

Saying “Yes” to Mixed-Marriage Officiation: A Socio-Halachic Approach

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Abstract

In 2013, my congregation in Deerfield, Illinois, asked me if I would officiate at mixed marriages. Before giving my answer, I set out to research the issue and consider the question in dialogue with the CCAR’s statements on this topic. Drawing on halachic literature, historiography, and current sociological data, I composed the following t’shuvah allowing for mixed-marriage officiation on a case-by-case basis, provided that certain conditions are met. The policy I have set forth, I believe, is both faithful to the spirit of our tradition and suitable to the present circumstance of American Reform Judaism.

Introduction

The CCAR has consistently discouraged mixed marriage¹ between Jews and non-Jews and opposed rabbinic officiation at such wedding ceremonies. The CCAR has based its position on several key contentions:

1. Jewish tradition has long forbidden mixed marriage;
2. Halachah does not recognize marriage between a Jew and a non-Jew as valid *kiddushin* (“Jewish marriage”);
3. Because Jewish tradition is the source of Reform rabbis’ religious authority, as well as their standing to conduct weddings, they have no charter to sanctify marriages that the tradition does not regard as *kiddushin*; and
4. Mixed marriage jeopardizes Jewish continuity, since research indicates that mixed-married couples are less likely than are

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endogamous or conversionary couples to maintain Jewish homes and raise Jewish children.

As a Reform rabbi, I feel bound to consider the issue of mixed-marriage officiation in dialogue with the resolutions and responses of our Movement. I will therefore address each of these contentions in turn.

First, though, a word about my approach. R. David Ellenson and R. Daniel Gordis argue that *p’sak halachah* (halachic decision-making), in all contexts and across denominations, is best understood as “religious policymaking,” the art of mediating amongst the received tradition, contemporary cultural, social, and political circumstances, and personal and communal values.² In policymaking, one seeks to formulate guidelines based on the “overarching spirit that animates the legal tradition,” in order to serve the community’s present needs and future direction.³ Such is my goal in this *t’shuvah*.

Does Jewish Tradition Forbid Mixed Marriage?

Historical Background

Ever since antiquity, Jewish law has prohibited mixed marriage in order to create what historian Jacob Katz has called a “barrier against the outside.” The Torah forbade marriage with people from the seven Canaanite nations out of concern that an out-marrying Jew would be drawn toward the idolatry and “abhorrent practices” of his/her spouse,⁴ and the Talmud extended the prohibition to include all non-Jews for the same reason.⁵ Ezra and Nehemiah likewise expanded the Torah’s law in the sixth century B.C.E., enjoining the returning exiles against marriage with the native peoples.⁶ Another concern seems to have been preserving the ethnic integrity of the Jewish community. For example, Ezra lamented that mixed-marrying Jews in his time had caused “the holy seed [to become] intermingled with the peoples of the land.”⁷ Similarly, the Rabbis likened sexual intercourse with a non-Jew to mixing seeds of unlike kind; as such, it constituted a violation of both Torah law and the divinely ordained natural order.⁸ The prohibition held firm through the Middle Ages, and persisted as a social norm in post-emancipation Europe, where “mixed marriage...meant leaving the Jewish community.”⁹ This remained so in America during the first half of the twentieth century, when endogamy was emphasized to

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promote Jewish communal solidarity amidst a Christian culture in which many Jews still felt insecure.¹⁰

The American milieu has changed dramatically since then, however. The old boundaries separating Jews from non-Jews have disappeared almost completely, and social intercourse between Jews and gentiles is a celebrated feature of contemporary American life. As a result, the rate of mixed marriage has soared from less than 5 percent in the 1950s¹¹ to nearly 60 percent today.¹²

Jewish law has always demonstrated sensitivity to changing social, cultural, and political circumstances. While one response has been to fortify the barriers against the outside world, there has also been a tradition of adjusting those boundaries to accommodate new realities. For example:

- The boundaries delineating who was, or could become, an Israelite/Judean/Jew remained in flux throughout antiquity as new political exigencies emerged.¹³
- In the Middle Ages, as European Jews became increasingly dependent for their livelihood on local economies, laws forbidding trade in gentile wine and commerce with Christians on their holy days were relaxed and even neutralized.¹⁴
- As economic pressures and social norms led nineteenth-century German Jews to violate Shabbat routinely, some authorities creatively interpreted the halachah to excuse their behavior, thus allowing these Jews to remain community members in good standing.¹⁵

Reform *p'sak halachah*, in particular, has often redefined boundaries as changing social norms have warranted doing so, notably in regards to the ordination of women, homosexuality, and patrilineal descent.

The rising rate of mixed marriage has, for some time now, presented another such challenge to existing communal boundaries. As this history of halachic development demonstrates, the question is not whether this particular boundary *can* be moved but, rather, whether it *should* be moved, and by what criteria?

A Halachic Approach to Boundary Adjustment: The Case of the Witness Who Shaved with a Razor

When I say a halachic boundary has been “moved” or “adjusted,” I do not mean that a *posek* somehow overturned a Torah prohibition

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or explicitly declared it to be no longer applicable. Rather, I mean that, as Katz, Ellenson, and others have shown, various *posekim* have responded to new sociological realities by interpreting the sources in ways that "move" or "adjust" the boundaries of the law—not by abrogating the authority of the law, but by changing the way it is *applied and enforced* in a given context. Of course, these *posekim* do so while insisting that the law as handed down is eternally valid and unchanging. Hebrew University scholar Avi Ravitsky has called this approach "conservative audacity." As Ellenson, quoting Ravitsky, explains it, this strategy

often allow[s] [the *posek*] not only to "neutralize the earlier source," but "to display halakhic flexibility in response to a new [social-political-religious] reality." Precedents contained in earlier writings are often deemed "irrelevant," as the circumstances that surrounded the source are completely different from those that obtain in the current situation. The vitality of Jewish law provides the rabbinic decisor with broad discretionary powers, as the rabbi has the right to assert that as "the contours and circumstances of life change," so the application of the law must change as well . . . In effect, [this] legal methodology facilitates innovation even as it affirms a fidelity to the tradition.¹⁶

An example of this strategy is found in an early nineteenth-century *t'shuvah* of the noted German Orthodox *posek* R. Akiva Eger (*Shu"t R. Akiva Eger* no. 96). R. Eger was asked whether a certain marriage could be annulled on the grounds that one of the witnesses to *kiddushin* was known to shave his face with a razor, which is a violation of an *isur lav* (a negative commandment of the Torah).¹⁷ Since one who transgresses an *isur lav* is deemed to be a *rasha* (a wicked person), who is untrustworthy to give testimony,¹⁸ it would seem that the man in question was an ineligible witness and that, therefore, *kiddushin* was not legally established. R. Eger rules, however, that the witness cannot be disqualified on account of this behavior, contending that contemporary circumstances necessitate a change in the way this particular law of testimony is applied and enforced in his time and place.

R. Eger's *t'shuvah* is particularly relevant to our present discussion because the prohibition against shaving with a razor is strikingly similar in nature to the ban on mixed marriage. As the classical sources understand them, both prohibitions aim to guard

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against the lure of idolatry and assimilation that comes with exposure to and emulation of gentile ways. For example, Maimonides contends that one reason for the shaving prohibition is that shaving the beard was a known practice of idolatrous priests in antiquity and in his own day.¹⁹ The thirteenth-century halachic work *Sefer HaChinuch* similarly explains that the purpose of the shaving ban is to distance the Jew from idolatry.²⁰ Yet by R. Eger's time, as social and political change had given German Jews more exposure to the surrounding culture, it had become increasingly common for German Jewish men to ignore this prohibition. Similarly, the ban on mixed marriage, which the Torah imposes out of concern that a gentile spouse will "turn your child away from following [the God of Israel] and they will serve other gods,"²¹ has become increasingly ignored by American Jews in recent decades as they have embraced, and been embraced by, American culture. In short, both the shaving and the mixed-marriage prohibitions, to borrow Katz's phrase, are meant to function as barriers against the outside; it is therefore not surprising that adherence to these halachic prohibitions declined as other such barriers separating Jews from gentiles in the broader society were reduced or eliminated. Given this strong parallel, I see R. Eger's approach in this case as a model for considering the question of mixed-marriage officiation in our own day.

R. Eger bases his argument on *Shulchan Aruch, Choshen Mishpat* 34:24, which states that one who transgresses a Torah prohibition (such as shaving his beard with a razor) is disqualified from giving testimony only when the act in question is widely known in the community to be forbidden. However, if he violates a prohibition that people generally do not know to be a transgression, "they need to warn him [that doing this makes him unfit to give testimony], and [only] after that does he become disqualified" from serving as a witness. The *Shulchan Aruch* cites playing dice regularly and collecting taxes for the government as examples of such transgressions that in past times would disqualify a witness. However, in R. Yosef Caro's time, such acts were not generally known to be forbidden.

R. Eger maintains that, in his own time, the prohibition against shaving with a razor falls into the category of a prohibition that people generally do not know to be a transgression, due to the impact of two factors. First, he notes that, despite the Torah's ban,

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shaving with a razor had become a widespread, socially accepted practice among German Jewish men, even prominent members of the community and those who were otherwise halachically observant. Second, R. Eger points out that the communal authorities were doing nothing to protest this behavior. Quite to the contrary, there were a number of instances in which the *beit din* had accepted testimony from clean-shaven men. Although, as he notes, the court may have done so only because there was uncertainty as to whether these witnesses used a razor or some other method to shave, R. Eger suggests that the *beit din's* actions had unintentionally created a mistaken impression among community members, since "the masses . . . see that the *bet din* accepts testimony from them . . . [and] from this, they have judged that [men who shave with a razor] are fit to give testimony." R. Eger reasons that these two factors had combined to make shaving with a razor something "which is not apparent to people that it is forbidden (*d'la mashma l'hu l'inshei d'asur*)." By this he means that while people commonly transgress this prohibition, they do so, as the *Shulchan Aruch* suggests, unwittingly and without malice.

R. Eger's use of the phrase "*d'la mashma l'hu l'inshei d'asur*" implicitly invokes a ruling of R. Moses Isserles (Rema) at *Yoreh Dei-ah* 119:7 that a person who is suspected of violating a halachic prohibition "which is not apparent to people that it is a transgression (*davar d'la mashma l'inshei she-hu aveirah*)" is still considered trustworthy to give testimony (*ne'eman*) on other matters.²² The implication of Rema's *p'sak* is that, although the general rule is that one who violates an *isur lav* is considered a *rasha* and is therefore automatically disqualified as a witness, the application of that rule in practice depends in part on the community's attitudes regarding that particular *isur lav*. The category of *davar d'la mashma l'inshei she-hu aveirah* functions as a mechanism within the halachah for altering the parameters of this rule of testimony in response to sociological change. By utilizing this category, R. Eger implies that in the contemporary sociological climate, a man who shaves with a razor, although he certainly violates an *isur lav*, can no longer justifiably be deemed a *rasha* and automatically disqualified from giving testimony on account of this behavior.

R. Eger then goes a step further. Although the *Shulchan Aruch* requires the community to warn the man that continuing to shave with a razor will cause him to be disqualified from giving

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testimony, R. Eger implies that in the current environment, this admonition would be futile since the offender would simply “respond that many important people do this.” In other words, the combination of prevalent behavior among the laity and the *beit din’s* public actions had created a context in which rebuking a man for shaving with a razor would be completely ineffective. As a result, R. Eger chose not to do so, even though the halachah technically imposed an obligation upon him to admonish the man for this sin. Thus R. Eger in effect allowed this particular halachah to fall into desuetude for his time and place.

Although R. Eger’s ruling relates specifically to the matter of testimony, his reasoning evidences an understanding that the *beit din’s* actions had much greater import for Jewish law and the Jewish community. In the penultimate paragraph of the *t’shuvah*, he argues:

It is obvious that one who commits a transgression involving a negative commandment is unfit to give testimony. And because they [the members of the community] see that the *bet din* accepts testimony from people who are shaven with a razor, and as far as they are aware the *bet din* knows that he [shaved] with a razor, this proves that in truth *there is no negative Torah commandment (isur lav) involved* [emphasis mine].

The significance of this position for Jewish practice is profound. To wit, based on what the people observed in the actions of both their peers and their communal leadership, it was logical for them to conclude that while shaving with a razor may technically be forbidden, it was *no longer an operative prohibition*. Though R. Eger certainly did not share the community’s assessment of the halachah, his categorization of shaving with a razor as something “which is not apparent to people that it is forbidden” is acknowledgment that the cultural change among the laity and the communal authorities’ response to that change had made enforcement of the prohibition in this context untenable. His ruling upholding the validity of the witness, therefore, has to be understood as impacting the enforcement of this prohibition not only in the sphere of testimony, but *in general*. As Adam Ferziger describes it in his book *Exclusion and Hierarchy*:

Eger did not look at those who shaved with a razor as deviants who committed acts that were outside the framework of norma-

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tive behavior. Rather, he admitted that these actions were part and parcel of Jewish life. This does not mean that he was pleased with the new situation, but to a certain degree, he made peace with it. He did so by adjusting the definition of who was considered *within the boundaries of reasonable Jewish behavior* [emphasis mine]. If fifty or one hundred years previously when such acts were committed the perpetrator would have lost his legitimacy as a member of the community with all privileges, in Eger's day, reality dictated otherwise.²³

The practical impact of R. Eger's *t'shuvah* is therefore to formalize a distinction between what modern secular legal theorists have called the "paper rules" and the "real rules":²⁴ while the prohibition against shaving with a razor remains unchanged in the law books (i.e., on paper), its lack of enforcement means that, in the real world, this behavior is in fact no longer forbidden in any meaningful way.²⁵

Two Criteria for Boundary Adjustment

From this significant *t'shuvah* of R. Akiva Eger, it is possible to discern a halachic approach to the adjustment of legal boundaries in response to sociological change. According to this approach, a change in the way a given prohibition is applied and enforced may be halachically justified if that prohibition is a *davar d'la mashma l'inshei she-hu aveirah* (something which is not apparent to people that it is a transgression). In order to apply this designation, two criteria must be met:

1. Members of the Jewish community in question commonly transgress the prohibition in public view, unwittingly and without malice, under the impression that, in practice at least, the behavior is not forbidden; *and*
2. The leadership of that community has acted, and continues to act, in ways that reinforce the laity's impression that the behavior is not forbidden in practice.

Applying These Criteria to the Question of Mixed-Marriage Officiation

How, then, does the matter of mixed marriage in the twenty-first century American Reform community measure up against these criteria?

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1. Contemporary Attitudes and Behaviors

Over the last half-century, changing social, cultural, and political circumstances have fueled a draconian shift in American Jews' attitudes on mixed marriage. As a result, many of the old policy rationales for the halachic ban are of questionable resonance among the contemporary community. For example, today's high rate of mixed marriage indicates that, in comparison to American Jews during the first half of the twentieth century, fewer American Jews today perceive the majority culture to be hostile. Therefore, they feel less need than previous generations did to maintain barriers against the outside. While assimilation remains a concern, sociologist Sylvia Barack Fishman notes that modern America's tolerant, multicultural ethos not only celebrates marriage across ethnic and religious lines, but also "promotes the idea that each partner can maintain his or her own distinctive, pre-marriage identity."²⁶ As a result, many contemporary American Jews do not regard marrying a gentile as something that would necessarily compromise their own ability to be committed Jews.

Furthermore, sociological data indicate that not only do most American Jews today not regard mixed marriage as forbidden but, as Fishman points out, "American Jewish resistance to [mixed marriage] has been replaced in recent years by the view that [mixed marriage] is normative."²⁷ She attributes this to various factors, including a tolerant secular culture, the increased presence of mixed-married couples in the Jewish community, and the impact of popular media, which present "interfaith families and [homes with] dual religious observances . . . as a cultural ideal in television programming for children as well as adults."²⁸ Put simply, today's American Jews are shaped, in part, by a culture in which marrying across religious lines is not only socially acceptable, but also something that is viewed positively. In this environment, it is hardly surprising that the majority of American Jews no longer actively opposes mixed marriage.²⁹

In light of these data, it is evident that the first criterion for applying the category of *davar d'la mashma l'inshei she-hu aveirah* to mixed marriage is met. While more than 70 percent of non-Orthodox American Jews³⁰ (including more than 50 percent of Reform Jews³¹) are marrying non-Jews, they are doing so in the main without any sense that the Torah's prohibition against such marriages is pertinent to modern Jewish life as they understand it.

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2. Actions of the Reform Leadership

The CCAR, in its resolutions and *t’shuvot*, takes a nuanced position on mixed marriage. It affirms the Movement’s welcoming attitude toward mixed couples who are already married while, at the same time, opposing rabbinic officiation at mixed weddings. A statement by the CCAR Responsa committee in a 2000–2001 *t’shuvah* succinctly articulates a rationale for this approach:

Although we do not use terms such as “prohibition” and “sin” to describe mixed marriage, and although we welcome mixed-married households into our community, *we do not condone mixed marriage itself* (emphasis mine) . . . [W]e want [our people] to make the choice for Jewish marriage, which by definition is a marriage between Jews. We do not in the least regret our welcoming attitude toward the mixed married and our efforts at outreach to them. But we should never forget that the ideal toward which we rabbis strive, teach, and lead is that *Jews should marry Jews* (emphasis mine).³²

That is to say, the out-marrying Jew is not regarded as a *rasha* whose general Jewish commitment is suspect; on the contrary, he/she is presumed to be a Jew in good standing. As such, he/she is welcomed into the Reform community with open arms and accorded full privileges of membership. However, despite the prevailing public view that mixed marriage is “a ‘normal’ aspect of Jewish communal life,”³³ it remains something that is at odds with the CCAR’s principles. Therefore, while present circumstances make it untenable and undesirable to penalize people for this behavior, they do not justify permitting a rabbi to actively help them violate CCAR standards by officiating at their marriages to non-Jews.

The CCAR *t’shuvah* acknowledges that the Reform community’s general acceptance of mixed marriage and the Movement’s outreach efforts to mixed-married families “have created the impression that marriage to a non-Jew is no longer an impediment to full participation in Reform Jewish life.”³⁴ It goes on to say, however, that this impression “rests upon an incomplete, and therefore, incorrect perception of our attitude toward marriage between Jews and non-Jews.”³⁵ If the Reform community does indeed have an incorrect perception of the CCAR’s position, it is likely because the

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URJ and Reform congregations—whose actions and statements are far more visible to the laity than are those of the CCAR—take a less nuanced and more “audaciously hospitable” approach to mixed marriage.

Indeed, these sectors of Reform communal leadership do much to foster normalization of mixed marriage, both in their messaging regarding mixed marriage specifically and in the values they espouse generally. The URJ brochure distributed to the mixed-married population³⁶ is a case in point:

- The brochure is headlined, “Intermarried? Reform Judaism Welcomes You.” Underneath this headline, the brochure states: “Reform Judaism has made the commitment to welcoming interfaith couples into congregations, embracing them and their children and offering support and education for their extended families.”
- Addressing the non-Jewish partner in a mixed marriage, the brochure states: “You are welcome in Reform synagogues as a friend of the Jewish people. You do not have to convert.”
- Nowhere does the brochure indicate that the Movement “does not condone mixed marriage itself.”

In addition, URJ President Rabbi Rick Jacobs, in his 2013 Biennial address that was heard by more than five thousand Reform Jews in attendance, covered in the national press, and disseminated widely over the Internet, said:

Incredibly enough . . . I still hear Jewish leaders talk about intermarriage as if it were a disease. It is not. It is a result of the open society that no one here wants to close . . .

In North America today, being “against” intermarriage is like being “against” gravity; you can say it all you want, but it’s a fact of life. And what would you prefer? More anti-Semitism? That people did not feel as comfortable with us?

In any event, we practice outreach because it is good for the Jewish people. Interfaith couples can raise phenomenally committed Jewish families, especially when they do it in the Jewish community that is offered uniquely by the Reform Movement.³⁷

Furthermore, the Reform Movement proudly emphasizes universalism and acceptance as defining values. For example:

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- Reform prayer books incorporate universalistic changes to the traditional liturgy, and deemphasize or omit particularistic language. As the HUC-JIR scholar Jakob Petuchowski notes, this is done in order to avoid creating "the appearance of an 'invidious comparison' between Jews and non-Jews."³⁸
- Children in Reform religious schools are taught that every human being is created in God's image, and that everyone should be loved and welcomed regardless of race, ethnicity, religion, sexual orientation, or lifestyle choice.
- At the same time, my sense is that few religious schools today teach their students "that Jews should marry Jews."³⁹

While the CCAR has consistently and cogently distinguished between welcoming mixed-married families and condoning mixed marriage itself, it is clear that the URJ and other centers of Reform leadership do not make this distinction apparent in their messaging. Given that lay Reform Jews are more intimately exposed to the URJ (through its literature, outreach programs, and public visibility), to the prayer books, and to the religious schools than they are to CCAR *t'shuvot* and resolutions, a person educated in a Reform congregation or exposed to Reform culture in any significant way may be astonished to learn that, as the CCAR contends, Reform Judaism does not condone mixed marriage.

In 1982, the CCAR Responsa Committee wrote regarding the Jew who seeks rabbinic officiation at a mixed marriage: "To the extent that identity is expressed through choice and commitment, it is the out-marrying Jewish individual who is doing the 'rejecting.'"⁴⁰ Today, due in large part to the Movement's own efforts, I find it plausible to argue the opposite: that a Reform Jew who goes out into the world and chooses a mate solely on the basis of love, respects that individual's personal religious convictions, and asks his/her rabbi to sanctify their marriage is, in a sense, *affirming* his/her identity and commitment to Reform values as he/she has been taught to understand them. Consequently, a rabbi's refusal to officiate at a mixed wedding on the grounds that Reform Judaism "does not condone mixed marriage itself" would be incomprehensible to most Reform Jews.

In sum, both criteria for halachic boundary adjustment are met:

1. The mixed marriage rate among Reform Jews is climbing steadily. This does not necessarily indicate a desire on their

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part to contradict Judaism or separate from the Jewish community; it is, rather, a reflection of the influence of the greater incidence of mixed marriage in their own families and communities as well as the broader culture of which they are a part. Even if they know that Jewish law technically forbids mixed marriage (and most probably do not), everything they observe around them indicates that this is *not an operative prohibition in contemporary Reform Judaism*.

2. The Reform Movement's energetic outreach to mixed-married families, along with the values taught in the congregational setting, reinforce the impression that mixed marriage is normative behavior that is fully acceptable to Reform Judaism.

I therefore conclude that mixed marriage is, in the contemporary American Reform context, a *davar d'la mashma l'inshai she-hu aveirah* (something which is not apparent to people that it is a transgression). This designation provides halachic justification for changing the way the prohibition is enforced.

The CCAR has already adjusted the boundary by declaring, in effect, that a Reform Jew who marries a gentile is not a *rasha* on this account but, rather, a Jew in good standing. As such, it has long been Reform policy to welcome mixed-married couples and families into our communities and to grant the Jewish spouse (and sometimes the non-Jewish spouse as well) the full privileges of membership. Yet, the CCAR's persistence in holding to the line that rabbis should not officiate at mixed weddings because Jewish tradition has always forbidden mixed marriage is, in my view, unjustified in light of the current sociological climate.

It has been argued that even if the halachah allows communal authorities to alter enforcement of a prohibition in response to sociological realities, it certainly does not justify authorizing those authorities to facilitate or participate in a transgression of a Torah prohibition by officiating at a mixed marriage, for example. It has been said to me: "True, R. Eger would not punish or exclude men who shave with a razor, but neither would he *give* them the razor. Officiating at a mixed marriage is like the rabbi handing the man a razor and helping him shave with it." To this I respond by pointing out that R. Eger's ruling in effect permits the *beit din* to continue to accept testimony from men who shaved with a razor. This is clear sanction by a noted *posek* for a communal institution to act in a

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way that would seem on its face to contravene the halachah. The mitigating factor, of course, is that in R. Eger’s view, shaving with a razor had become something “which is not apparent to people that it is forbidden,” which I am arguing is the case in respect to mixed marriage today.

It is also important to note that R. Eger justifies his ruling on the grounds that the *beit din* had signaled to the community that shaving with a razor was not an operative prohibition *simply by accepting testimony from such men*. What would he have done had the *beit din* also posted a brochure headlined, “Shave with a Razor? The *Beit Din* Welcomes You.”? I pose this rhetorical question to make the following point: the Reform Movement’s energetic outreach and welcome program—by virtue of it being a coordinated public relations strategy—surely has shaped Reform attitudes toward mixed marriage even more so than the *beit din*’s actions impacted the public view of shaving with a razor in R. Eger’s day. If R. Eger deemed that the effect of these relatively muted actions were great enough to warrant permitting the court to continue taking testimony from such men, then *kal v’chomer* (all the more so), the impact of our Movement’s much more aggressive actions provide sufficient justification for adjusting the boundary so as to permit rabbis to officiate at mixed marriages.

Finding

Although Jewish tradition has long banned mixed marriage, it is, in the present American context, a *davar d’la mashma l’inshei she-hu aveirah* (something which is not apparent to people that it is a transgression). The significant percentage of Reform Jews who are marrying non-Jews are doing so, in the main, without malice or desire to disconnect from the Jewish community. The Reform Movement’s energetic public efforts to recruit and integrate mixed-married families, together with the values it promotes in virtually every venue, do much to reinforce the prevailing American Jewish attitude that mixed marriage is normative behavior. Moreover, these efforts create an impression among Reform Jews that the prohibition against mixed marriage is not relevant to contemporary Reform life. I conclude that, as a result, mixed marriage is regarded in the Reform community today as “within the boundaries of reasonable Jewish behavior,” and it no longer makes sense

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for the rabbinate to hold otherwise. Given the current sociological environment, there is sufficient halachic justification for Reform rabbis to officiate at mixed-marriage ceremonies.

Can Mixed Marriage Constitute “Jewish Marriage”?

Kiddushin and Non-Jews

The halachic institution of “Jewish marriage” is called *kiddushin* (meaning “consecration”). In Reform practice, the bride and groom mutually establish *kiddushin*, each consecrating one to the other by signing a document (*ketubah*) and exchanging rings. As each one places the ring on the other’s finger, he/she recites the halachic formula *harei at/(atah) m’kudeshet/(m’kudsash) li b’taba’at zo k’dat Moshe v’Yisrael* (“Behold, you are consecrated to me by this ring according to the religion of Moses and Israel.”)⁴¹

The CCAR Responsa Committee has affirmed the normative principle that *kiddushin* is possible only between two Jews.⁴² Because Reform Judaism offers gentile partners the option of conversion *l’shem ishut* (for the sake of marriage) prior to the wedding,⁴³ one who chooses not to convert must be regarded as having decided, for whatever reason, to maintain some distance between him/herself and Judaism. Therefore, in my judgment, that person cannot say with integrity “I consecrate you to me . . . according to the religion of Moses and Israel.” Thus I concur with the CCAR’s position that mixed marriage cannot constitute *kiddushin*.

An Alternate Paradigm for Mixed Marriage

There is precedent in Jewish history for marital unions that are not *kiddushin*. The phenomenon of gentiles entering into the Jewish community through marriage, without undergoing conversion, was known to have occurred even during antiquity.⁴⁴ Similarly in our time, unconverted spouses frequently participate in congregational life, practice Judaism in their homes, and provide Jewish education for their children. Although these individuals are not Jewish, neither should they be regarded as *stam* gentiles who have no personal connection to or stake in the Jewish people. R. Kassel Abelson, a member of the Conservative Movement’s Committee on Jewish Law and Standards, argued in a 1982 *t’shuvah* that “these individuals have made a partial commitment to the Jewish people by marrying Jews, and having

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Jewish families. We should therefore consider such individuals as being ‘in transition’ to full commitment.”⁴⁵ In recognition of the love and devotion these gentile spouses show to Judaism and the Jewish people, R. Abelson proposed calling them *reyim ahuvim*, a term from the traditional wedding liturgy meaning “beloved friends” of our community.

In my judgment, a gentile spouse-to-be may also demonstrate such “partial commitment to the Jewish people”—and therefore be counted among the *reyim ahuvim*—even *before the marriage occurs*, for example, by pledging to maintain a Jewish home and raise Jewish children, and by asking Jewish clergy to perform the wedding. Such overtures would show love and respect for his/her Jewish partner, a desire to honor Judaism, and perhaps openness to conversion in the future. Since, as Abelson maintains, “The higher interests of the Jewish people call for us to make such *reyim* welcome in the synagogue and in the Jewish community,”⁴⁶ I believe we should agree to solemnize their marriages in some way.

Key European Reform leaders already endorsed this view as early as 1844. Dr. Joseph Von Maier, president of that year’s Brunswick Rabbinical Conference, noted that halachah recognizes two forms of marriage, *kiddushin* (Jewish marriage) and *b’ulat ba’al* (Noachide marriage).⁴⁷ This latter category also referred to Jewish marriage prior to the introduction of *kiddushin*⁴⁸ and is used by the Torah to describe Abraham and Sarah’s marriage.⁴⁹ Maier argued that, in his time, *b’ulat ba’al* referred to the institution of civil marriage. Since a Jew and a gentile theoretically⁵⁰ could be united in civil marriage, mixed marriage could be considered halachically valid as a form of *b’ulat ba’al*. While such unions could not be sanctified in the same way as endogamous ones, they could legitimately be affirmed in a Jewish religious context.

I concur, therefore, with my Reform colleague R. Andrea London that marriage between Jews and *reyim ahuvim* may be considered “a form of Jewish marriage, but not *kiddushin*.”⁵¹ I propose calling such unions “Jewish civil marriage.” As such, it is appropriate to solemnize them in a Jewish way. But what rituals should be used?

A traditional Reform wedding consists of two discrete ceremonies:

- *Kiddushin* (consecration). This includes the signing of a *ketubah*, the recitation of *Birkat Eirusin*, and the exchange of

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rings accompanied by the declaration, “You are consecrated to me . . . according to the religion of Moses and Israel.”

- *Nisuin* (nuptials). This consists of the *Sheva B’rachot* (seven blessings), which are recited while standing under the chuppah. While, in our time, *kiddushin* is also performed under the chuppah, the Talmud holds that chuppah technically belongs to *nisuin*.⁵²

The rituals of *kiddushin* should not be performed in a mixed wedding, for the reasons discussed above. The propriety of incorporating *nisuin* rituals, however, is less clear. Alluding to halachic discussions of *b’ulat ba’al* during the 1844 Brunswick Conference, Maier held that civil marriage “is not religious marriage” because “*chuppah* and *Qiddushin* are not part of them (*chuppah v’qiddushin ein lahen*).”⁵³ On this view, chuppah belongs exclusively to religious marriage and should not be included in a Jewish civil marriage ceremony. On the other hand, R. London argued in 2010 that, unlike *kiddushin*, there is nothing about *nisuin* that gentiles cannot do with integrity. Indeed, “by standing under the [chuppah], a couple makes a statement that they are prepared to create a Jewish home and to be part of the Jewish community,” which is consistent with the goals of sanctifying a mixed marriage in the first place. She held, therefore, that a mixed wedding could include the rituals of *nisuin*, including chuppah.⁵⁴

In my view, there is room for discretion on this matter. However, officiants should take care to make mixed weddings different from endogamous ones, in order to maintain a distinction between Jewish civil marriage and *kiddushin*. In this regard, it makes sense to create a special liturgy suitable to the unique nature of mixed marriage.⁵⁵

Finding

Mixed marriage cannot constitute *kiddushin*, since one who has not accepted Judaism cannot say “You are consecrated to me . . . according to the religion of Moses and Israel” with integrity. Still, I find good reason for the Reform community to affirm marriages between Jews and *reyim ahuvim*, gentile partners who show love and commitment to the Jewish people by, inter alia, seeking rabbinic officiation with sincere intent. These unions may be solemnized ceremonially as “Jewish civil marriage.” The rituals of *kiddushin*

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should not be performed. If *nisuin* rituals are incorporated, they should be adapted so as to maintain a distinction between *kiddushin* and Jewish civil marriage. The preferred approach is to create an alternate liturgy that expresses the special nature of marriage between Jews and *reyim ahuvim*.

Can a Rabbi Officiate at a Marriage that is Not *Kiddushin*?

The CCAR Responsa committee has held that Reform rabbis "are empowered to 'officiate' only and exclusively at Jewish marriage ceremonies, and we know of no form of 'Jewish marriage' other than *kiddushin*."⁵⁶ I have argued, by contrast, that unions between Jews and *reyim ahuvim* can constitute a form of Jewish marriage distinct from *kiddushin*. In my view, this is sufficient reason for a rabbi to perform a wedding of this kind. Although he/she may not do so in the traditional role of *m'sader(et) kiddushin* (facilitator of *kiddushin*), a rabbi is also a licensed civil marriage officiant, and I maintain that he/she may perform a mixed wedding in this capacity.⁵⁷ Indeed, I believe the following considerations argue for doing so in this particular case:

1. Requesting rabbinic officiation may be an out-marrying Jew's attempt to connect Jewishly.

Mixed couples today have the luxury of choosing from a variety of possible wedding officiants, including personal friends who can easily obtain a license over the Internet. Therefore, a couple's decision to ask a rabbi to officiate says something about their intentions. In a nineteenth-century case of a Jewish father who sought *b'rit milah* for his son born of a gentile mother, Orthodox *posek* R. Zvi Hirsch Kalischer interpreted the father's request as an act of *t'shuvah* (repentance, or turning toward Judaism).⁵⁸ For Kalischer, this overture indicated the man's desire to draw himself and his child closer to Judaism. I see good reason for a modern Reform rabbi who is asked by a Jew to officiate at his/her mixed marriage to receive this request as Kalischer did: as either an act of *t'shuvah* (in the sense of turning toward) or one of *keiruv* (drawing closer), signifying the individual's desire to connect with Judaism at this special moment in his/her life. If this is indeed so, contended Kalischer, then the rabbi is obligated to "make an opening of hope for him" to draw closer. The fact that many mixed-married Jews

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report having felt disconnected from Judaism and the Jewish community since childhood⁵⁹ makes doing so all the more urgent. If a rabbi rejects this Jew's overture at this vulnerable moment, he/she may unwittingly "push him away with both hands."⁶⁰

2. The rabbi can bring Judaism into a moment that would otherwise lack it.

A mixed couple who has decided to marry will likely do so whether or not a rabbi agrees to officiate. If need be, they will seek a civil officiant. I hold that it is preferable that their rabbi act as that civil officiant and so bring Jewish sanctity to a moment that would otherwise lack it—for example, by incorporating certain Jewish rituals, readings, and themes into the ceremony. As Kalischer put it in the aforementioned circumcision case, the rabbi should perform the ceremony "in joy . . . [for] we should not become embroiled in what we are powerless to prevent, but . . . should aid them, and not, God forbid, repel them, in that which will bring them merit."⁶¹

3. The symbolic impact of rabbinic officiation would help the couple feel more accepted.

The rabbi is a symbolic representative of Judaism. Regardless of the rituals he/she performs, the rabbi's presence as wedding officiant signals the Jewish community's approval of the couple, their marriage, and their families. By conducting a Jewish civil ceremony, the rabbi would communicate to the couple and their families that they are fully welcome in the Reform community and minimize feelings of insecurity and marginalization that may arise if the rabbi waits until after the wedding to embrace them. The rabbi would thus support—and, indeed, advance—the Movement's goal of making Reform Judaism a loving home for mixed-married families.

4. Rabbinic officiation may give future children a better chance of being raised Jewish.

According to Reform halachah, a child is Jewish if he/she is born to one Jewish parent (mother or father) and is raised as a Jew. Therefore, a mixed couple's future children will be Jewish only if their parents decide to raise them as such. If rabbinic officiation can help a couple connect spiritually with Judaism and feel fully

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welcome in the Reform tent, perhaps they will be more inclined to raise their children as Jews. As the prominent German Orthodox *posek* R. David Zvi Hoffman put it in allowing a halachically questionable conversion, “It is better that the *beit din* should commit [a] minor sin . . . so as to accustom him to Jewish life in order that there may be worthy Jewish children from this couple.”⁶² Similarly, it is preferable for the rabbi to solemnize a marriage that is not *kiddushin* in order to give the couple’s future children a better chance of being raised as Jews.

Finding

Since marriage between Jews and *reyim ahuvim* may be regarded as “Jewish civil marriage”—a form of Jewish marriage distinct from *kiddushin*—a rabbi may perform such a wedding in his/her capacity as a licensed civil officiant. In effect, the rabbi would conduct a civil ceremony with Jewish content.

Does Mixed Marriage Jeopardize Jewish Continuity?

What the Data Show

In a 2000–2001 *t’shuvah* restating its opposition to mixed marriage, the CCAR Responsa Committee wrote:

The purpose of our rabbinical function, our teaching, counseling, and leadership, is to help our people make *Jewish* choices, build *Jewish* homes, and ensure the transmission of *Jewish* life and identity to our children. Mixed marriage tends to frustrate the achievement of these ends.⁶³

This contention is supported in certain respects by the sociological data, at least in the aggregate. According to the 2013 Pew Study, “20% [of mixed-married Jews] say they are raising their children as Jewish by religion and 25% are raising their children partly Jewish by religion. Roughly one-third (37%) of [mixed-married] Jews who are raising children say they are not raising those children Jewish at all.” By contrast, 96 percent of Jews who have a Jewish spouse are raising their children Jewish by religion.⁶⁴ Children of mixed-married couples are much more likely themselves to marry non-Jews than are those who grow up in endogamous families.⁶⁵ They “are [also] much more likely than the offspring of two Jewish

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parents to describe themselves, religiously, as atheist, agnostic or nothing in particular” (i.e., to become “Jews of no religion,” in Pew’s terminology).⁶⁶ According to Fishman, a key factor that contributes to weakening Jewish identification among children of mixed marriages is that “the vast majority of mixed-marriage households . . . are not unambiguously Jewish,”⁶⁷ meaning that Christian or other religious practices are also present in the home.

Yet these statistics do not tell the whole story. Importantly, they do *not* suggest that *every* mixed marriage will *necessarily* result in an erosion of Jewish identity. After all, 20 percent of mixed-married families *are* raising their children as Jews by religion. Fishman’s research indicates that families who raise their children exclusively as Jews are far more likely to engage in Jewish life than are those who practice two religions or no religion in the home.⁶⁸ Indeed, some mixed-married families are among the most active members of Reform congregations today, while many endogamous members rarely walk through the synagogue door. Such engagement in Jewish life by mixed-married families may be having a positive impact on Jewish continuity. According to Pew analysts, the 2013 survey “suggests that a rising percentage of the children of intermarriages are Jewish in adulthood.”

Among Americans age 65 and older who say they had one Jewish parent, 25% are Jewish today. By contrast, among adults under 30 with one Jewish parent, 59% are Jewish today. In this sense, intermarriage may be transmitting Jewish identity to a growing number of Americans.⁶⁹

In short, the data surrounding mixed-marriage paint a complex picture. Each marriage is unique, and it would be erroneous, in my view, to judge any one couple’s potential to transmit Judaism and Jewish identity to the next generation on the basis of aggregate statistics. I believe, therefore, that a mixed-marriage officiation policy should be based on a case-by-case evaluation of each couple. Following the Responsa Committee’s statement, this evaluation should aim to discern whether a given mixed couple is likely to “make *Jewish* choices, build [a] *Jewish* home, and ensure the transmission of *Jewish* life and identity to [their] children.” Since this requires making a subjective judgment, each rabbi should develop a process for doing so that is suitable and comfortable for him/her.

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My Case-by-Case Approach

Based on the foregoing analysis, I intend to pursue the following process in working with couples seeking my officiation at a mixed marriage: Before deciding whether to officiate, I will seek to understand the couple’s motivations for wanting a Jewish wedding and gauge their interest in being part of the Reform community. If their motivations are sincere, I will outline my conditions for officiation. I will ask each couple to:

- Commit to maintaining an unambiguously Jewish home and to raising all future children exclusively as Jews, both of which are essential to ensuring Jewish continuity. To that end, even as the gentile spouse’s decision not to convert at the present time should be respected, the couple must pledge to practice Judaism in the home, to the exclusion of all other religions.⁷⁰ The couple should sign a document affirming these commitments, perhaps ritually as part of the wedding ceremony.
- Participate in substantive education about Jewish religion and practice, so they can learn how to create a Jewish home and cultivate Jewish religious identity in their children. (Specifically, I will ask them to take the sixteen-week “Introduction to Judaism” class offered by the URJ in our area.)
- Engage in premarital counseling with me, during which we will explore, inter alia, issues and challenges that are pertinent to mixed-married families.⁷¹

In my view, a couple who makes these commitments with pure hearts will contribute to, rather than jeopardize, Jewish continuity. The non-Jewish spouse should therefore be counted among the *reyim ahuvim*, and I can conduct their wedding in good conscience.

Finding

Although mixed marriage often contributes to erosion in Jewish identity and continuity, it does not *always* or *necessarily* do so. Rabbis should consider each officiation request individually. If, in the rabbi’s judgment, a couple is likely to maintain an unambiguously Jewish home, raise all children exclusively as Jews, and participate in the Reform community, he/she can conduct their wedding in good conscience.

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Conclusion

In the Reform community today, mixed marriage is considered by most to be within the bounds of reasonable Jewish behavior. There is halachic precedent for adjusting communal boundaries in response to changing sociological realities, and it is in the interests of Reform Judaism to do so in this case. If a rabbi judges that a mixed couple is likely to promote Jewish continuity, he/she can perform their wedding as a Jewish civil ceremony. Preferably, the rabbi would do so using a liturgy created especially for mixed marriage, so as to maintain a distinction between Jewish civil marriage and *kiddushin*.

Notes

1. Because CCAR responsa and resolutions use the term “mixed marriage,” I have opted to use it for the sake of consistency. According to historian Alan T. Levinson, “In sociological parlance, intermarriage signifies a marriage when one person converts to the religion of the second. Mixed marriage signifies a marriage between two persons of different faith, and outmarriage (or exogamy) signifies either phenomena.” Levinson is quoted in Heather E. Miller, “Every Layman is Asking Us: ‘What Are You Doing?’: The Controversy Over Intermarriage at the 1844 Brunswick Rabbinical Conference” (HUC-JIR Rabbinic Thesis, 2008), 76.
2. David Ellenson and Daniel Gordis, *Pledges of Jewish Allegiance* (Stanford, CA: Stanford University Press, 2012), 8. On “religious policymaking” see David Ellenson, *After Emancipation* (Cincinnati: Hebrew Union College Press, 2004), 68. Ellenson attributes this phrase to Jacob Katz.
3. Ronald Dworkin, quoted in Ellenson, *After Emancipation*.
4. Deut. 7:4.
5. BT *Kiddushin* 68b.
6. Ezra 9:12; Neh. 10:31.
7. Ezra 9:2.
8. See Shaye J. D. Cohen, *The Beginnings of Jewishness* (Berkeley, CA: University of California Press, 1999), 303.
9. Sylvia B. Fishman, *Double or Nothing* (Hanover and London: University Press of New England, 2004), 136.
10. Ellenson, *After Emancipation*, 35–36.
11. *Ibid.*, 43–44.
12. Pew Research: Religion and Public Life Project, *A Portrait of Jewish Americans*, “Chapter 2: Intermarriage and Other Demographics,”

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October 1, 2013, <http://www.pewforum.org/2013/10/01/chapter-2-intermarriage-and-other-demographics/>. The 2013 Pew Study found that 58 percent of currently married Jewish respondents “who have married since 2005 indicate they are married to a non-Jewish spouse.” Pew’s data show that the mixed-marriage rate has climbed significantly over the past five decades. Among those surveyed whose marriages are still intact, 17 percent of those married before 1970 are married to non-Jews. By comparison, among those married between 2000–2004 and 2005–2008, 58 percent are married to non-Jews.

13. See Cohen, *Beginnings of Jewishness*, 69–139. Cohen explains that the *Tanach* itself knows of no way in which a gentile can become an Israelite. Gentiles were first given the opportunity to join the Judean people during the Hasmonean period, and the process of formal public conversion was standardized only during the rabbinic period.
14. See Jacob Katz, *Tradition in Crisis* (Syracuse, NY: Syracuse University Press, 2000), 18–19.
15. See Adam Ferziger’s discussion of R. David Zvi Hoffman’s responsa on this issue, in Adam S. Ferziger, *Exclusion and Hierarchy* (Philadelphia: University of Pennsylvania Press, 2005), 176–77. According to Hoffman, contemporary Jews who violated Shabbat were ignorant of the law and simply “follow[ing] the ways of the land.” For a similar approach to Shabbat desecrators, see Ferziger’s discussion of R. Eriq Hildesheimer’s responsa in *ibid.*, 162ff.
16. David Ellenson, *Jewish Meaning in a World of Choice* (Philadelphia: The Jewish Publication Society, 2014), 160. The article quoted by Ellenson (noted in Ellenson’s book at 164, n. 53) is Avi Ravitsky, “‘Ways of Peace’ and the Status of Gentiles according to the Rambam: An Exchange of Letters with Rabbi Hayim David Halevi,” in Zohar and Sagi, *A Living Judaism*, 255–85, here 264.
17. Lev. 19:7; *Sefer HaMitzvot*, negative commandment 44; *Sefer HaChinuch*, commandment 252.
18. See *Yad, Hilchot Edut* 10:1–2. For detailed discussions of who qualifies as a *rasha*, see *Yad, Hilchot Sanhedrin* 18:1, which explains the category generally, and 19:4, which outlines the 168 transgressions, including shaving the beard, which disqualifies one from serving as a witness.
19. *Sefer HaMitzvot*, negative commandment 44.
20. Commandment 252.
21. Deut. 7:4.
22. Rema’s ruling is based on a *t’shuva* of R. Solomon b. Adret (Rashba), 1:430.
23. Ferziger, *Exclusion and Hierarchy*, 79.

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24. This distinction was originally proposed by Karl Llewellyn. See Frederick Schauer's discussion and elaboration of Llewellyn's ideas in F. Schauer, "Legal Realism Untamed," *Texas Law Review* 91 (2013): 749–80. For a bibliography of Llewellyn's discussions of this distinction, see especially *ibid.*, 750, n. 5.
25. It is important to note that because R. Eger's *t'shuva* alters only the "real" (or "working") law but keeps the prohibition intact on paper, it leaves open the possibility that a future generation could return to it and enforce it differently.
26. Fishman, *Double or Nothing*, 5. Fishman's analysis of issues surrounding mixed marriage in her book *Double or Nothing* (Hanover and London: University Press of New England, 2004), which I have referenced several times in this paper, is based on the 2000–2001 National Jewish Population Survey.
27. *Ibid.*, 6.
28. *Ibid.*, 122.
29. *Ibid.*, 6. "Active opposition" to mixed marriage, as Fishman defines it, is expressed by agreement with the statement that "it would pain me if my child married a gentile." According to her data, 39 percent of American Jews voiced this sentiment. While it is possible that some of the remaining 61 percent may prefer that their child married another Jew (though her research did not measure this), "The great majority of American Jews believe that [mixed marriage] is inevitable in an open society." Therefore, even if they do not actively endorse mixed marriage, neither do they actively oppose it. That is to say, they have come to terms with it.
30. Greg Smith and Alan Cooperman, "What happens when Jews intermarry?" Pew Research Center, November 12, 2013, <http://www.pewresearch.org/fact-tank/2013/11/12/what-happens-when-jews-intermarry/>. According to the Pew Study, 72 percent of all currently married non-Orthodox American Jews whose marriages occurred since 2000 had a non-Jewish spouse. This group includes Jews whom the study defines as "Jews of no religion," meaning "people who describe themselves (religiously) as atheist, agnostic or nothing in particular, but who have a Jewish parent or were raised Jewish and who still consider themselves Jewish in some way." *A Portrait of Jewish Americans*, "Sidebar: Who is a Jew?," <http://www.pewforum.org/2013/10/01/sidebar-who-is-a-jew/>. According to Pew, "One-in-five Jews of no religion describe themselves as Reform Jews (20%)." *A Portrait of American Jews*, "Chapter 3: Jewish Identity," <http://www.pewforum.org/2013/10/01/chapter-3-jewish-identity/>.
31. Pew reports that fully 50 percent of *all* currently married Reform Jews whose marriages occurred since before 1970 were in mixed-marriages. *A Portrait of American Jews*, "Chapter 2:

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- Intermarriage and Other Demographics," <http://www.pewforum.org/2013/10/01/chapter-2-intermarriage-and-other-demographics/>. Although the study did not report the mixed-marriage rate among Reform Jews by year, the dramatic increase in that rate among the entire non-Orthodox population over the last ten to twenty years indicates that the current rate of mixed-marriage in the Reform community is well above the 50 percent mark.
32. Central Conference of American Rabbis, "May a Jew Married to a Non-Jew Become a Rabbi?," in *Reform Responsa for the Twenty-First Century*, vol. 2, ed. Mark Washofsky (New York: CCAR, 2010), 270–71.
 33. *Ibid.*, 270
 34. *Ibid.*
 35. *Ibid.*
 36. Union for Reform Judaism, "Intermarried? Reform Judaism Welcomes You," http://urj.org/kd/_temp/7E4A5834-1D09-6781-A12E91A314408EF4/Intermarried-_Reform_Judaism_Welcomes_You.pdf.
 37. Rick Jacobs, "The Genesis of Our Future," San Diego Biennial, December 12, 2013, http://urj.org/about/union/leadership/rabbijacobs/?syspage=article&item_id=109240.
 38. Jakob Petuchowski, *Guide to the Prayerbook* (Cincinnati: HUC-JIR, 1992 [reprint]), 54.
 39. Admittedly, my sense is based on nonscientific, anecdotal conversations with rabbinic colleagues and Reform educators. I have been unable to find a scientific study indicating what Reform religious schools are teaching their students about mixed-marriage. This would be fertile ground for research.
 40. Walter Jacob, et al., "Rabbi Officiating at a Mixed Marriage," in *American Reform Responsa*, ed. Walter Jacob (New York: Central Conference of American Rabbis, 1983), 469.
 41. *Shulchan Aruch, Even Haezer*, 27:3 and Rema gloss thereto. While the traditional halachic formula is recited only by the groom to the bride, it has become customary in Reform practice, based on the Reform principle of gender egalitarianism, to adapt the formula such that it can be recited by the bride to the groom as well.
 42. The halachic principle is stated at BT *Kiddushin* 68b, on the basis of Deut. 7:3. On the CCAR holding this position, see *American Reform Responsa*, 468; *Reform Responsa for the Twenty-First Century*, Vol. 2, 270; Central Conference of American Rabbis, "On Homosexual Marriage," In: *Reform Responsa for the Twenty-First Century*, Vol. 1, ed. Mark Washofsky (New York: Central CCAR, 2010), 235ff.
 43. *American Reform Responsa*, 470.
 44. Cohen, *Beginnings of Jewishness*, 156.

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45. Kassel Abelson, "The Non-Jewish Spouse and Children of a Mixed Marriage in the Synagogue," <http://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/20012004/24.pdf>, 132.
46. Ibid.
47. On Maier's position, see Miller, "Every Layman is Asking Us," 57. Maier cites the Talmudic statement *b'ulat ba'al yesh lahen* (BT *Sanhedrin* 57b). Noachides are gentiles who have accepted the seven commandments given to Noah.
48. See *Yad, Ishut* 1:1.
49. Gen. 20:3.
50. I say "theoretically" here because, as Miller notes ("Every Layman is Asking Us," 33), Jews and gentiles were not yet permitted to marry civilly at the time Maier made this argument. Rather, he made his statement as an argument for why the state should legalize such marriages. See Miller for a thorough discussion of this issue.
51. Andrea London, "Intermarriage Officiation," unpublished paper (Evanston, IL: Beth Emet, The Free Synagogue, 2010), 10.
52. BT *K'tubot* 7a.
53. Quoted in Miller, "Every Layman is Asking Us," 57. The source of Maier's principle *chuppah v'qiddushin ein lahen* is unclear. It may be that he deduced it from the Talmudic dictum *b'ulat ba'al yesh lahen*, i.e., if Noachides have *b'ulat ba'al*, it can be inferred that they do not have *chuppah* and *kiddushin*. This idea is also supported by Rashi in his explanation of *b'ulat ba'al yesh lahen* at BT *Sanhedrin* 57b, and by *Yad, Melachim* 9:7 and *Kesef Mishneh* thereto, which indicate that a Noachide marriage is effected by sexual intercourse and not by *chuppah* or *kiddushin*.
54. London, "Intermarriage Officiation," 11.
55. In making this recommendation, I follow Samuel Holdheim, the German radical Reformer who supported mixed-marriage officiation. According to historian Michael Meyer, Holdheim "devised a non-denominational wedding liturgy [for mixed marriages] which referred only to the universal God 'whom I recognize in my heart.'" Meyer is quoted in Miller, "Every Layman is Asking Us," 76, with the source citation: Michael Meyer, *German-Jewish History in Modern Times: Volume 2 Emancipation and Acculturation 1780–1871* (New York: Columbia University Press, 1997), 197.
56. *Reform Responsa for the Twenty-First Century*, Vol. 1, 243.
57. R. Kaufman Kohler addressed this matter specifically in a 1919 responsum, stating: "As to the question whether a rabbi can in the capacity of a layman consecrate mixed marriage, let me simply

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say that neither Judaism nor the State law acknowledges such a marriage as legal." I am not sure what he means by his statement that State law does not acknowledge the legality of such a marriage, and I am reluctant to speculate about his intention. In any case, rabbis in our day can easily obtain a civil officiant's license. While a civil ceremony performed by a rabbi would not be considered valid *kiddushin*, it would be recognized by the state as a legal civil marriage. See Kohler's responsum in: *American Reform Responsa*, 466. See also: "Commitment Ceremonies for Heterosexual Couples; Jewish Wedding Ceremonies in the Absence of a Civil Marriage License," in *Reform Responsa for the Twenty-First Century*, Vol. 2, 261–68. This responsum concludes that a rabbi's civil function is inseparable from his/her religious function, insofar as Reform Judaism does not consider a marriage which is sanctified religiously but not civilly to be valid. However, the responsum does not consider the reverse possibility, i.e., whether a marriage is considered valid if a rabbi solemnizes it civilly but not religiously as *kiddushin*. Presumably, however, Reform Judaism would recognize such a marriage as valid, since it would certainly recognize a civil marriage certified by any other civil officiant as valid.

58. Zvi Hirsch Kalischer, responsum published in *The Responsa of Rabbi Esriel Hildesheimer, Y.D.*, 229. For the same view, see Marcus Horovitz, *Matte Levi, Y.D.*, 54, 55. Both responsa are discussed in David Ellenson, *Tradition in Transition* (Lanham, MD: University Press of America, 1989), 71–73 and 116–22.
59. Fishman, *Double or Nothing*, 18.
60. Kalischer, responsum published in *The Responsa of Rabbi Esriel Hildesheimer, Y.D.*, 229.
61. *Ibid.*; translation by Ellenson, *Tradition in Transition*, 119.
62. David Zvi Hoffman, *Melammed L'ho'il, Y.D.* 83; translation by Solomon R. Freehof, *A Treasury of Responsa* (Philadelphia: Jewish Publication Society of America, 1963), 238.
63. *Reform Responsa for the Twenty-First Century*, Vol. 2, 271.
64. Pew Research, *A Portrait of Jewish Americans*, "Overview," <http://www.pewforum.org/2013/10/01/jewish-american-beliefs-attitudes-culture-survey/>.
65. According to Pew, "Among married Jews who report that only one of their parents was Jewish, fully 83% are married to a non-Jewish spouse. By contrast, among married Jews who say both of their parents were Jewish, 63% have a Jewish spouse and 37% have a non-Jewish spouse." *A Portrait of Jewish Americans*, "Chapter 2: Inter-marriage and Other Demographics."
66. Smith and Cooperman, <http://www.pewresearch.org/fact-tank/2013/11/12/what-happens-when-jews-intermarry/>. These Pew

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analysts report that 53 percent of baby boomers who are children of mixed marriages and 51 percent of millennials who are children of mixed marriages are today Jews of no religion.

67. Fishman, *Double or Nothing*, 69.
68. Ibid.
69. Smith and Cooperman, <http://www.pewresearch.org/fact-tank/2013/11/12/what-happens-when-jews-intermarry/>
70. The 2013 Pew Study found a sharp contrast between the child rearing patterns of Jews by religion, on the one hand, and those of Jews of no religion, on the other. Seventy-one percent of Jews by religion with children in the home reported that they are raising those children as Jews by religion. By contrast, only 8 percent of Jews of no religion with children in the home are raising their children as Jews by religion, while 67 percent of Jews of no religion with children in the home are raising their children as “not Jewish.” *A Portrait of Jewish Americans*, “Chapter 3: Jewish Identity,” see table on “Jewish Child Rearing.” These data suggest that practicing Judaism in the home may be a key factor in transmitting Judaism and Jewish identity to the next generation. For this reason, it is my goal to help mixed couples understand the importance not only of having no other religions present in the home, but also of actively practicing Judaism in the home.
71. In addition to counseling them prior to marriage, London (“Inter-marriage Officiation,” 5) contends that the rabbi’s role is “to foster [a mixed couple’s] connection to a Jewish social network” and help them “to create Jewish homes within Jewish communities.” Indeed, research indicates that such mentorship dramatically increases the chances that a mixed-married couple will become Jewishly engaged (Fishman, *Double or Nothing*, 70–72). Therefore, I believe that rabbis and their congregations should develop means of helping them navigate Jewish life both before and after the wedding. As of this writing my congregation has not yet developed such a program, though we hope to do so.