

BOOK REVIEWS

Divorce in Jewish Law and Life by IRWIN H. HAUT (Sepher-Hermon Press, N.Y.).

Reviewed by
Emanuel Rackman

Many years ago I learned from the editors of *Commentary* that one should review a book by addressing oneself principally to two questions. Did the author accomplish his objective and was the objective worthwhile? What a reviewer must not do is to suggest what he himself would have done with the same topic. Most people who deem me a maverick in the Orthodox Jewish community know that with respect to the topic of the book under consideration I would have been far less temperate than its author and far more radical than he in my proposals. However, in response to the questions to which a reviewer ought properly limit his criticism, I must give unequivocally affirmative answers. The author accomplished his objective and it is a most worthy one.

In his *Divorce in Jewish Law and Life*, Irwin H. Haut has undertaken to give lawyers who represent Jews in matrimonial actions as well as interested laymen a very readable digest of the Jewish law of divorce, the history of that law, a summary of the problems that have arisen in the modern era, and sundry proposals that are available for their solution. He has done this in about a hundred pages. Needless to say, one could write volumes on any one of the three topics. But the author did not undertake to produce an exhaustive study. Instead he provides his reader with basic information and enough of a bibliography and footnotes for those who want to pursue the matter in greater depth.

Nonetheless, it must be said that for the readership for whom the book is written he provides altogether too much detail

with regard to the law itself and too little with respect to the corrective proposals. For example, in his treatment of the law itself he includes much with regard to the writing of the *Get* (the bill of divorce). This information would interest only students of Jewish law and scribes. By contrast, however, he ignores corrective proposals which were implemented in one Jewish community or another for almost a thousand years between the periods of the Geonim and the French Revolution. This omission might prompt one to believe that all was well until modern times when, in fact, some inequities of Jewish law were keenly felt all the time. Moreover, rabbis were ever legislating remedies. Some of these remedies might be helpful today.

Furthermore, the impression is conveyed that the written *Ketubah* (marriage contract) creates the rights of the spouses when in fact the wife is entitled to all the benefits mentioned in the *Ketubah* even if there never was a written agreement. Her rights are created by the law itself. In my opinion not enough is done by lawyers to make this point clear to the courts—that a marriage according to Jewish law imposes many implied obligations one of which might very well be the obligation of the husband to authorize the writing of a bill of divorce when by Jewish law he ought to do so. And once he marries by Jewish law he accepts that obligation with all the others.

To one additional criticism I must give expression. The book fails to make it abundantly clear that not one of the proposals discussed will solve all the problems while there is one proposal that

can. To that proposal Mr. Haut gives altogether too little attention (p. 96ff). He is aware of the excellent work of Supreme Court Judge Menachem Elon of Israel and refers to the excellence of his writing in a footnote. Judge Elon has proposed the one and only totally effective solution—the renewal of the power of the rabbis to annul marriages. Some rabbis (most notable among them is Rabbi Moshe Feinstein) have been sufficiently courageous occasionally to grant an annulment. But

the pressure must be unrelenting to increase their number and to force them “to go public.”

The Second Commonwealth of the Jewish people came to an end because rabbis lacked “guts.” This is the opinion of one sage in the Talmud. Similarly, the lack of “guts” in our day is doing incalculable damage which is known to all who would face the facts. It is the Halakhah’s vigilantes that are agonizing women and alienating Jews from their birthright.

The 613th Commandment: An Analysis of the Mizvah to Write a Sefer Torah (Derush Ve Chiddush) by Rabbi J. Simcha Cohen (Ktav Publishing House, Inc.), 1983.

Reviewed by

Solomon J. Sharfman

It has been customary that we call a work on Torah written in English a “book,” while one written in Hebrew is called a “*sefer*.” The distinction that is made is not one of language only, since we would never call one of the volumes of modern secular Hebrew literature a *sefer*. A *sefer* is a work to which we attach special respect, importance and sanctity that we would not accord a book. In recent years the Jewish community has been enriched by outstanding publications in English on the Bible, Talmud, Liturgy, Philosophy, Ethics and Halakhah, each of which earns the dignity, esteem and title of a *sefer*. A singular example of a *sefer* in the English language is *The 613th Commandment*, by Rabbi J. Simcha Cohen.

Rabbi Cohen subtitles his *sefer*, “An analysis of the Mizvah to Write a Sefer Torah (Derush Ve Chiddush).” In fact, it is much more than that; for in it he discusses and delineates the history, the customs and many of the laws of reading, writing, studying, and fulfilling the commandments of *Talmud Torah*, *Keriat HaTorah*, and *Sefer Torah*. The *sefer* is written in excellent English, in the style of

our responsa literature. This work cannot simply be skimmed; it has to be and deserves to be studied just like any valuable *sefer*. Its thorough analysis and *pilpul* are for the purpose of developing insights and nuances from the halakhic decisions of our great authorities, and to focus their light upon our ceremonial practices today.

The *sefer* contains stimulating and thought-provoking discourses upon the concepts and purpose of the mitsvah of writing a *Sefer Torah*, as well as the printing of a *Sefer Torah*, the pronouncing of the Holy Names of God, the letters to be left blank and to be filled in at the ceremonies accompanying the presentation of a *Sefer Torah* to a congregation, and a model program for such a presentation, as well as many related customs and halakhot. In a chapter, for example, that discusses “Women and the Mizvah of Writing a Sefer Torah,” there is an illuminating development of the mitsvah of learning Torah as it relates to men and to women. The chapter titled “Zerizim vs. Berov Am: Should the Mizvah be Performed Immediately?” analyzes the blowing of the shofar at the Musaf service of

Book Reviews

Rosh Hashanah, a minyan at a circumcision and the blessing of “*Shehakol bara likhvodo*” at a wedding.

Rabbi Cohen compiled the *sefer* from the material he gathered and expanded for the purpose of a special *shiur* which he gave at his synagogue when one of its families decided to have a *Sefer Torah* written in memory of its parents and requested to learn the laws and sources of this mitzvah. In addition, his *Hiddushei Torah* were the basis of a series of public *shiurim* that he gave in his Congregation Shaarei Tefila in Los Angeles, California. The ideas presented are not for the purpose of deciding Halakha, but to engender questions, debate and a deeper understanding of the subjects discussed.

Even if one takes issue with a conclusion of the author, this is only an opportunity for further elucidating the *sugya*. In discussing the communal role of *Keriat HaTorah*, for example, the author develops the thesis that this mitzvah is a communal obligation and not a requirement of the individual Jew. The author derives proof for his theory from the famous synagogue in Alexandria, Egypt, where it was impossible for all to hear the blessings and the readings and yet the Torah was read. “The logical answer is that as long as a quorum of ten Jews heard the *Keriat HaTorah*, it was sufficient to meet the requirement. Those who did not hear the *Keriat HaTorah* were not obligated to reread the Torah.”

Among the proofs offered is the *Arukh Hashulhan* (*Hilkhot Keriat HaTorah* 146:5) who permits independent Torah study during *Keriat HaTorah* for advanced professional scholars, but concludes, on the basis of the practical consideration that such activities might induce a disre-

spect for *Keriat HaTorah* among ordinary laymen, that it should be prohibited. In other words, one must be attentive to the *Keriat HaTorah* “for secondary reasons.” The conclusion of the author may be questioned by the fact that the *Arukh Hashulhan* adds the further observation that in his childhood he had heard that such independent Torah study during *Keriat HaTorah* was permissible only when the Targum was read by the *Meturgeman*, but was forbidden during the reading of the Torah itself, “and in our day we have neither seen nor heard that even the greatest Torah sage would study during *Keriat HaTorah* unless he had already heard it.”

The author does support his thesis by quoting Rabbi Joseph Henkin in *Edut Le Yisrael*, p. 134: “The reading of the Megillah is a more stringent requirement than *Keriat HaTorah* for the former is an obligation upon each and every person while the latter is only a communal requirement. Thus, should a person miss even one word of the Megillah, he is required to reread the entire Megillah. There is no such mandate for *Keriat HaTorah*.” Further proof is derived from the *Shulhan Arukh* (*Orah Hayyim* 690:18) and the *Havvot Da’at* (*Derekh Hahayyim*, Laws of Communal Behavior during *Keriat HaTorah*, law 4).

The 613th Commandment is evidence of the erudition, keen mind and ability in *pilpulei de’oraita* of its author. Every subject it discusses is based on sources which are wide-ranging, clearly presented and could have been discovered only by diligent research and a prodigious memory. It is a notable addition to the growing library of Torah *sefarim* in the English language and will be valued and enjoyed by rabbis and laymen alike.

REVIEWERS IN THIS ISSUE

RABBI EMANUEL RACKMAN is a member of the Editorial Board of *Tradition*, and the President of Bar Ilan University, Ramat Gan, Israel.

RABBI SOLOMON J. SHARFMAN, formerly Rabbi of the Young Israel of Flatbush, presently resides in Jerusalem, Israel.