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February 27, 1968

Rabbi Norman Lamm
The Jewish Center
131 West 86th Street
New York, New York 10024

Dear Rabbi Lamm:

Your essay "Law and Love" in the February 23, 1968 edition of the "Bulletin" has filled me with disquiet and I should like to deliver myself of some thoughts.

You say "We are discharging our responsibility to them [our fellow Jews who have abandoned Jewish marriage law] and to their children. . .and to generations yet unborn, informing them and cautioning them about the Torah's law of marriage and legitimacy." I gather you mean that we, the Orthodox, are responsibly upholding the letter of our law of marriage and divorce and woe to those who do not heed. In my opinion this view is irresponsible, not responsible, in terms of real problems with which people become involved. If, as I believe is the case, people are asked to decide whether to submit to a set of laws in circumstances where applications are manifestly unjust and harsh or ignore the law, the law will be ignored and held up to ridicule, and indifference and disrespect to all its precepts will be encouraged. As I suggest below, the law regarding divorce is in immediate need of reform and it is not seemly to caution others unless there is a will and intention to bring such a reform about.

Let us take the case of a woman, wronged by an adulterous husband who abandons her and their children and moves to a distant state, perhaps to remarry or otherwise to take up life anew. From every point of view, the best course of the woman, for herself and her children, would be to divorce herself from her husband and remarry. Civil law permits this. With the husband's consent, Jewish law permits this.

In times of old, consent of the husband could often be compelled for by custom and law a man could only with difficulty escape the jurisdiction of the rabbis. Consent cannot be compelled today. Should not law recognize this changed condition. Was God at Sinai deficient in his omniscience so as not to foresee such a changed condition?

I cannot believe that religious institutions can be so paralyzed as not to remedy this, and many similar, situations. The possibilities of construing or implying a consent to a husband who refuses to heed a notice addressed to him by a bet din, or replies giving insufficient cause for his abandonment, or who refuses to enter into conciliation, come so quickly to mind as to shock and annoy one that Orthodoxy refuses to stir from its paralysis. The annoyance is all the greater since Jewish law and custom can contribute substantially to society's current malaise in family law and responsibility.

But the law remains moribund and substantial numbers of sincere people suffer anguish from an impossible dilemma. If they defer to religious loyalty, they defy every appearance of reason, sense, and duty to themselves and to their children to create a healthy, normal home. If they defer to reason and sense, they condemn the seed of their new marriage to eternal, immutable bastardy. Is there any better way to hold up the law to ridicule and to encourage indifference to all its precepts?

For these reasons, I hold the Orthodox view on this subject irresponsible. If, as I suspect, the reason for the current legal paralysis is not so much the lack of a rationale as to how reform could be accomplished, but rather the inability of the Orthodox to come together on the subject, the cautionary note given by your article to "our fellow-Jews" (without making qualifications among them) invites the charge of being supercilious and aggrandizing.

I trust that you will excuse my directness. I respect law and tradition and therefore feel seriously bothered by injustice. It is in this spirit that I write.

Respectfully,



Alvin K. Hellerstein

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