COMPARABLE WORTH

TO THE EDITOR:

We are neither economists nor halakhists, but even laypersons like us can spot the weaknesses behind the arguments advanced in Professor Aaron Levine's article, "Comparable Worth in Society and in Jewish Law" ( Tradition, 23:1, Summer 1987). We refer specifically to Levine's discussion of the reasons why "women's occupations," including the nursing profession, have been low-paying ones. The reader is given to understand that "it is really women themselves who... are bloating supply and keeping their own wages low" (p. 24). We are also told that if hospitals paid nurses more, "fewer nurses would be hired, and some already on the job might be laid off" (p. 26).

There is an air of unreality about such blame-the-victim statements. Perhaps Levine is unaware of the drastic shortage of nurses in this country today. Observers have noted two fundamental reasons for this crisis: the image of the nursing profession is in need of upgrading, and the earning power of nurses is severely limited (see "New York Hospitals Scramble to Find Qualified Nurses," Crain's New York Business, March 21, 1988).

Certain statements in Levine's article are not only inaccurate but highly offensive to Orthodox Jewish working women. To state flatly, as Prof. Levine does, that the motivation for most women who enter the labor force is "merely to help out their families financially" (p. 28), or that "women do not find it optimal to invest in as much on-the-job training as men or in as much quality of schooling" (p. 24), is to slur women who have entered such professions as nursing and teaching after earning advanced degrees, with love for their work and with the desire to better the lives of others.

Perhaps the most offensive aspect of Levine's article is the attempt to cloak questionable economic and social premises in the mantle of Torah. There may be valid arguments against the concept of comparable worth, but we bridle at the suggestion that its implementation would "encourage lifestyles antithetical to Jewish values" (p. 29). Do female nurses and teachers, whose lives are dedicated to tikkun olam, really present such an awful threat to Yiddishkeit? If so, perhaps it would advance Jewish social policy all the more to cut the wages of women doctors and lawyers, so as to encourage them to stay home and mind the children.

We are an Orthodox married couple, parents of four, who find no inherent contradiction between the religious ideal of marriage, on the one hand, and rewarding, self-fulfilling careers for women outside the home, on the other. One of the keys to making such a marriage work—a factor ignored by Levine—is an increased flexibility on the part of the husband in sharing household and child-rearing responsibilities.

To paraphrase a line from Fiddler on the Roof, would it spoil some "vast, eternal plan" if Jewish working women were a little wealthier?

DANIEL A. KLEIN, ESQ.
BIA T. H. KLEIN, R.N., B.S., M.S.
Rochester, N.Y.

AARON LEVINE RESPONDS:

Without rehashing my arguments and documentation, let me remind the Kleins that comparable worth relates essentially to women's pay in female dominated occupations. Medicine and
law are male dominated professions. The cynicism of my critics in suggesting that, in my family stabilization rationale for opposing mandated comparable worth, I am implying that there is merit in cutting the pay of women lawyers and doctors in order to encourage them to mind the children, is irrelevant and serves only to confuse the issue at hand.

The claim that "the motivations of most women in entering the labor force is merely to help out their families financially" was not presented as the opinion of the author but, rather, represents the conclusion of Berger's sociological study (see Goodman and Dolan, p. 155). Perhaps this conclusion does not apply to the subgroup of Orthodox Jewish women, though I strongly suspect it does. Be that as it may, Berger's findings can only be undermined by empirical investigation, not by flippancy.

On the face of it, Berger's finding expresses on the part of women a primary loyalty to marriage and child rearing. Inferring from this a "slur" on the sacrifices and contributions women make in the world of work is entirely unwarranted, no more valid than accusing the Kleins of harboring a condescending attitude toward motherhood on the basis of the exuberance they express for the career woman. Clearly, marriage and the hinnukh of children are compelling values in our tradition. Insofar as women are attracted to jobs entailing flexible hours and ease of entry and exit, they are willing to trade off higher wages for their fulfillment as mothers and wives. This is so because the flexible jobs in the female dominated occupations allow for the possibility of substitution at the margin between work and family demands. It certainly points against ascribing pay differentials to the willful discrimination by employers.

Analysis of the current "shortage" of nurses reinforces the major proposition of our paper. The current salary scale for nurses, which comparable worth advocates regard as "unfair," is the vestige of earlier decades when heavy federal subsidization of nursing education generated a relative abundance of nurses. The stickiness of this pay scale in the face of rising vacancy rates for nurses is indeed an enigma for economic theory. The recognition that most nurses work in hospitals and most communities have only one or two hospitals has led economists to describe the labor market for nurses as monopsonistic. Within this framework the market will be in equilibrium despite the fact that demand exceeds supply at the wage rate the employer offers. Why the relative shortages of nurses does not work to push up the wage rate is hence explained on the basis of the realization on the part of hospital administrators that the wage demand of the last nurse hired will determine the wage rate for the entire nursing staff. Self-interest therefore dictates that the employer hire nurses up to the point where the anticipated increase in the total wage bill equals the increase in the total revenue that could be anticipated from hiring the last nurse. To bridge the gap between supply and demand, employers will be eager to enter into arrangements with nurses involving part-time work and flexible scheduling, which would not force up the salary scales of the bulk of its nursing staff.

Moreover, there is evidence that married nurses exhibit a backward bending supply curve. What this means is that faced with the offer of higher wages, married nurses are willing to trade off higher wages in order to work fewer total hours and spend more time with their families (see L. Arkin, Nursing in the 1980's, J. B. Lippincott, 1982, pp. 41–56).

In the face of a host of factors which work to encourage exit from the profession, many married nurses have displayed both an extraordinary loyalty to their calling of tikkun olam as well as to the institution of marriage.

One could very well argue that the single most important factor which has prevented wages from rising in the face of rising vacancy rates is the phenomena
of part-time hiring and flexibility of scheduling. Mandating increases in nurses’ salaries in accordance with the comparable worth criterion can only work to reverse the flexibility of scheduling and part-time hiring trends and thereby work also to impede substitution at the margin between work and family demands. In other words, it is those who seek optimal compatibility between family demands and career aspirations who will be hurt.

Within the context of the current shortages, hospital administrators have pushed on nurses increasingly strenuous work loads. This development raises halakhic moral issues in the areas of fair labor practice and patient endangerment. Analysis of these concerns, however, is beyond the scope of our present inquiry.

In their own version of the comparable worth proposal, the Kleins focus on tikkun olam. Carrying the Kleins’ proposal to its logical conclusion necessitates setting up a hierarchical wage structure based on tikkun olam. I dare say it would take nothing less than Divine Wisdom to set up a hierarchical tikkun olam wage structure that would not elicit widespread outrage. Moreover, our sages were careful not to make such a ranking, and for good reason. Recall the Talmudic adage, tov she-ba-rofe'im /e-Gehinnom. Apparently, even those who practice imitation Dei on the highest level are vulnerable to dismal failure. Every person has infinite potential. The individual at the lowest station in life can potentially make a greater contribution to tikkun olam than the one who is perched on top of the social ladder. Setting up a tikkun olam wage hierarchy hence insults man’s dignity. What we need to subsidize therefore is not professions, but rather the encouragement of socially desirable outcomes and values. In the Torah’s way of thinking, marriage and child rearing are socially desirable outcomes. Since part of the undercurrent of the comparable worth outcry reflects a strain on the institutions of marriage and child rearing, it behooves us to react to the movement with social measures that will strengthen the quality of marriage and parenting.

In their final assault, the Kleins catapult themselves onto the Broadway stage: “Would it spoil some vast, eternal plan if Jewish working women were a little wealthier?” I certainly do not begrudge this outcome. But, my answer to their rhetorical question is, yes! The Kleins fail to comprehend that, to coin an expression, there is no such thing as a free brunch. Mandating an increase in women's pay in female dominated professions without any corresponding increase in productivity must come at someone’s expense. Massive inflation is certainly a possibility under comparable worth. Indeed, as we argue in our paper, it will likely come at the expense of the very group we want to benefit.

NON-ORTHODOX CONVERSIONS

To the Editor:

Rabbi J. David Bleich’s Survey of Halakhic Periodical Literature (Tradition, 23:2, Winter 1988) states that conversions performed under the auspices of non-Orthodox auspices are invalid for two reasons: (1) a proper acceptance of “the yoke of the commandments” is lacking, and (2) “non-Orthodox clergymen (sic!) are disqualified from serving as members of a Bet Din.”

What do recognized Halakhic authorities have to say about the first presumed reason? Rambam (Hilkhot Issure Biah 14:2) states: “We inform him (the candidate for Giyur) of the basic principles of our religion, the unity of God and the prohibition of idolatry and of some of the easy mitzvot and some of the severe mitzvot but we do not enlarge on this lest we thereby dissuade him from conversion.” The Shulhan Arukh (Yore Deah 268:2,3) repeats the Rambam more or less but goes on to add that the failure
to inform the candidate of Kabbalat Ol Mitzvot renders the conversion invalid. However, *Nimmuke Yosef* (on the Rif to *Yevamot* 16a) writes: "Our teachers maintain that if he was not informed of the requirement of Kabbalat Ol Mitzvot, the conversion is not thereby rendered invalid. And so it is apparent in the chapter Kelal Gadol." Here, *Nimmuke Yosef* alludes to the Tosafot (*Shabbat* 68a, beginning *Ger Shenitgayer*). There, the Tosafot explain—so, too, Ramban in his Hiddushim to *Shabbat*—that the Shabbat violator was converted among Gentiles and was presumably not informed of Ikkar Shabbat; hence the conclusion of the Tosafot that bedeavad Kabbalat Ol Mitzvot is not indispensable.

But what if the Bet Din has reason to believe that the candidate for Giyur will not fulfill some or all of the mitzvot? Is it authorized to accept him? There are a number of responsa on the subject. First, Rabbi Isaac Judah Shmelkes (*Bet Yitzhak* vol. 2, no. 100) writes that though in his particular case the woman involved will not observe the laws of niddah after her conversion, nevertheless the Bet Din may accept her. He bases his decision on the Tosafot cited above. Both R. Akiva Eger (*Responsa Tuv Taam Vadaat, Yore Deah* no. 230) and Rabbi David Hoffman (Melamed Lehoil, No. 83) come to the same conclusion in similar cases. To these Peskim, one should add the *Responsa Ahiezer* by Rabbi Chaim Ozer Grodzensky (t. 3, no. 26).

As for the passage in *Bekhorot* 30b beginning "Nokhrim sheba etc.,” here is how some authorities in the recent past interpret it. The above-cited responsum of Rabbi Chaim Ozer Grodzensky states: "This is so—that he is not accepted as a Ger—if he expressly makes a condition that he does not accept a certain mitzvah or that a certain issur should be permitted to him Halakhically. But he who accepts all the mitzvot in principle but intends to violate some of them beteavon, this fact is not considered a violation of the requirement of Kabbalat Ol Mitzvot." The late Chief Rabbi Issar Yehudah Unterman writes (*Noam*, vol. 14): "Where there is no suspicion that the candidate will revert to his former religion, we do not have to suspect that he will not fulfill the mitzvot. This is apparent from the Rambam (*Hilkhot Issure Biah* 13:15)." The late Chief Sephardic Rabbi Ben Zion Chai Uzziel (*Mishpete Uzziel* no. 58) writes in a similar vein: "But if he accepts the Torah in principle yet continues in his former ways (of non-observance), this does not preclude us from accepting him as a Ger. It may well be that he will have children who will observe the Torah."

From what Halakhic sources do the writers who Rabbi Bleich quotes approvingly derive the conclusion that Conservative Rabbis are disqualified from constituting a Bet Din to accept Gerim? None that I am aware of. On the contrary, a brief inspection of the sources on the qualifications of those who make up a Bet Din for the purpose of Giyur leads to the opposite conclusion.

Begin with Rashi (*Kiddushin* 62b, beg. *Tsarikh Shlosha*): "Three Jews deal with him (the candidate for Giyur) to ritually immerse him and to inform him of some of the easy mitzvot and of some of the severe mitzvot. . . ." Mordecai (to *Yevamot* 47b) raises the question, originally asked by the Tosafot (*Kiddushin* 62b, beg. Ger Tsarikh), why should we not require Mumhin (in the original meaning of that term)? He replies: "Just as the Sages ordained a court of three laymen in cases involving loans so as not to close the door to those who must borrow, so too they ordained in the case of Giyur, so as not to close the door to those who wish to convert [to Judaism]. Rabbenu Simha (author of *Mahzor Vitry*) wrote similarly." Arukh Hashulhan (*Hilkhot Gerim* 268:10) puts the matter succinctly: "Any three Jews who know the laws of Giyur can accept a Ger and Rabbis do not handle these matters."
Rabbi Bleich writes: “Failure to accept the divinity and the binding authority of the Written Law as well as of the Oral in and of itself constitutes a disqualification from serving as a member of a Bet Din. . . . In most countries a judge cannot sit on the bench without first being sworn to uphold the laws of the land.”

One raises three questions. (1) Where in the sources does one find a precise universally accepted definition of what is meant by the divinity of the Law? From the Sages to the thinkers of the twentieth century, one looks in vain in the literature for agreement as to the nature of divine revelation. I refer Rabbi Bleich to the volume Torah Min Hashamayim by the late Abraham Joshua Heschel. (2) Where in the sources do we find an examination of one’s theological beliefs as a prerequisite for membership in a Bet Din? Who establishes the criteria and on what basis? (3) Admittedly a judge must be committed to upholding the law. But he is certainly not required to commit himself to a particular tendency or philosophy in interpreting the law; otherwise, either Bet Shammai or Bet Hillel would have been disqualified in view of their 318 controversies on the interpretation of the law.

On that subject, all of us, Orthodox and Conservative, can do no better than follow the example set by Bet Shammai and Bet Hillel as reported in the Mishnah (Yevamot 1:4). “Even though these [Bet Shammai] permit and these [Bet Hillel] forbid, Bet Shammai did not refrain from marrying into the families of Bet Hillel, nor did Bet Hillel from marrying into the families of Bet Shammai.” And the dispute between them involved no less a serious matter than mamzerut.

As for Rabbi Aaron Soloveichik’s conclusion on the basis of the story in Sanhedrin which he cites, at least three things must be said. (1) “We do not derive (Halakhic rules) from Aggada” (Yerushalmi Peah 2:6). (2) By Rabbi Soloveichik’s criterion one would have to debar R. Levi Yitzhak of Berdichev from being a member of a Bet Din in view of his proclivity to be a melamed zekhut of those who violated the Law. So, too, would Harav Kuk ts’l fall under the ban since he too was no less a melamed zekhut than the former as anyone who is familiar with his writings is aware. (3) “Whoever prevents many from performing a mitzvah deserves to be banned.” (Yerushalmi Moed Katan 3:1).

(Rabbi) Theodore Friedman
Chairman, Vaad Halakhah,
Israel Region of
Rabbinical Assembly
Jerusalem, Israel

The Editor Responds:

Although Rabbi Friedman suggests that Rabbi Bleich erred in citing sources which would disqualify a gerut performed by non-Orthodox rabbis, the sources he cites fail to deal with the issues raised by Rabbi Bleich.

1) Rabbi Friedman fails to distinguish between knowledge of mitzvot and acceptance of the yoke of mitzvot / kabbalat ol mitzvot. The latter is a commitment to keep anything which is a mitzvah, even if at the time of gerut one as yet has no knowledge that it is a mitzvah (since he is only given a sampling of the mitzvot at the time of his conversion). Such acceptance is an indispensable aspect of gerut, as is clear from the codes (Yoreh Deah 168:3). Consequently, whoever explicitly refuses to accept one detail of a mitzvah has invalidated his gerut, as stated in Bekhorot 30b and Maimonides (Issurei Biah 14:8).

Because he fails to make this distinction, Friedman’s citations of the Nimukei Yosef, Tosafot, and Ramban (based on Shabbat 68a, where a convert is unaware that Shabbat laws exist) are irrelevant. They all refer to knowledge of mitzvot, which, as these authorities say, is dispensable. (Ramban, for example,
Communications

says, “They informed him of some of the mitzvot, but not of Shabbat.”) Friedman’s conclusion that their opinion is at variance with that of Maimonides and Shulhan Arukh (and the Talmud in Bekhorot) is thus without basis.

2) On the question of whether a Bet Din can accept a candidate for giyur who, they believe, will not fulfill some or all of the mitzvot, Friedman cites responsa in Bet Yitzhak, Tuv Taam Vadat (by R. Shlomo Kluger—erroneously attributed by Friedman to R. Akiva Eiger), Melamed Leho’il and Ahiezer (the same responsum which Bleich cites to support his view!) as ruling that this is permitted. However, the responsa cited refer to a special case of gerut where a Jew and non-Jew have been living together and expect to do so after gerut. Does this constitute gerut for the purpose of marrying a Jew—which should not be performed? Additionally, since a Jew who has had a relationship with a non-Jewess is forbidden, by rabbinic decree, to marry her even after gerut, does this constitute acceptance of Judaism with the intent to violate one of the rabbinic decrees? Except for Bet Yitzhak, who is stringent (Friedman, incidentally, misquotes him on this: while Bet Yitzhak does tentatively entertain the idea that refusal to accept any mitzvah other than the major mitzvot such as idolatry or Shabbat will not invalidate a gerut post factum, he ultimately rejects this), the responsa rule leniently on this matter. They do so because of specific reasons applying only to the particular case in question. These reasons are completely irrelevant to Rabbi Bleich’s thesis.

In these responsa, the prospective converts were ready to accept unreservedly the yoke of mitzvot; the responsa make the clear assumption that non-acceptance of the yoke of mitzvot invalidates the conversion.

At issue in Bleich’s article is the concept that gerut under Conservative Judaism’s auspices is ipso facto evidence that there was never a true kabbalat ol mitzvot. The responsa cited have no bearing on this subject.

3) Friedman further questions Rabbi Bleich’s assertion that Conservative rabbis are disqualified from serving as a Bet Din. Friedman cites an array of sources to demonstrate that gerut does not require a Bet Din of mumhin. However, since all courts from the era of the Amoraim (when the semikha of the Sanhedrin ended) have the status of non-mumhin, Friedman must surely be aware that these sources are irrelevant, since there is no dispute that present day gerut is valid. (He himself refers to mumhin “in the original meaning of that term.”) At issue in Rabbi Bleich’s article is the concept that Conservative rabbis are disqualified from serving on a Bet Din under the disqualification of mumar and apikores. Rabbi Friedman’s citation from Arukh Hashulhan is even more irrelevant since it merely records a ruling of the Shulhan Arukh that while the court should investigate whether there was an ulterior motive, the gerut is valid even if they did not investigate. When Arukh Hashulhan wrote ve-tavalltfnei shlosha hedyotot, de-talmidei hahakhamim lo hayu mizdakkekin la-zeh, interpolating the last five words into the Shulhan Arukh’s ruling, he was not commenting “succinctly,” as Friedman says, that “rabbis do not handle (gerut) matters.” Rather, the Arukh Hashulhan is attempting to justify how it came about that a gerut with an ulterior motive was performed by the three hedyotot (unlearned men) when in fact the initial requirement is that three talmidei hakhamim be present at a gerut (as he cites in par. 8). In other words, rabbis should be present to handle these matters. Arukh Hashulhan explains this with his comment that, because there were ulterior motives, talmidei hakhamim did not want to involve themselves in this particular gerut—de-talmidei hakhamim lo hayu mizdakkkekin la-zeh.

4) Rabbi Friedman challenges the idea that there is a source that certain
theological beliefs are a requirement for serving as a judge. No less a source than Shulhan Arukh, Hoshen Mishpat 7:9 (referring to ibid. 34:22) states that a mumar or an apikores (of course, even in a court of non-mumhin—since the Shulhan Arukh knew of no other) is disqualified from serving as a judge. The halakhic definition of these categories is found in Rambam, Hilkhot Teshuvah 3:8-9, where the vital elements—the definition of Torah min hashamayim and the relationship to Torah she-be-al peh—have clear delineation. Although A. J. Heschel was a gifted thinker with decided traditional leanings, he can hardly be cited as an authority on the correct halakhic definition of these categories.

The trundling out of the disputes of Bet Shamai and Bet Hillel and their mutual tolerance is just as irrelevant. True, some of their disputes dealt with the serious matters of mamzerut, but none of their “318 controversies” disputed their common acceptance of the divinity of the Written and Oral Torah in the classic meaning of these ideas. A better analogy would have been the dispute between the Sages and disciples of Tzadok and Boethus, a dispute involving fundamental beliefs in the Oral Torah. Here the Sages displayed no such tolerance.

E.F.

STUDY OF TWO POSEKIM

To the Editor:

Rabbi Marc Angel purports to present us with a study of two major posekim (Tradition, 23:3, Spring 1988). But a study should be balanced and thorough. It should present the uninitiated with a clear picture of the subject under discussion. It should choose its examples because they are truly balanced and illustrative, not because of other considerations. Angel’s paper fails all these tests.

Angel presents a contrast between two modern posekim, Rav Moshe Feinstein, zal, and Rav Hayyim David Halevy, shalita. “Both are scholars of vast erudition, of wide influence; both have written and published many works,” he wrote. They are “representatives of different halakhic traditions” (p. 52), Ashkenazic and Sephardic, respectively.

Our generation is blessed with many posekim. But even among recognized Talmidei Hakhamim, there are different levels of authority, just as there would be in any area of scholarship. An objective scholarly review of the literature would reveal that some scholars have greater influence than others. Their works are more widely quoted; their opinions serve to a greater extent as the basis of the conclusions of their colleagues. A comparative study must juxtapose scholars and works of more or less equal standing. Certainly readers of Tradition are aware that Iggerot Moshe and Aseh Lekha Rav do not have the same status in contemporary halakhic literature. The former is a collection of extensive halakhic analyses by one of the few major posekim of our generation. The latter is a popular work of an important Torah scholar, but certainly not of the same position. It is not a denigration of Rav Halevi to suggest that they are not comparable. As a Torah scholar with integrity and knowledge, he would probably be the first to be embarrassed by the comparison.

And even if Angel were out only to compare the leading Ashkenazic and Sephardic posekim irrespective of their relative standing in the more general halakhic community, his choice of posekim would have been faulty. The leading contemporary Sephardic posek is unquestionably Rav Ovadia Yosef, shalita. It is Rav Hayyim who quotes Rav Ovadia’s halakhic judgments, not conversely. Angel’s avowed aim was not simply to introduce Tradition readers to another contemporary posek; it was to compare and contrast two leading contemporary representatives of the Ashkenazic and Sephardic halakhic tra-
ditions. Why then did the author not compare Rav Moshe with the more appropriate Rav Ovadia?

It appears to me that the answer lies in the fact that Angel was interested in further arguing the position he set out in his *Rhythms of Jewish Living: A Sephardic Approach* (p. 74), that “the Sephardic approach to halakhah . . . may serve as an anodyne to the prevailing Ashkenazic approach.” It is one thing for Angel to quote there without any critical analyses the claim that “in matters of halakhah, Sephardic sages clung to the quality of hesed, kindness and tended to be lenient. Ashkenazim manifested the quality of geburah, heroism, and therefore tended to be strict” (*ibid.*, p. 76). It is another to go on, as he did, to quote Zimmels’ claim that ‘as a general rule Sephardim were more lenient than Ashkenazim in their halakhic rulings’ (*ibid.*, p. 77) without bothering to mention that Zimmels devotes the very next chapter of his book to comparing Ashkenazic kullot (leniencies) to Sephardic humrot (stringencies). It is yet another matter to utilize a comparison to produce a preconceived conclusion, as he did here. I fear that Angel did not compare Rav Moshe to Rav Ovadia because, while it would have been more appropriate, it would have not served his purposes.

Let us examine Angel’s examples. Rav Moshe, refusing to draw conclusions from modern research and discoveries, refuses to ban cigarette smoking, relying instead on what sounds like a simplistic “the Lord protects the simple.” Rav Hayyim, on the other hand, takes science seriously and forbids cigarettes (pp.44 f). One reading this example would not get the impression that Rav Moshe’s rulings on life and death matters (e.g., time of death) involve serious technical scientific arguments and serve as the basis of such crucial decisions as that of the Israeli Chief Rabbinate to permit heart transplants. One would not know that the fight in the halakhic community against cigarette smoking was led by the Ashkenazic Rav Waldenberg, or that Rav Ovadia sides with Rav Moshe on this question. The issue, as Angel does not inform us, is not the question of whether cigarette smoking is unhealthy, a fact Rav Moshe concedes, or whether the Halakhah takes into consideration new scientific findings. It is rather how proximate the danger of something must be before it can be forbidden. *Posekim* differ on the subject, but it has nothing to do with Ashkenazic or Sephardic “halakhic traditions” regarding the place of scientific fact in *pesak*.

Or consider Angel’s examples on the religious significance of Israel (pp. 49 f). Reading the opinions of these “representatives of two different halakhic traditions,” one would think that religious Zionism is a construct of the Sephardic tradition, in contrast to the anti-Zionist stance of the Ashkenazim. Of course, this is untrue. To be sure, there are Zionist and anti-Zionistic traditions among *posekim*, but it is not a Sephardic-Ashkenazic split. Rav Hayyim chose to include as the only letter of approbation to his *Mekor ha-Hayyim* a haskama from Rav Tsvi Ychuda Kuk, head of the Ashkenazic Yeshivat Mercaz HaRav, who wrote that Rav Hayyim’s work followed the approach of his father, the first Ashkenazic Chief Rabbi of Israel, Rav Abraham Isaac Kuk.

It is true that Rav Hayyim argued that the *Nahem* paragraph recited on Tisha B’Av should be emended after the Six Day War. But in his essay, Angel does not mention Rav Ovadia’s very strong condemnation of this emendation; had he done so, we might not have been drawn to a conclusion that such openness to the changing conditions in Jerusalem was a Sephardic phenomenon. We also understand why he did not mentioned that the most far reaching impact regarding changing *Nahem* came through the Ashkenazic Rav Goren (who, as Chief Rabbi of the Israel Defence Forces, ordered the text changed in all army *siddurim*). Had he done so, we would not have been
tempted to view this as an expression of different halakhic traditions. Indeed, as Rav Ovadia points out in his teshuvah, the issue between those who would emend the paragraph and those who would not is in how to interpret the text.

Consider, also, Angel's comparisons on attitudes towards secular studies (pp.43 f), which are likewise misleading. The question of whether secular studies belong in the morning or afternoon program of a yeshivah is in no way comparable to the question of studying secular studies on Shabbat. There is no reason to assume that each posek would not rule similarly on the other's question. There is no real comparison to be made here, no conclusion to be drawn from these respective rulings. Moreover, we have no hint of the fact that all students in Rav Moshe's yeshivah earned a Regent's high school diploma rather than stop after the State minimum requirements were met, and that many went on to college studies with full approval of the rosh ha-yeshivah. There is no mention that Sephardic Rav Ovadia argued strongly that students should go to "yeshivot kedoshot," where no secular studies are taught, rather than to "yeshivot tikhoniyyot," where secular studies are part of the curriculum. There are, of course, different attitudes among posekim regarding secular studies, but to paint this as a Sephardic-Ashkenazic split among contemporary posekim—and to use these two unrelated rulings as an expression of such a disagreement—is inaccurate at best.

Another false comparison of rulings is to be found in Angel's examples on conversion (pp. 51). There is nothing in Rav Hayyim's responsum that suggests that he would not agree that a convert who definitely did not accept the obligation of commandments should not be considered a genuine convert. A reading of the responsum shows clearly that his readiness to give the convert the benefit of the doubt rests heavily on the fact that the convert is living in Israel. Rav Hayyim is clear in his sympathy for posekim outside of Israel who take a more restrictive view. There is nothing in Rav Moshe's responsum to suggest that he does not agree that every competent beit din should use its discretion in deciding which converts to accept.

But more significant than this forced comparison of responsums is the fact that Angel neglected to note another of Rav Moshe's responsum on conversion. The beit din's authority to convert a baby rests on the rule that zakhim le-adam she-lo be-fanav (one may award a zekhut [a benefit] to a person even without his knowledge), and it therefore may grant Jewish status to a baby who has no understanding of the proceedings. Since it is better to be a fine gentile than a non-observant Jew, the authority of a beit din to convert a child who will be raised as a non-observant Jew is often called into question; from a halakhic perspective, it is difficult to claim that such babies are being granted a zekhut.

Rav Moshe, however, urged the conversion of gentile children in a day school who were born to Jewish fathers even though the family remains a mixed marriage and is generally non-observant. Simply being any type of Jew, he ruled, is more of a zekhut than being a gentile. Surely this revolutionary ruling—unparalleled, I believe, in Rav Hayyim's rulings—deserved mention in a fair contrast.

Angel addressed the issue of traditional practice requiring reevaluation based on modern circumstances. We are offered an example of a "halakhic tradition" which will rule that meat "kept cool even in a refrigerator may be salted and cooked even if it had not been soaked during the three day period"(p.45). This, we are led to believe, stands in contrast to the "halakhic tradition" of Rav Moshe, which maintains that "only after the fact, and only in great need, may one salt meat that had been kept frozen and not soaked for more than three days." This example merits a closer analysis.

Rav Hayyim's ruling comes not from Aseh Lekha Rav, but from his
summary book of codes Mekor ha-Hayyim. For some reason, Angel selected one of the relatively few instances where Rav Hayyim is not offering his own pesak, but is rather quoting—as the footnote there clearly indicates—another posek’s decision (in this case, Rav Ovadia and the late Rav Uziel). But this is not the main problem with this example.

The word “cool’ is not mentioned in the source. The sources that Rav Hayyim noted use the word “mekarer,” which Angel translates as “refrigerator” in conformity with contemporary Hebrew usage. But in context it might well have been translated as “freezer.” The whole discussion in Yahia Orner (which is one of the sources Rav Hayyim himself quotes on the spot) does not force the translation “refrigerator.” When Rav Ovadia later reviews this pesak in his more concise Yehavveh Da’at, he clearly distinguishes between keeping unsalted meat in a refrigerator or freezer; moreover, when Rav Ovadia recently reprinted his Yabia Omer, the transliterated word “freezer” was added after “mekarer” in this very pesak quoted.

This is not insignificant, but it would have been even more important to note that in Yehavveh Da’at, Rav Ovadia quotes as one of the sources on which he relies none other than the very pesak of Rav Moshe that Angel had offered in contrast. (That pesak had been published subsequent to the original Yabia Omer edition.) This is not as strange as it might seem, for far from ruling that the frozen meat may be cooked “only after the fact and only in case of great need,” Rav Moshe had actually ruled—and later vigorously defended his ruling—that the meat can be salted and cooked. Out of respect for the authorities who forbid it, he said that if there is no significant need one should avoid acting on the liberal ruling. However, he concluded, in case of such need, one should consider it to be as if it were after the fact (even though it is beforehand) and permit it. A liberal position that maintains polite deference to posekim who disagree is presented as a restrictive ruling.

Also unfair is Angel’s comparison of the rulings regarding women learning Torah. Admittedly, Rav Moshe takes a very restrictive view. But he is talking about a required school curriculum while Rav Hayyim is talking about teaching exceptionally motivated girls who are ready to take it as an elective. This distinction is very important and should have been noted. But, again, more significant is the claim that these are “representatives of two different halakhic traditions.” Even if Rav Hayyim had suggested requiring Talmud courses for girls in all Beit Yaakov schools—he didn’t, of course—it would be absurd to suggest that this represents a Sephardic halakhic tradition of liberal all-inclusive Torah education for girls which stands in contrast to a more restrictive Ashkenazic policy. It was, of course, the Ashkenazic community which gave rise to the current burst of comprehensive Torah education for girls. No simplistic contrast of different responsa can hide that. To try to leave the impression that it is a Sephardic posek who, in conformity with his community’s halakhic tradition, is taking the lead in teaching Torah she-be-al peh to contemporary women is misleading at best.

All of Angel’s examples are similarly flawed, as is his underlying thesis. Angel should have focused on the fact that, for example, both Rav Moshe and Rav Hayyim would limit formal participation of non-observant Jews in either forming a minyan or reading from the Torah, and that both of them maintain that in today’s world non-observance is not to be equated with being a heretic. Instead, we are presented with a comparison between synagogue bar mitzvah celebrations of a mixed marriage in the United States and that of a non-observant Israeli family (p. 48 ff). But surely readers will understand that the final opinions reflect the application
of consistent halakhic standards to different situations, rather than the consequence of different halakhic traditions being applied to analogous circumstances.

We live in an age where there is unparalleled contact between Ashkenazic and Sephardic posekim. They bring different approaches and experiences. Sometimes one is more lenient, sometimes more stringent. Separated for too many years, they are now engaged in creative and productive interaction. This should be encouraged and applauded, and I'm sure Angel does that too. But the process deserves honesty and frankness; it is ill-served by an inaccurate presentation of the facts. Tradition should have provided a better start at appreciating it.

(RABBI) P. Z. PRAG
Brooklyn, NY

MARC D. ANGEL RESPONDS:

Rabbi Eliezer Papo in his classic work of ethical guidance, Pele Yoets, advised strongly that rabbis should not denigrate each other in public nor engage in public controversy which is acrimonious. Such behavior is a disservice to Torah, and is a discredit to the rabbis involved. I shall follow this advice of Rabbi Papo and will not respond in kind to the angry and unfair comments of Rabbi Prag. In my article, I presented all my sources. I ask readers to check the sources themselves. I am confident that they will find that my presentation was quite fair and accurate. I thank Rabbi Prag for devoting so much time to my article. I pray that upon more careful reflection he will want to withdraw many of his criticisms of it.

Most of Prag's anger seems to be directed at matters unrelated to my article. The article does not pit two posekim against each other, but tries to show how different great Torah scholars approach similar questions. Nowhere did I claim that Rabbi Halevy represents all of the Sephardic tradition and that Rabbi Feinstein represents all the Ashkenazic tradition. The article never gets involved in any larger question of Sephardic vs. Ashkenazic approaches to halakhah. Every posek, whether Sephardic or Ashkenazic, has his own style and sensitivity. There are meikilim and mahamirim in both groups. Prag is actually not commenting on my article, but is attacking other writings of mine in other contexts. He is also attacking the opinion of Rabbi Hayyim Yosef David Azulai, the Hidah, who (rather than I) was the author of the statement that Sephardic posekim tend to hesed while Ashkenazic posekim tend to gevurah.

There is no cause for people to become defensive or feel threatened by a discussion of the works of different posekim. Torah scholars seek the truth and are not afraid to study opinions of other Torah authorities, even those whose works may not be familiar to them, or whose works have not received the serious attention they deserve. Some Torah luminaries write in a complex style, others write in a lucid, popular style. We need to be open enough to evaluate the works honestly. If we have different opinions concerning the decisions of one posek or another, that is only natural and to be expected. Talmidei Hahamim marbim shalom b'alolam. Torah study should lead to a sense of peace and inner satisfaction.