Policy Institute.

6. A response by Dr. Keren McGinity.
7. Documents explaining the history, choices and current status of patrilineality in the Reform Movement.
8. Documents explaining the history, choices and current status of patrilineality in the Reconstructionist Movement.
9. Documentation of a current change within the Reform Movement in the United Kingdom

With respect to my readers,

Charles Simon, 2017

Global Trends Affecting Patrilineality

The following information should provide the reader with a global perspective:

- The Reform Movement which accepts patrilineal Judaism has a total of 78 congregations in the United Kingdom, Australia, New Zealand and Asia.
- The Reform Movement has 824 congregations in North America and approximately 350 congregations outside of North America and Israel.
- The Conservative/*Masorti* Movement has somewhere between 550-600 congregations in North America.
- *Masorti Olami* has 71 congregations in South American and a total of 40 congregations in Europe and the Former Soviet Union, 2 congregations in Australia, and 2 in Africa for a total of 115 congregations outside of North America and Israel 75.
- The URJ camps had 9,300 students attending in 2013, 9,550 students attending in 2014, and 9,850 attending in 2015.
- The *Ramah* Camps had 7,400 attendees in 2014, 7,700 in 2015 and 8,000 in 2016
- The Reconstructionist Movement consists of 100 congregations, 97 are in North America, 1 in the Netherlands and 2 in the Caribbean where all accept patrilineality.
- Hebrew College in Boston has graduated 89 students in the past seven years while no data is available more than half of them accept patrilineality and an increasing number of them are serving in Conservative congregations.
- The Renewal (*Aleph*) institutions have not considered the issue and lack any data as to the nature of what their graduates do.

Our Options

If: We wish to maintain the status quo as an International Movement

Then: The United States part of the Movement needs to:

1. Obtain the consent of all rabbinical students that they will only officiate at *b'nai mitzvot* and weddings if all parties go to the mikveh or undergo some type of immersion.
2. Obtain the commitment of all congregational rabbis that they will act in a similar manner.
3. Encourage all congregational rabbis to reach out to their local Reconstructionist and Reform colleagues and obtain a similar consent in the name of *shalom bayyit*.
4. Create appropriate language for Rabbis to use when they speak to parents and couples intending marriage. For example, if people require an explanation regarding the "why" to be immersed, one could stress the wonderful experience. One could stress that having both parties undergo immersion eliminates any form of sexism. What is important is that the language is more than a language of re-affirmation or completion.

While this will not impact on the intermarriage rate, it can mostly eliminate the concerns about patrilineality and unite our Movement globally.

Or: Based upon the historical halachic model that has emerged from the *Cairo Genizah* the Rabbinical Assembly can create marriage and divorce documents between matrilineal and patrilineal Jews and consider this a viable option to be determined by the local Rabbi. This scenario would allow the individual rabbi, depending upon the local culture to make appropriate choices clearly stating that other Conservative/*Masorti* rabbis and congregations might choose to interpret this differently. It would be pluralistic and at the same time maintain a halachic commitment to *kashrut*, holiday observance, daily prayer and conversion.

Or: The Rabbinical Assembly can adopt something akin to the Reconstructionist Movement's stance which appears to parallel the model created nearly 40 years ago and individual rabbis and or Regions can choose not to accept it.

If: We choose not to address patrilineality

Then: The current process that is occurring with the umbrella organizations, that is to say, the re-envisioning process that each of them are undergoing, coupled with the shrinkage of the American Jewish population will result in a diminishing of the organizations' value. This will result and encourage more independent activities by local rabbis. It will also weaken the less than strong ties our European, Latin American and Australian Regions have with the North American based Movement resulting in Regions outside of our Movement being forced to make one of two choices:

1. Break into smaller international Movements -- Europe and possibly Latin America and Canada -- who will look to our Israel Movement for guidance. The United States part of the Movement will continue along the same path that it is currently taking.
2. Each of the international regions will need to accept the emerging definition of who is a Jew, and our language and future focus will be devoted to the importance of raising Jewish families through the encouragement of *kashrut*, Shabbat and holiday observance, prayer and the way we learn. To say it simply, if a Jew from Argentina wishes to marry a Jew from the United States, in Argentina, the local rabbi will either accept their status or take them to the *mikveh*. And the Argentinian Jew is living in the United States, he or she might choose not to become involved with a local congregation because of the fear that they are not Jewish.

Patrilineal Questions

The following situations are intended to serve as discussion points between the Rabbi and the Religious committee.

1. A couple visits the rabbi with the intent of having the rabbi officiate at their wedding. One member of the couple is patrilineal. What does the rabbi say? Rabbi Michael Siegel has addressed this situation by explaining that while the person in question is Jewish, there are a few items to complete the process. *Hatafat Dam Brit and Mikveh*. The suggested term is a "completion ceremony" 'but is this sufficient?
2. The rabbi is either new or has been in the congregation for several years and suddenly discovers that a child who has gone through the congregation Religious School is not matrilineal, and the child's older sibling has already become *b'nai mitzvah* in prior years what should the rabbi do?
3. The rabbi is asked to officiate at a life cycle event where one of the participants is of patrilineal descent and is being raised as a Jew in a Jewish family. How should the rabbi respond?
4. A death occurs in the congregation and the rabbi suddenly learns that the deceased is of patrilineal descent.

Discussion Topics for Appropriate Committees

1. In the event the Rabbi wishes to discuss this with the Congregation Board of appropriate committee the starting point would be one of information.
2. Patrilineality is different than Intermarriage because.....
3. Do we know how many patrilineal families are in our congregation?
4. Do we wish to attract them? If so, how do we do that?
5. Use the website
6. Use the affiliates (social connection)
7. Create a special course, focusing on "Identity and Gender in a rapidly Changing Jewish World" and use it to create a platform to explain patrilineality
8. Offer a class to parents with single adult children to discuss these issues.

Insights:

Reflections and Talking Points on Patrilineal Descent

by

Rabbi Richard Margolis

Introduction

My first practical experience with patrilineal descent occurred in 1975-1976, two years after ordination and exactly at the time my membership in the RA became permanent. I was asked by one of my closest friends (we'll call him Allan), my college bridge partner, to perform his marriage to a Jewish woman at Baltimore Hebrew Congregation (Reform), his life-long synagogue. This request had been approved by his Rabbi, who invited me to officiate.

I had known Allan and his family for over 10 years. However, in the course of our conversation about family in anticipation of his marriage, I learned that Allan's maternal grandmother, still living at that time, was an unconverted French Catholic, who was married to his Jewish grandfather in Europe by a Reform Rabbi. Therefore, according to the matrilineal principle operative in classical Judaism for nearly 2,000 years, Allan's mother was not Jewish, and, consequently, Allan was not Jewish.

Although the RA had not yet formalized its current Standard of Rabbinic Practice mandating matrilineal descent in all matters of personal status, I nevertheless felt conflicted and troubled. For all 30 years of his life, Allan had considered himself Jewish, and so did everyone with whom he was associated. He was inducted into the Covenant, received a Hebrew name and was a life-long member of one of America's premier Reform congregations, which he attended regularly. He had a formal religious education through high school and had celebrated both Bar Mitzvah and Confirmation. No religion other than Judaism had ever been practiced in his family, and it was important to him that he marry a Jewish woman and create his own Jewish home and family.

Yet here I was, face to face with an irreconcilable conflict. It was not only unrealistic, but potentially offensive and destructive to Allan's Jewish identity to request that he "convert." Even setting aside our close relationship, my requiring or even suggesting such a thing would have been devastating.

I ultimately decided to perform the wedding, and since that day, I have always considered Reform and Reconstructionist patrilineals as Jewish and never looked back.

Now in practice, this did not mean that I automatically accepted as Jewish anyone who claimed to be. I adopted the principles that the Reform and Reconstructionist streams themselves employ, namely, that a presumption of Jewishness applies if a person: (a) has a Jewish parent, mother or father; (b) has been brought up in an exclusively Jewish home, where no other religion has been practiced; (c) received a formal Jewish education, (d) celebrated the ritual and ceremonial occasions appropriate in his/her community (induction into the Covenant, receiving a Hebrew name, Consecration, *Bar/Bat Mitzvah*, Confirmation, etc.), and (e) considered himself/herself as Jewish and intended to live a Jewish life. Some Reform and Reconstructionist communities also require ongoing synagogue affiliation, but I did not.

In 40 years of rabbinic experience, there were dozens of Allan's, and despite the RA's adoption of a formal Standard (with which I disagreed at the time, because it denied the individual Rabbi, designated in our ranks as *mara d'atra* in virtually every other instance, any opportunity for judgment and discretion; and I was chastised by Joel Roth for voting against it), I considered each of them on a case-by-case basis. Those who met the Reform/Reconstructionist criteria I considered as Jewish. I officiated at their B'nai/B'not Mitzvah, married them as Jews and memorialized them as Jews when they died. I have no regrets in this regard, and would have surrendered my membership in the RA had I been forced to do so, which, fortunately, never became an issue.

History/Background

Over 30 years ago, when Seymour Siegel was Chairman of the CJLS, the Committee actually had on the drawing boards its own patrilineal principle, completely independent of anything then current in Reform or Reconstructionist circles. In fact, although only tangentially related to the CJLS deliberations, informal consideration was also being given to amalgamating the Conservative and Reform movements into a united Liberal Judaism. The latter proved unattainable because of various personalities involved, institutional allegiances and conflicts, and several religious issues (kashrut, intermarriage, divorce, etc.) that may have been too wide to bridge. The former was abruptly dropped from CJLS consideration in 1983, when, at the Dallas convention of the UAHC, R. Alexander Schindler announced that the Reform movement was formally adopting a principle of Patrilineal Descent in its ranks (something which it had already been doing for decades).

At that time, the RA, the Seminary and the Conservative Movement were struggling with the ordination of women as Rabbis, and it was apparently felt that we somehow needed to "differentiate ourselves from Reform," at least in this important area of personal Jewish status. Had times and circumstances, both internal and external, been different, it is altogether possible that Conservative Judaism would have enacted its own patrilineal principle. I have no doubt that we would have done so with intellectual integrity, serious consideration of halachic issues and sources, and the conviction that what we were doing was right. Instead, we have 'on the books' a Standard of Rabbinic Practice which could lead to the discipline and even expulsion of any Rabbi who adopts such a practice.

Current Issues

In November, 2013, the national board of the Network of Schechter Day Schools set up a task force to re-evaluate admissions policies. Specifically, the current standards limit enrollment to students who are Jewish (by '*halachic*' matrilineal requirements) or who are in the process of conversion. The announced rationale for proposing such a change was that in many communities, SSDS was the only non-Orthodox day school in town, and that to continue enforcement of the matrilineal principle would deny a day school education to many Reform-affiliated children who otherwise are not considered Jewish because of their patrilineal descent. While this was surely a factor, it seems to me that the real reason for proposing this change is that the SSDS movement is in free-fall decline, down from nearly 70 schools at its peak to about 40 today. And while the economic downturn of recent years has certainly contributed to this downward trend, the reality is that many former SSDS academies still exist, some have even expanded, but they have renounced SSDS affiliation in favor of becoming Community Day Schools, which are not subject to the same religious standards on which SSDS insists. It is clear that the remaining SSDS affiliates seek to capture in the marketplace of potential students, patrilineals who would otherwise gravitate to community schools. In fact, the largest population of students in Community Day Schools comes from intermarried families, and

many of them are patrilineals. While this action may prove to be too little and too late, the SSDS Network board has at least become aware of the wisdom of the Talmudic dictum '*Engoz, ring'zera 'alha-tzibbur ella im ken rov ha-tzibbur y'cholin la'amod ha'*' = "We do not impose an enactment upon the community without the expectation that the majority of the community will abide by it." (TB BK 79b and BB 60b). Unenforceable and self-defeating standards are in reality no standards at all; not in day schools, not in synagogues and religious schools, not in summer camps and other informal educational settings, and not in a movement that supposedly understands, teaches and exemplifies the success of Judaism throughout millennia in balancing the force of tradition with the implementation of necessary change.

The May 2014 Resolution of the Rabbinical Assembly dealing with *keruv* and patrilineal descent (is it wise or even necessary to link them together?) was nothing but a puerile re-statement of old material, some of it over 20 years old, most of it pious pronouncements that have largely gone unfulfilled. The substance of the resolution was essentially the same old, "Be nice to them and make sure they convert." Clearly, as a result of this stubborn reaffirmation of opposition to recognizing patrilineal descent, the outcome in Conservative synagogues will continue to parallel that in Solomon Schechter Day Schools; namely, we will knowingly populate other institutions that truly embrace those whom we reject as Jews. Merely stating that "They are welcome to convert" hasn't gotten the job done; nor will it.

New Nomenclature and its Implications

For perhaps the last 20 years or so, I have encountered a number of individuals of all ages who identify themselves as "half-Jewish." From the perspective of traditional Jewish usage and practice, this is impossible, an oxymoron, because as Judaism understood and defined itself, one is either Jewish or not, depending on the status of one's birth mother; or, if necessary, whether or not one had been converted to Judaism. In contemporary parlance, reflective of popular, rather than elite usage and understanding, "half-Jewish" means that someone has one Jewish parent, either mother or father. It might further imply that such a person was raised in a dual-faith household, where both Judaism and some other religion, usually a form of Christianity, were both practiced, although this need not necessarily be the case. As R. Harold Schulweis noted, many intermarriages are not inter-faith enterprises at all, but rather "inter-faithless," where non-religious Jews marry non-religious Christians, and their "religion" is closer to "none" than to either Judaism or Christianity. It is also true that many contemporary individuals, even if Jewish by '*halachic*' matrilineal standards, also cite their religious preference as "none," clearly borne out by the recent Pew Research study.

What this means is that from a sociological, and perhaps even an ideological perspective, identification as a Jew has become a personal matter, rather than a communal one. There are probably hundreds of thousands of individuals, who, for whatever reason(s), consider themselves "Jewish," who would not be so considered in any community bound by '*halachic*' matrilineal norms. This is especially cogent for the children of intermarriage, since fewer than one-third of such children are being raised as Jews, and among the grandchildren of intermarriage, almost no-one identifies as "Jewish." Continuing to insist that Jewish status is determined by the community and its norms, especially when that status is defined exclusively by matrilineal descent, simply and willfully ignores the reality of our times. We are consciously disenfranchising significant numbers of those who might be or become wonderful Jews, at least if we did not exclude them by definition.

There is another shift in contemporary terminology that is worthy of note. Many who would

qualify as "Jewish" by 'halachic' matrilineal norms today refer to their "Jewish background" or "Jewish heritage," but do not otherwise identify as Jews, especially not religiously. I have met hundreds of such individuals when speaking in churches, since they are now church-going Christians, at least in practice if not in conviction. Many of these individuals intermarried, and because the Christian partner had stronger religious preferences, certainly understandable in an age of widespread secularism among Jews, wherever religion became an issue, Christianity became the religion-of-choice, by default.

This is actually insidious, because it feeds directly into the rhetoric of Messianics and other Hebrew Christian missionary movements, who claim that one can remain a Jew and become a Christian at the same time. There is certainly authentic Christian teaching behind such claims; beginning with Paul, and certainly once the "Christ-myth" was well-developed in the 2nd century C.E., it was believed that Judaism had ceased to exist as a religion, that faith in Jesus had replaced the covenant obligations and *mitzvot*, and that "Jew" had become more an ethnic identification than a religious one. Of course such claims are false from a Jewish perspective, but a Jew who has no knowledge of this is vulnerable and susceptible to these Christian faith-claims. In practice, "Jewish believers" are highly prized in churches, and they form about 60% of Hebrew Christianity as well.

The outcome of traditionalist streams of contemporary Judaism rejecting patrilineals, other children of intermarriage who consider themselves "half-Jewish," and in practice those who claim "no religious preference (even if they are 'halachically' Jewish)" is to diminish Jewish identification, feed Christianity and its missionary movements, and essentially guarantee that the descendants of those rejected will not identify as Jews.

Biblical Antecedents

In most of the biblical period, at least until Ezra and the Restoration, Jewish status was established in the context of a tribal and patriarchal society. It was natural that patrilineal descent was the norm, especially since many biblical characters, including heroes, married foreign wives. Joseph and Moses marry daughters of foreign priests. Israelite and Judean kings marry foreign women and their children remain unquestionably Jewish. When the census is taken and enumerated in *Numbers* 1, the *Torah* consistently uses the expression *l'mishp'chotam l'veit avotam*, emphasizing that the father's status is determinative. Even the Talmud, already long operating under the rabbinically-ordained matrilineal principle, recognized this fact: *Mishpachat av q'ruyah mishpacha, michpachat eim eina q'ruyah mishpacha* (TB BB 109b, Yeh. 54a, Maimonides *Hilchot Nachalot* 1:6). Clearly the children of Israelite men and foreign women were considered Jewish.

A shift occurs in the time of Ezra (10:3, Neb. 13:23), who, in re-establishing the Covenant among the Restoration community, orders the banishment of foreign wives. It is not clear whether this development was part of the larger post-exilic pre-occupation with lineage and genealogy that continued throughout the Second Temple period, or that it was instead based on the notion that the exile itself was a form of religious "purification," and that those who had not lived through the exile on foreign soil (*Samaritans*, for example) were to be excluded from the restoration community. Whatever the motivation, no formal legal import obtains from this action until centuries later, when Rabbinic authorities enacted the shift to the principle of matrilineal descent.

Rabbis and Their Midrash

The ancient Rabbis, charged with the responsibility of maintaining faithful continuity with the biblical tradition while at the same time keeping Judaism fluid enough to deal with the new

situations of their age, as well as propagating principles of midrash that would enable their Judaism to constantly update and re-invent itself, did not hesitate to take bold steps in order to preserve Judaism and secure the Jewish future of the Jewish People. In so doing, they regularly employed *midrashic* imagination that completely changed the meaning of biblical texts and occasionally derived Jewish Law for their age in opposition to biblical precedent. In civil law, Hillel obviated the remission of debts in the Sabbatical Year by assigning them to the *Bet Din*. In criminal law, the Rabbis abolished capital punishment by legislating a complex superstructure that made it impossible to convict someone of a capital crime.

Sometimes, this midrash was more of homiletical than legal import. For example, the Rabbis validated the marriage of Ruth to Boaz (which would have been forbidden according to Deut. 23:4) by declaring *Mo'avi, v'lo Mo'aviya*, that the *Torah* somehow intended to exclude Moabite males, but not *Moabite* females (*TB Yeh. 76b*). This was not insignificant, because Ruth became the ancestor of King David, whose legacy and eschatological significance in subsequent Judaism would have been tainted by having him descended from a forbidden marriage. Similarly, the *Mishna* (*Yad. 4:4*) claimed that because of the invasion of Sennacherib, all the ethnicities became so confused that no prohibition of marriage to Canaanite neighbors remained valid.

In the matter of Jewish status, the Rabbis completely changed the biblical principle of patrilineal descent to a principle of matrilineal descent. While the superficial claim that we can always ascertain maternity, but not always paternity (over 2,000 years would elapse before DNA testing would become available), has some weight, our colleague Dr. Shaye Cohen has demonstrated, at least from an historical perspective (stating that his findings were not intended to influence Jewish Law and its administration), that the Rabbis instituted their matrilineal principle under the influence of Roman civil law, which governed matters of nationality and citizenship in accordance with matrilineal descent. He further noted the rabbinic preoccupation with *kil'ayim*, prohibited mixed species, going beyond the biblical regulations from agriculture and animal husbandry, as being another factor. Finally, he cited a situation in the 2nd century C.E. where a number of gentile women sought conversion to Judaism while their gentile husbands did not, leaving the status of their children at issue. It was in this way, under the exigencies of that era, that the matrilineal principle became normative in Jewish Law.

Even so, patrilineality was retained with regard to status as a *Kohen*, *Levite* or *Israelite*, so the "new" principle was not applied absolutely, but rather somewhat inconsistently.

Contemporary Considerations -The State of Israel

In the modern State of Israel, a secular democracy in which Judaism, as the religion of the Jewish People, plays a significant role in national life and policy, the Knesset and various courts have greatly expanded the definition of a "Jew" for purposes of implementing the Law of Return. While this is strictly a secular and political citizenship matter, it has global implications for Jewish self-definition. In admitting to citizenship over a million Russian immigrants, fully half of whom would have been disqualified as Jews had the traditional matrilineal principle been deemed determinative of their status, the State of Israel since 1970 recognizes as Jewish anyone who has a single Jewish parent, mother or father, and who does not identify with or practice another religion. Attempts by various Orthodox political parties to undermine this definition have repeatedly been defeated, and have become issues of contention whenever elections are held.

Similarly, despite Orthodox attempts to delegitimize as Jews immigrants from Ethiopia and the

B'nai Israel of India, they, too, have been admitted to Israel without the necessity of formal religious conversion to Judaism. Likewise, even though the Orthodox Rabbinat does not recognize conversions to Judaism attained under non-Orthodox (and even some Orthodox) auspices, such conversions are considered valid for purposes of the Law of Return and registration as Jewish by the Ministry of the Interior.

For all intents and purposes, the State of Israel, the only Jewish state in the world, has defined for purposes of citizenship as Jewish millions of individuals who would otherwise have been disqualified if the requirement had been matrilineal descent.

While the government of Israel should not be determinative in our religious deliberations, it is impossible to ignore the implications of this expanded definition of Jewishness for world Jewry.

Issues of K'lal Yisrael

Of all the streams in modern Judaism, the Conservative/*Masorti* Movement has been the most emphatic about the importance of *K'lal Yisrael*, matters of Jewish peoplehood, and attempts to bind Jews together, regardless of their denominational or political affiliations. We have repeatedly taken this central principle into consideration when determining our own positions and standards, as we have sought never to further fragment the already divided House of Israel.

However, in over 100 years since Solomon Schechter first enunciated this principle as central to his vision of American (Conservative) Judaism, *K'lal Israel* remains unclear and has never been actualized in reality. We have repeatedly called for religious pluralism, often citing the example of *Bet Shammai* and *Bet Hillel*, who differed on legal issues of marriage, nevertheless recognizing each other's marriages and validating marriages between their respective adherents (*TB Yeh. 13b-14a*). We have pronounced *Elu v' Elu div'rei Elohim chaim* until it has become a cliché, with no effect whatsoever on our neighbors and fellow Jews who identify with other streams of Judaism.

It is time for the Conservative/*Masorti* Movement to stop looking over our right shoulder in the vain hope that somehow, some day, the Orthodox will recognize us as 'legitimate'. Proclaiming ourselves a '*halachic*' movement, despite our scholarship and integrity in researching and disseminating our positions and rulings, has not changed the Orthodox perception of us in any way. It is delusional, especially in an era when Orthodoxy has shifted even farther to the right, to take the opinion, or hoped-for opinion, of the Orthodox world into consideration when deliberating and rendering our decisions. We simply do not need their blessings, and we need not be concerned about their curses.

It is also time for the Conservative/*Masorti* Movement to stop looking over our left shoulder in the vain hope that Reform will embrace us as ideological partners. While we have successfully partnered with Reform individuals and institutions in matters of mutual concern, such as social justice and interfaith relations in America and overcoming government and Orthodox discrimination against our affiliates in Israel, it must be noted that Reform has its own agenda and methodology, has since its inception 200 years ago abrogated the authority of Jewish Law and replaced it with the secular Western notion of individual conscience, and is in no way directly influenced by the positions and decisions we may take.

One further observation in this regard. The Reconstructionist Movement published its first statement about patrilineal descent in 1968, while it was still officially part of Conservative Judaism; its rabbis were still being educated at JTSA, they were members of the RA, and its

congregations were still affiliated with the United Synagogue. It was our reticence to deal with this issue at that time, along with others, that contributed to the defection of Reconstructionists from our ranks, the establishment of their own seminary, and their subsequent identification as an independent stream of Judaism.

A necessary revitalization of Conservative/*Masorti* Judaism and its institutions must necessarily focus on our own internal matters, without giving excessive consideration to what other streams of Judaism may do or think of us.

In the matter at hand, any consideration of recognizing patrilineal descent in our ranks must therefore not be conditioned on the positions or practices of Orthodoxy, Reform, Reconstructionists or anyone else. We need to do what is in our own best interests, as Hillel said, *Im ein ani li, mi li?*

CJLS Rulings and Enactments

Like the Supreme Court of the United States, the Committee on Jewish Law and Standards has the authority to determine its own agenda, and, consequently, to highlight or dismiss issues affecting Conservative/*Masorti* Judaism and its institutions. As a result, both the present and future of Conservative Judaism can be strongly affected by its rulings. When, in 1983, the CJLS removed from consideration any further discussion of a patrilineal principle as a reaction to the Reform pronouncement, it essentially cut off debate within our ranks for fully a generation to come.

When it so desired, the CJLS over-ruled the abiding rabbinic practice of *Yom Tov Sheni shel galuyot*, presenting as an option for those who wished to claim it, a return to the ancient biblical practice of observing just one day of Festivals. It is specifically the same structural principle that is involved in recognizing patrilineal descent; namely, the return to a biblical practice long over-run by rabbinic usage.

Just weeks ago, the CJLS approved a proposition to obligate Jewish women in all operative *mitzvot*, over-ruling the abiding rabbinic exemption for women from *mitzvot aseï shehaz'man g'raman*, the category of positive *mitzvot* determined by specific time.

In 1974, the CJLS ruled that women may be counted in the minyan, something for which there was neither biblical nor rabbinic precedent. Twenty years earlier, in 1954, the CJLS ruled that women could receive an *aliya* during the public reading of the *Torah*, returning to an ancient provision of the *Mishna*, which was subsequently over-ruled by the *Talmud*, with the rationale of *k'vod ha-tzibbur* (TB Meg. 23a/b).

Moreover, the CJLS has deemed itself authorized to literally "uproot a statement from the *Torah* (*oqer davar min haTorah*)." This is evident in the rulings regarding various marriages prohibited to a *Kohen* by the *Torah*, as the CJLS permitted a *Kohen* to marry a divorcee or a convert. In the same regard, utilizing the rabbinic principle of *k'vod hab'riyot*, the CJLS legitimized the unions of homosexual couples, again, something explicitly prohibited in the *Torah*.

It is clear from these examples that the CJLS considers its rabbinic authority as equal to, and certainly not inferior to, its *Talmudic* and medieval predecessors. It is even willing to over-rule the *Torah* itself, when, as rabbis have done for two millennia, it deems such change to be absolutely necessary.

Can the CJLS reconsider the matter of patrilineal descent? It certainly can if it wants to.

Recommendations

An ideal outcome would be a CJLS ruling recognizing patrilineal descent as a valid option, along with matrilineal descent, in determining Jewish status. As a movement that has prided itself on egalitarianism and overcoming religious discrimination against Jewish women, such a ruling would strengthen our egalitarianism and go a long way to overcoming an issue which discriminates against Jewish men.

There are several issues inherent in such a proposal. First, never in the history of normative Judaism, governed by *Halacha*, however it may have been understood and practiced at those times, did both patrilineal and matrilineal descent co-exist at the same time in determining Jewish status. This would be a bold innovation, but certainly within the authority of the CJLS. Neither the Reform nor the Reconstructionist Movements are bound by Jewish Law, nor can their procedures be considered as legal precedents, so it would be important to enact (better, from an historical perspective, re-enact) a patrilineal principle in Conservative/*Masorti* Judaism.

Second, since detailed criteria for "presumption of Jewishness" are already in place in the case of Reform and Reconstructionist patrilineals, we need to review those criteria and decide for ourselves what standards to employ. It is interesting that adoption of a patrilineal principle + requisite criteria is itself much stricter than the matrilineal descent of the last 2,000 years, which granted Jewish status merely by that of the birth mother. I have always used the criteria enumerated at the beginning of this discussion, but it is reasonable to assume that, after appropriate discussion and deliberation, a different set of standards might be chosen.

Third, since there already exist hundreds of thousands of Reform and Reconstructionist patrilineals, many of whom consider themselves Jewish, we need to revisit and rescind the Standard of Rabbinic Practice that excludes them and any RA Resolutions calling for their "conversion" to Judaism. There is a real difference, historical and psychological, between such patrilineals and, say, the growing number of Hispanics who have discovered that they are descended of Sephardic Jews and seek re-admission to Judaism. I have always required conversion in such cases, since it is to be presumed that adherence to Christianity prevailed among their ancestors for centuries.

Since, in practice, we are all Jews by choice today, Conservative/*Masorti* Judaism would benefit greatly by reconsidering and adopting its own patrilineal principle. It is time to act.

Rabbi Richard Margolis
Melbourne, Florida

Insights:

Reform Judaism and "Patrilineal Descent" are Today's American "Norms"

by
Professor Sylvia Barack Fishman

The following are excerpts from the article Fathers of Faith? Three Decades of Patrilineal Descent In American Reform Judaism, Prof. Sylvia Barack Fishman, March 29, 2013, The Jewish People Policy Institute (JPPI) in Jerusalem.

1. Although the gap in intermarriage rates between Jewish men and Jewish women has narrowed significantly, men continued to be much more likely than Jewish women to marry a non-Jew. Significantly, the narratives of intermarrying Jewish women are often quite different than those of intermarrying Jewish men. Women are more likely to report they would have preferred to marry a Jewish man, whereas Jewish men are more likely to report they did not have a preference for Jewish women. Jewish women who marry non-Jewish men marry almost 3 years later than those who marry Jewish men.
2. The pre-eminence of Reform Judaism in America today can be understood both on practical and ideological grounds (it has been most inclusive).
3. Today ethnoreligious identity is voluntary and flexible and people can define their own ethnic and religious identities.
4. The "Patrilineal Descent" decision is sometimes characterized as a rabbinic and administrative response to existing facts: In other words, large numbers of American Reform Jewish men were marrying non-Jewish women who did not convert into Judaism, and if the movement wished these couples and their families to become part of their constituencies, they needed to adapt these new Reform definitions of who is a Jew. The reality is more complex.
5. The committee on Patrilineal Descent brought forward precepts in 1947 of the CCAR Committee on Mixed Marriage and Intermarriage:
 - a. With regard to infants, the declaration of the parents to raise them as Jews shall be deemed sufficient for conversion...Children of religious school age should likewise not be required to undergo a special ceremony of conversion but should receive instruction as regular students in the school. The ceremony of Confirmation at the end of the school course shall be considered in lieu of conversion ceremony.
 - b. The committee then cites the 1961 edition of the Reform rabbi's manual, which stated that Reform Judaism accepts the child of a Jewish father and a non-Jewish mother, "as Jewish without formal conversion, if he attends a Jewish school and follows a course of studies leading to Confirmation."

- c. The committee concluded that "the same requirements must be applied to establish the status of a child of a mixed marriage regardless of whether the mother or the father is Jewish."

This decision was not a dramatic break with earlier Reform Thinking. It was the logical outgrowth of post-World War II Reform approaches and ratified decades earlier.

A special Issue of "Judaism" (published by the American Jewish Congress 1985) discussed this from all points of view. In an article "The Matrilineal Principle in Historical Perspective", Shaye J. D. Cohen demonstrated the ancient concept of *zera yisrael* (seed of Israel - the seed of a Jewish man) as a foundation for patrilineality in Hebrew biblical texts. He searched for evidence of how and why Jewish law began to rely on matrilineality rather than patrilineality for religious identity of children.

While many thought the matrilineal principle was introduced in the period of Ezra (5th Century B.C.E.), Cohen argued the "matrilineal principle is a legal innovation of the first or second centuries (C.E.) introduced not in response to societal need but as a consequence of the influx of new ideas into rabbinic Judaism." He hypothesizes that Roman matrilineality was the spur that precipitated changes within Judaism at that time.

In the Conservative Movement, scholar Robert Gordis commented "The motives that lead them to take this step are self-evident, namely, (1) the vast proliferation of intermarriages in the U.S. and the world, not excluding Israel, represents a drain of human resources from the Jewish community which it can ill sustain, particular in view of the low birth rate of Jewish families, and (2) non-Jewish women who chose to marry Jewish men may be assumed at least to be allies to the Jewish project."

This was also impacted by the rise of Feminism in the secular and Jewish world. "The Feminization of Reform Judaism is also in many ways part of the process of assimilation into American norms."

Both statistical and qualitative research show that Reform Jewish Men who marry non-Jewish women are often deeply ambivalent about their Jewishness and might be considered a weak line in American Jewish life today. The Jewish weakness in patrilineal families is apparent in life cycle and social network aspect as well as religious aspects of Jewishness. Patrilineal Descent has brought more Jewish father/non-Jewish mother families into Reform congregations, but it has not made intermarried Jewish fathers as a group more engaged by Jewishness.

Relevant statistics provided by Dr. Fishman:

Circumcision - In Reform patrilineal families 61% have not had a *brit*, while in matrilineal families for 69% of women report their sons have had a *brit milah*. The fact that this disparity between Jewish fathers and Jewish mothers in intermarried families has continued despite 30 years of patrilineality is significant. Jewish mothers seem willing to take on the responsibility to raise Jewish children, with or without the help of their non-Jewish husbands. Jewish fathers in contrast are often unwilling to create familial unrest to raise Jewish children. Indeed, many seem uninterested in raising children who are Jewish by religion—although they are averse to raising children who are Christian by religion.

Jewish education – Similar numbers to the above. In intermarried families gender trumped Reform for lighting *Hanukkah* candles. Synagogue attendance is more frequent by Reform women than men. Families with Jewish mothers have Jewish friends who do "Jewish". Continuing research, including a forthcoming JPPI paper excluding Haredi Jews based on Pew 2013 data, demonstrates dramatically that the three most significant predictors for producing Jewish identified adult children who raise their own Jewish children are (1) having 2 Jewish parents; (2) giving children 7 or more years of formal Jewish education (not just day school education); and (3) having significantly Jewish friendship circles. Intermarried Jewish women are far more likely than intermarried Jewish men to enroll children in Jewish schools and to create Jewish friendship circles. (Sylvia Barack Fishman and Steven M. Cohen, "Family, Engagement, and Jewish Continuity Among American Jews," JPPI Occasional Papers # 1, Jerusalem, Forthcoming 2017).

Interfaith Families - Only 1 out of 4 children of interfaith families in Reform grow up to create his or her own Jewish home.

Matrilineal intermarried – Nearly 2/3 of Reform mothers married to non-Jewish men said they made the decision about religion by themselves. This reflects their pre-marriage narratives, where they reported they had taken on themselves the responsibility to raise Jewish children.

Patrilineal intermarried - 2/3 of the Jewish fathers said they made decisions about religion together.

Sylvia Barack Fishman

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Insights:

A Fresh Perspective on Patrilineal Descent

by

Keren McGinity, Ph.D.

I take issue with Sylvia Barack Fishman's idea that "Intermarried men who have negative feelings about Jews and Jewishness are the 'weak link' in contemporary American Jewish life." The fact is that the majority of American Jews do not report that religion is "very important" to them, yet intermarried Jewish men continue to be singled out as having the least interest. One need only think of the scene from the television show *Sex and the City*, in which Jewish Harry Goldenblatt peers around Jew-by-choice Charlotte York to watch televised baseball as she earnestly recites the blessings for Shabbat. Her retort, "I gave up Christ for you and you can't even give up the Mets?" says it all. One must listen to men's voices and hear their stories, however, to truly understand them and the meaning of patrilineal descent.

Scholars and religious activists who clamor about a "feminization of Judaism" are missing the most important point about gender equity as far as Jewish men are concerned. The decline in male participation is not because of women's increasing role in the rabbinate or the synagogue social hall, but because Jewish life has not yet adapted to men's changing needs. While the labor market evolved to allow women in, there has not been a mass exodus of men from it, because the marketplace continues to fulfill their expectations in the form of salaries and benefits. The currency is less tangible, however, when it comes to Jewish life.

The intermarriage rates for male and female genders have converged—Jewish women, who were thought to intermarry less frequently than Jewish men, are just as likely to do so. The 2000–2001 National Jewish Population Survey found that, overall, the intermarriage rates among men and among women within the same age bracket were quite similar: 33 percent and 29 percent, respectively. Pew's Portrait of Jewish Americans found that of the intermarried Jews who got married 2005–2013, more were women than men: 56 percent compared to 44 percent. Although the concern about Jewish women intermarrying may have been mitigated by matrilineal descent, the children of those unions counting as Jews across Jewish denominations and movements, Jewish men did not have the same social or religious insurance.

While the exact percentages of children reared as Jews differs between national and communal studies, and there is more to learn about how millennials' identities manifest, a consensus surrounds the intermarried Jewish parent. Extant scholarship contends that more Jewish children are raised by Jewish mothers married to Christian fathers than are raised by Jewish fathers married to Christian mothers. I am not contesting that data. However the majority of Jewish men I interviewed were adamant about their children being raised Jewish. It is important to shed light on their stories to understand the meaning of intermarriage for this segment of the intermarried population and what can be learned from it.

What do their personal journeys teach about transmission of Jewish identity? Men's testimonies about fathering Jewish offspring suggest that their investment in how their children would be raised was a particularly Jewish take on American gender during the postwar decades. Fathers' centrality increased during the late 1940s and 1950s by emphasizing their contributions to the personality

development and psychological health of their families. However, the same conservative family ideology that sensitized men to their children's needs also reinforced the sex-based division of labor that meant men continued to control political, economic, and social affairs while their wives tended to the home. Although Jewish men, like most American men, still did far less of the actual childcare than did women, some Jewish men who intermarried have at least been "deciders." Recalling his Christian fiancée's promise to raise children in his faith when they married, Morris said, "It was very important to me" to raise Jewish children; otherwise, he continued, "I don't think I would've married her." Raising children with "no religious orientation" was likewise unacceptable to him. Keith Soller described the conversation he had with his betrothed: "When we got married, I made the point to her that if you don't want to convert, that's up to you, but all of our children . . . are going to be Jewish." Fred Stevens, who married an Episcopal woman in 1977, told his betrothed, "Look, if we have children, they have to be Jewish, otherwise the deal is off. I have to get married in a synagogue. You can do what you want." Television anchor Aaron Brown was not concerned with whether or why his wife Charlotte, raised Presbyterian, converted: "I didn't care at all. I did care how we raised our kid; that I did care about." The men's comments illustrate commitment to Jewish continuity through their children.

Identity politics has taken a devastating toll on some intermarried Jewish men who raised Jewish children only to have those children face exclusion from the organized Jewish community. Patrilineal descent continues to be one of the most divisive issues between Jewish movements and within the organized Jewish community, as a 2012 headline indicated: "30 Years On, Still Dissent on Patrilineal Descent." The lack of agreement about patrilineal descent had several important consequences. Most significantly, it created different standards between movements for who is a Jew that continue to affect intermarried Jewish men and their children. Although acceptance of patrilineal Jews has increased over time, perhaps as understanding of the decision and the population of children with Jewish fathers grow, the history of insults to men who came of age prior to the decision is long lasting, and the legacy continues to permeate the identities of children of intermarried parents. In *Love in Black and White: A Memoir of Race, Religion, and Romance*, former U.S. Senator William S. Cohen (born in 1940) describes his horror and anger on learning that he would not be permitted to become a bar mitzvah by his rabbi in Bangor, Maine, because Cohen's mother was not Jewish: "I was suspended between two worlds. Every day at public school I proclaimed myself to be Jewish, refusing to recite the Lord's Prayer. Yet in Hebrew School I was treated as a non-Jew." He had spent six years learning Hebrew and looked forward to the rite of passage; Cohen refused to undergo a conversion. He threw his miniature mezuzah necklace into the Penobscot River, declaring: "I no longer had to pursue a prize that had never been mine for the taking. I no longer had to pretend. The Jewish community would not change its rules to accommodate me, and I would not yield to its acceptance."

The term "patrilineal Jew" is offensive; by attaching the word "patrilineal," it defines the identity of someone with a Jewish father as somehow less than a Jew. It is not simply a categorical distinction between matrilineal and non-matrilineal descent. Writing in the *Forward*, author David A. M. Wilensky described his decision to convert to Conservative Judaism after growing up Reform. He points out that not all patrilineals would do the same: "They are Jews—by my definition anyway—who will never set foot in a Conservative synagogue, because of an anachronistic policy that forces them to question their own legitimacy and brings them great anguish." He calls on the Conservative movement to accept patrilineal descent just as it adopted new positions on female rabbis and gay rights.

The “dissent over descent” contributes to shifting allegiances across branches of Judaism, but for these intermarried Jewish men it does not undermine their conviction that any children of theirs are Jewish. Intermarried men who raised Jewish children exemplify a new definition of Jewish identity that can be described as paternal connection. Their children are Jewish because they are connected to Jewish fathers who themselves had Jewish fathers. The men maintain their Jewish self-identification and, by association, share it with their children. Whether the children in turn embrace it, sustain the connection with the previous generation, and share it with the next generation will only be determined once sufficient numbers of adult children of intermarried Jewish fathers have started families of their own and scholars have conducted longitudinal studies. Until the Conservative movement finds a way to fully accept the children of intermarried Jewish men as Jews, these men will continue to find homes for their families in other Jewish circles, as research about change in affiliation since childhood illustrates, or outside of the Jewish community altogether.

Dr. McGinity is the inaugural director of the Interfaith Families Jewish Engagement graduate program at Hebrew College and the founding director of the Love & Tradition Institute, named for Egon Mayer, z’l. She teaches American Studies at Brandeis University and is the author of *Marrying Out: Jewish Men, Intermarriage, and Fatherhood* (Indiana University Press, 2014) and *Still Jewish: A History of Women and Intermarriage in America* (NYU Press, 2009).

Status of Patrilineal Descent Among Jewish Movements

Sources:

Reform Movement's Resolution on Patrilineal Descent (March 1983)

The purpose of this document is to establish the Jewish status of the children of mixed marriages in the Reform Jewish community of North America.

One of the most pressing human issues for the North American Jewish community is mixed marriage, with all its attendant implications for our purpose, mixed marriage is defined as a union between a Jew and a non-Jew. A non-Jew who joins the Jewish people through conversion is recognized as a Jew in every respect. We deal here only with the Jewish identity of children in which one parent is Jewish and the other parent is non-Jewish.

This issue arises from the social forces set in motion by the Enlightenment and the Emancipation. They are the roots of our current struggle with mixed marriage. "Social change so drastic and far reaching could not but affect on several levels the psychology of being Jewish. The result of Emancipation was to make Jewish identity a personal commitment rather than a legal status, leaving it a complex mix of destiny and choice." (Robert Seltzer, *Jewish People, Jewish Thought*, p. 544). Since the Napoleonic Assembly of Notables of 1806, the Jewish community has struggled with the tension between modernity and tradition. This tension is now a major challenge, and it is with this specific context that the Reform Movement chooses to respond. Wherever there is ground to do so, our response seeks to establish Jewish identity of the children of mixed marriages.

According to the *Halacha* as interpreted by traditional Jews over many centuries, the offspring of a Jewish mother and a non-Jewish father is recognized as a Jew, while the offspring of a non-Jewish mother and a Jewish father is considered a non-Jew. To become a Jew, the child of a non-Jewish mother and a Jewish father must undergo conversion.

As a Reform community, the process of determining an appropriate response has taken us to an examination of the tradition, our own earlier response, and the most current considerations. In doing so, we seek to be sensitive to the human dimension of this issue.

Both the Biblical and Rabbinical traditions take for granted that ordinarily the paternal line is decisive in the tracing of descent with the Jewish people. The Biblical genealogies in *Genesis* and elsewhere in the Bible attest to this point. In intertribal marriage in ancient Israel, paternal descent was decisive. Numbers 1:2, etc., says: "By their families, by their fathers' houses (*lemishpechotam leveit avotam*), which means for the Rabbis, "The line (literally: 'family') of the father is recognized; the line of the mother is not" (*Mishpachatav keruya mishpacha*;

mishpachat em einah keruya mishpacha; Bava Batra 109b, Yevamot 54b; cf. Yad, Nachalot 1.6).

In the Rabbinic tradition, this tradition remains in force. The offspring of a male *Kohen* who marries a *Levite* or *Israelite* is considered a *Kohen*, and the child of an *Israelite* who marries a *Kohenet* is an *Israelite*. Thus: *yichus*, lineage, regards the male line as absolutely dominant. This ruling is stated succinctly in *Mishna Kiddushin* 3:12, that when *Kiddushin* (marriage) is licit and no transgression (*ein avera* is involved, the line follows the father. Furthermore, the most important parental responsibility to teach *Torah* rested with the father (*Kiddushin* 29a; ccf. *Shulchan Aruch, Yoreh De-a* 245.1).

When, in the tradition, the marriage was considered not to be licit, the child of that marriage followed the status of the mother (*Mishna Kiddushin* 3.12, *havalad kemotah*). The decision of our ancestors thus to link the child inseparably to the mother, which makes the child of a Jewish mother Jewish and the child of a non-Jewish mother non-Jewish, regardless of the father, was based upon the fact that the woman with her child had no recourse but to return to her own people. A Jewish woman could not marry a non-Jewish man (cf. *Shulchan Aruch, Even Ha-ezer* 4.19, *la tafsei kiddushin*). A Jewish man could not marry a non-Jewish woman. The only recourse in Rabbinic law for the woman in either case was to return to her own community and people.

Since Emancipation, Jews have faced the problem of mixed marriage and the status of the offspring of mixed marriage. The Reform Movement responded to the issue. In 1947, the CCAR adopted a proposal made by the Committee on Mixed Marriage and Intermarriage:

With regards to infants, the declaration of the parents to raise them as Jews shall be deemed sufficient for conversion. This could apply, for example, to adopted children. This decision is in line with the traditional procedure in which, according to the Talmud, the parents bring young children (the Talmud speaks of children earlier than the age of three) to be converted, and the Talmud comments that although an infant cannot give its consent, it is permissible to benefit somebody without his consent (or presence). On the same page the Talmud also speaks of a father bringing his children for conversion, and says that the children will be satisfied with the action of their father. If the parents therefore will make a declaration to the rabbi that it is their intention to raise the child as a Jew, the child may, for the sake of impressive formality, be recorded in the Cradle-Roll of the religious school and thus be considered converted.

Children of religious school age should likewise not be required to undergo a special ceremony of conversion but should receive instruction as regular students in the school. The ceremony of Confirmation at the end of the school course shall be considered in lieu of a conversion ceremony.

Children older than confirmation age should not be converted without their own consent. The Talmudic Law likewise gives the child who is converted in infancy by the court the right to reject the conversion when it becomes of religious age. Therefore, the child above religious school age, if he or she consents sincerely to conversion, should receive regular instruction for that purpose and be converted in the regular conversion ceremony. (CCAR Yearbook Vol. 57).

This issue was again addressed in the 1962 edition of the Rabbi's Manual:

Jewish Law recognizes a person as Jewish if his mother was Jewish, even though the father was not a Jew. One born of such mixed parentage may be admitted to membership in the synagogue and enter into a marital relationship with a Jew, provided he has not been reared in or formally admitted into some other faith. The child of a Jewish father and a non-Jewish mother, according to the traditional law, is a Gentile; such a person would have to be formally converted in order to marry a Jew or become a synagogue member.

Reform Judaism, however, accepts such a child as Jewish without a formal conversion, if he attends a Jewish school and follows a course of studies leading to Confirmation. Such procedure is regarded as sufficient evidence that the parents and the child himself intend that he shall live as a Jew. (Rabbi's Manual, p. 112).

We face today an unprecedented situation due to the changed conditions in which decisions concerning the status of the child of a mixed marriage are to be made.

There are tens of thousands of mixed marriages. In a vast majority of these cases the non-Jewish extended family is a functioning part of the child's world, and may be decisive in shaping the life of the child. It can no longer be assumed a priori, therefore, that the child of a Jewish mother will be Jewish any more than that the child of a non-Jewish mother will not be.

This leads us to the conclusion that the same requirements must be applied to establish the status of a child of a mixed marriage, regardless of whether the mother or father is Jewish.

Therefore:

The Central Conference of American Rabbis declares that the child of one Jewish parent is under the presumption of Jewish descent. This presumption of the Jewish status of the offspring of any mixed marriage is to be established through appropriate and timely public and formal acts of identification with the Jewish faith and people. The performance of these *mitzvot* serves to commit those who participate in them, both parent and child, to Jewish life.

Depending upon circumstances, *mitzvot* leading toward a positive and exclusive Jewish identity will include entry into the covenant, acquisition of a Hebrew name, *Torah* study, *Bar/Bat Mitzvah*, and *Kabbalat Torah* (Confirmation). For those beyond childhood claiming Jewish identity, other public acts or declarations may be added or substituted after consultation with their rabbi.

Items to note:

1. Birth is not considered a determining factor in religious identification of children of a mixed marriage.
2. The *teshuvah* distinguishes between descent and identification.
3. Education has always been a strong factor in Jewish identity.

This information is further clarified on the CCAR website: #38 Patrilineal and Matrilineal Responsa.

Sources:

UK Assembly of Reform Rabbis Policy



ASSEMBLY OF UK REFORM RABBIS

IN SUMMARY

Principles

The policy applies to future status decisions of the Assembly of Reform Rabbis UK. It does not affect the status of those currently members of our communities, or the validity of any *Beit Din* Certification issued before this time.

- A. We believe that:
- i. in cases where an individual has no Jewish lineage, conversion is required;
 - ii. in cases where an individual has **solely** Jewish lineage, no formal process is required, though we affirm the need for continuing Jewish learning and practice;
 - iii. in cases where an individual has potential status through a single Jewish parent, irrespective of the gender of the Jewish parent, conversion is not required, but there is a need for a process through which **consent** and **commitment** can be demonstrated. This is because in these cases the individual has the option to embrace another faith tradition, reflecting the other part of their lineage.
- B. We believe that the local or sponsoring rabbi/cantor is best placed to support and guide an individual through their journey of status.
- C. We believe that mobility of membership between synagogues is a core foundation of our Assembly and Movement. In practice, this is expressed through the involvement and certification of our *Beit Din*.
- D. We believe that for those with one Jewish parent who opt for it, the choice to engage in a full conversion process should remain a possibility in our synagogues.
- E. We affirm that Jewish **learning** and **practice** are central to living a full Jewish life; these aspects of Judaism are at the very heart of our work with congregants, and we *recognise* that they are relevant to our status decisions.
- F. Jewish **learning** and **practice** (and the ability to demonstrate this) includes:
1. Jewish home life (past/present).
 2. Attendance at synagogue (past/present).
 3. Basic knowledge of Judaism (festivals, life cycle & *mitzvot*).
 4. Having lived aspects of the Jewish life cycle, for example *Bar/Bat mitzvah*, baby blessing, *milah*, *Simchat Bat*, wedding blessing, sitting *shiva* etc.
 5. Basic ability to read Hebrew.

6. Basic familiarity with the Jewish world & culture e.g. having visited or lived in Israel.
7. Formal Jewish education via *Cheder*, Day School or in-depth Adult Education *programme*, or equivalent.
8. Involvement in the wider Jewish community.

What will happen in practice?

When a mixed (Jewish and non-Jewish) couple comes to a rabbi/cantor asking that their child be considered Jewish in our communities.

The rabbi/cantor will interview the couple.

If the rabbi/cantor is satisfied that there is a sincere and meaningful commitment to raise a Jewish child in a Jewish home, and a willingness to engage with learning if needed, in order to do so:

The couple will sign a *Beit Din* form in the presence of the rabbi/cantor committing to raise the child as a Jew in a primarily Jewish household.

The rabbi/cantor will sign a declaration that to the best of his/her judgement the covenant is a real one, made sincerely, with knowledge, consent and commitment, and with no evidence of coercion etc.

These will be sent to the *Bet Din* with a covering letter requesting ratification. A Certificate of Status will be prepared and returned to the community for presentation at an appropriate ceremony.

If the rabbi/cantor is not satisfied that there is a sincere and meaningful commitment to raise a Jewish child in a Jewish home he or she will be unable to sign the declaration:

In that case he/she will design a process of learning and Jewish life with the couple to enable the declaration to be signed. The rabbi/cantor can seek the advice of the *Bet Din* Standing Committee in designing this process.

In cases of doubt, the rabbi/cantor will refer to the *Bet Din* Standing Committee

When an adult with a Jewish and a non-Jewish parent comes to a rabbi/cantor asking to be considered Jewish in our communities:

The rabbi/cantor will interview the individual.

If the rabbi/cantor is satisfied that the individual has already been living a full Jewish life, and is making a sincere and meaningful commitment to live an exclusively Jewish life in the future:

The applicant will sign a *Beit Din* form in the presence of rabbi/cantor committing to live

exclusively as a Jew.

The rabbi/cantor will sign a declaration on the form that to the best of his or her judgement the commitment being made is a real one, made sincerely, with knowledge, and demonstrated in the life of the applicant.

These will be sent to the *Beit Din* with a covering letter requesting ratification.

A Certificate of Status will be prepared and returned to the community for presentation at an appropriate ceremony.

Where the rabbi/cantor feels that the individual is living some, or few aspects of Jewish life:

He or she will be unable to sign the declaration. In that case the rabbi/cantor will design an appropriate process of learning and Jewish life with the applicant.

This may be anything up to the equivalent of a full conversion course, as judged appropriate by the individual rabbi.

The purpose of this process is to demonstrate that the commitment being made by the individual to live an exclusively Jewish life is being made sincerely, with knowledge, and experience.

Without such a process being completed, the rabbi or cantor is unable to sign the declaration.

The rabbi/cantor can seek the advice of the *Beit Din* Standing Committee in designing this process.

After completing the agreed process to the satisfaction of the rabbi/cantor, the mechanism will continue as above.

In cases of doubt, the rabbi/cantor will refer to the *Beit Din* Standing Committee

RITUAL AND PROCESS OPTIONS

In all cases, an individual or family may opt to go through a full process of conversion, using the term conversion to describe their status journey, including *mi/ah* (circumcision) and *tevilah* (ritual immersion) and appearance before a *Beit Din*.

While *mi/ah*, *tevilah* and appearance before a *Beit Din* are not required in cases of one Jewish and one non-Jewish parent, colleagues may wish to discuss these as options with an individual applicant in building their appropriate individual ritual and learning process.

The following principles and policies were adopted by the Assembly of Reform Rabbis in the United Kingdom in 2016.

Sources:

**UK Assembly of Reform Rabbis Inherited Status Process
(Adult) Initial Interview Form**



**Beit Din of the Movement for Reform Judaism
under the auspices of the Assembly of Reform Rabbis UK
Inherited Status Process (Adult) Initial Interview Form**

From: Rabbi.....
Synagogue:

Full Name of candidate:
Candidate's Address:

Postcode:
Tel (Home): (Mobile):
Email:

On (Date)
Interviewed who, having a Jewish parent, wishes to claim
his/her heritage and affirm his/her status within our communities.

Having discussed his/her Jewish identity, and the nature of his/her Jewish life, including the realities of Jewish life in the home and engagement with community, with reference to the Assembly of Reform Rabbis UK Demonstrations of Jewish life in the Home and Synagogue:.

OPTION 1

I am satisfied that..... has a Jewish parent, and is living as a Jew.

I am satisfied that the commitment being made to live an exclusively Jewish life is being made sincerely, with knowledge, and experience.

I therefore request certification of Jewish status be issued by the *Beit-Din*, recognizing his/her full status in our communities.

I attach the rabbinic and candidate declaration form, and a letter introducing him/her to the Court.

Having discussed these options with

I would/would not like to arrange a *Beit Din* appearance

I would/would not like to arrange an appointment to use the MRJ *Mikveh*

OPTION 2

I have agreed a course of action with to demonstrate that the commitment being made to live an exclusively Jewish life is being made sincerely, with knowledge, and experience

This will include:
.....
.....
.....

on completion of this process, I look forward to requesting certification of Jewish status from the *Beit Din*.

OPTION 3

I would like to discuss this case with a representative of the Standing Committee of the *Beit Din*.

Beit Din of the Assembly of Reform Rabbis UK
80 East End Road, Finchley, London N3 2SY Tel: 020 8349 5645
Convener: Rabbi Jacqueline Tabick
Beit Din Manager: Pippa Suchet
Email: jackie.tabick@reformjudajsm.org.uk; pippa.suchet@reformjudaism.org

Status of Patrilineal Descent Among Jewish Movements

Sources:

How do Reconstructionists View Patrilineal Descent?

What follows are excerpts from an essay and items taken from the website of the Reconstructionist Rabbinical School.

“Reconstructionist View on Patrilineal Descent”, Jacob J. Staub, Judaism 2001.

"One of the arguments of this essay is that patrilineal descent is an idea whose time has arrived-- in a way that was not true one or two decades ago, prior to the recent dramatic changes in the social position of North American Jews. It is the persuasive and compelling reasons in favor of patrilineal descent today that spur both its proponents as well as its opponents."

The RRA "Guidelines for Conversion," adopted on January 16, 1979 concludes with the following paragraph:

"If one parent is Jewish, either mother or father, the offspring is to be regarded as Jewish and should undergo the rights prescribed by our tradition (*b'rit milah* for boy, a covenantal naming ceremony for girls); but no special conversion procedure is required."

Professor Shaya Cohen "shows us our biblical ancestors" patrilineal practices were altered by the rabbis - perhaps under the influence of Roman legal practice. Scholars of this period will continue to establish plausible causes, and their findings illustrate the basic Reconstructionist definition of Judaism as the evolving civilization of the Jewish people and one which reflects the ways in which the Jewish people have adapted to new circumstances and incorporated new beliefs and practices in their historical odyssey.

Professor Cohen concludes by stating that his historical analysis does not have halakhic implications. That assertion is consistent with the position of the Conservative Movement, which promotes research of historians while maintaining that the *halakha*, itself, however it may have changed in the past and may be changed today, is the constant which unifies Jewish history.

Reconstructionists would disagree because:

1. The Jewish community is no longer governed by *halakha* as it was in the rabbinic and medieval periods.
2. Non-Orthodox Jews who accept the historian's perspective cannot accept as literal the claim that *halakha* has the imperative force of divine commandment.
3. The very authoritative decision making structure of the *halakhic* system contradicts our best contemporary intuitions about the value of democratic process and the desirability of autonomous decisions reached by responsible individuals.

The phenomenon of intermarriage among North American Jews provides a striking example of social circumstances that require bold and creative approaches. Because of the

unprecedented social integration of Jews in the society at large, because of the radically new bases upon which Jews now choose their spouses, and for a variety of other causes, Jews now marry non-Jews as a matter of course. We can no longer assume that Jews who intermarry do so because of their desire to abandon their Jewish Heritage. In an age of secularism, we can no longer assume that the non-Jewish partner is a committed, practicing member of another religious community. In the midst of the feminist revolution, we cannot assume that it is the mother, and or the father or some other adult, who assumes the primary responsibility for child raising. Nor can we assume, as was once possible, that the child of two Jewish parents will be raised as a Jew, in any meaningful sense of that term. Nor should we, living as we do so comfortably in a pluralistic society, make a virtue of retaining the rabbi's presumption that gentiles are of another forbidden "species".

Given the unprecedented nature of our social circumstances and assuming, in principle, the virtue of modifying Jewish practice to meet those circumstances, there are several reasons for adopting the patrilineal principal.

1. The sociological Imperative
2. Embracing the Open Society
3. The challenge of Outreach
4. Gender equality

Not all Reconstructionists have embraced patrilineal principle unambivalently because of:

1. Concerns of *Klal Yisrael*,
2. This might deny our rights under Israel's Law of Return,
3. The principal requires further clarification, clear guidelines are needed where:
 - a. The status of the child is to be made identical to that of a child of a Jewish mother.
 - b. The case of an adult, born of a Jewish mother or a Jewish father who was not raised as a Jew and who now wishes to claim Jewish status.

Because of the questions, some have suggested that patrilineal descent be applied selectively - that infant conversion should be encouraged, when the parents are willing, but where that does not occur and we are presented with children and adults who are Jewish except for conversion, the patrilineal principle should be invoked.

The following was extracted from the Reconstructionist website:

How do Reconstructionist communities involve non-Jewish family members?

Since 1968, our movement has recognized the Jewishness of a child born to a non-Jewish mother and Jewish father. Our communities are dedicated to creating an environment in which all family members feel welcome. Acknowledging the current reality that an increasingly large number of families will be intermarried, Reconstructionist communities often offer "Introduction to Judaism" courses, facilitate peer group discussions and develop community practices for Jewish lifecycle events that include non-Jewish family members. Our aim is to bring the richness of Jewish civilization into the public and private lives of our communities and not necessarily to formally convert the non-Jewish family member. The 1996 Boundaries and Opportunities Report referred to above offers suggestions and

recommendations for individual communities.

How do Reconstructionists View Conversion?

We value the symbolism of the conversion ritual and encourage those who were not born of Jewish parents and who wish to convert to undergo this rite of passage. The course of study for a prospective convert, which is determined by the rabbi and congregation the individual is working with, includes history, observance and beliefs, and learning how to make educated choices. The completion of the process is marked by ritual immersion for men and women; circumcision or *hatafat dam brit* (symbolic drop of blood) for men (unless there exists an extraordinary physical or emotional hazard); a *Beit Din* (a dialogue with three knowledgeable Jews, at least one of whom is a rabbi), and often a public welcoming ceremony.

Author's questions:

1. What are the challenges that their understanding of Patrilineal Jews pose for North American and global Jewry?
2. What implications does this have for synagogue membership?