

The Politics of Exclusion in Judaism

Hatam Sofer

I. Brief Biography

Moses Schreiber, known to his own community and Jewish posterity as Moshe Sofer, also known by his main work Chasam Sofer, (trans. Seal of the Scribe and acronym for Chidushei Toras Moshe Sofer), (1762 – 1839), was one of the leading Orthodox rabbis of European Jewry in the first half of the nineteenth century. Rabbi Moses Sofer was born in Frankfurt am Main, Germany, in 1762, and died in Pressburg, Moravia, in 1839. He was a teacher to thousands and a powerful opponent to the Reform movement, which was then making inroads into many Jewish communities in Austria-Hungary and beyond. As Rav of the city of Bratislava, he maintained a strong Orthodox Jewish perspective through communal life, first-class education, and uncompromising opposition to Reform and radical change.

II. Texts and Contexts

1. During his own lifetime, he was recognized by many as the most authoritative voice in the flight of traditionalists to stem the advances of Reform Judaism and prevent the Jews of his region from becoming acculturated to the surrounding society. As such, he is considered to be the main architect of a new, Orthodox approach to Jewish life. After his death, his opinions were constantly cited by those claiming to follow in his path as justification for their positions. In describing Sofer's opinion of those born Jewish who ceased to live traditional lives, Jacob Katz comments: "Deviators automatically forfeited the right to be called Jews." (61)

2. By the early decades of the nineteenth century, the last vestiges of coercive traditional society had ceased to exist in the larger German cities; it was no longer possible to enforce religious observance upon individuals. Those rabbinic courts that still existed dealt almost exclusively with ritual issues rather than civil ones. If nonobservance was not yet the normative lifestyle of the majority throughout Germany, there were already cities where Sabbath desecrators were in the majority, while in all cities, it was certainly no longer unusual behavior. (62)

3. Both in portrayals written by followers and in modern historiography, the Hatam Sofer has become associated with the separatist Orthodoxy that developed in Hungary in the second half of the nineteenth century. His approach is considered to be at the root of many of the extreme exclusionist positions that were later adopted by what has become known as Hungarian "Ultra-Orthodoxy."

Indeed, he expressed the notion that deviants should be separated from the Jewish people... Apparently confronted by a new phenomenon, the elders of the community [of Transylvania] addressed the following query to the Hatam Sofer: what is the punishment for a public Sabbath desecrator? The Hatam Sofer's answer was vehement, seemingly leaving no room for interpretation. All Sabbath desecrators, who in a perfect halakhic society would face execution after conviction, should be dealt with as follows:

It is not in our power to judge capital cases, rather we must enlist the ministers of the government to force them to uphold the religion of Israel. Notwithstanding, if such a person will not listen, and the laws cannot be enforced, he is thus separated from the community of Israel and judged as having deserted the religion. He is no longer an Israelite

nor is he a Christian nor Turk. Therefore, it is forbidden for any Israelite to eat in his home, the meat which he slaughters is prohibited...we do not accept his testimony nor validate his oaths. Generally speaking, it is as if his name has been erased from Israel until he returns to God, who has mercy on him...All his food and drink have the status of being prohibited [*be-chezkat issur*] for he has lost his reliability.

The text does not indicate any considerations in the Hatam Sofer's reasoning beyond the simple reality of an established Jewish community simultaneously confronting two new difficulties: a decline in the level of observance of some of its members, together with the loss of the traditional autonomous powers that would allow its guardians to discipline such deviants. (63-64)

4. Despite his well known dictum, "that which is new is biblically forbidden," Sofer did not reflexively condemn anything novel in his generation. As an example, the practice of removing beards did not bother him, as long as it did not violate any halakhic norms. On 21 July 1800, The Hatam Sofer wrote a responsum in which he confronted a colleague who complained of people in his community who were clean-shaven. Sofer retorted that "regarding your attack on the clean-shaven, what is all this uproar...for it [such a prohibition] is not to be found in the Talmud and the later authorities [*poskim*]...that shaving should serve as a differentiation between Jews and non Jews." (64)

5. Clearly, all his decisions were based on halakhic precedent; yet his choices of when to adopt a strict position and when to be lenient are telling. By allowing the soldier [a circumcised Jew who wore a cross indicating apostasy] to be buried among the Jews [he had already been buried], Sofer affirmed the basic Jewish identity of this sinner. No matter how far he had distanced himself in his lifetime from Jewish observance, he remained attached to the Jewish people...Essentially, through his ruling, the Hatam Sofer erected two boundaries – one external and one internal. He maintained the historic border between the Jewish and gentile worlds, and he established an additional one what served to distinguish between those who had adopted the ways of the gentile world and those whom he referred to as "full fledged Israelites." (66)

6. Early in his career, the Hatam Sofer introduced an additional component into his approach toward sinners, namely, the offspring of these sinners. In a halakhic essay completed on 8 August 1801...Sofer examined the oft-discussed question of whether to punish a sinner according to the letter of the law when it was likely that this would push him to apostasy. He posited that if the only concern was that the sinner himself would be lost to the Jewish people, he was inclined not to worry about the reaction of the guilty individual. Often, however, there were Jewish children involved who would naturally follow the teachings of their parents and be lost to Judaism. In such cases he affirmed a lenient approach, for how can we "push away with our own hands a falling stone that will cause his sons 'to go to the grave'? [*laredet shabat*]?"...

Yet the Hatam Sofer did not leave this as a blanket allowance. Regarding the Sabbateans and their children, the Sofer ignored this factor declaring:

A further distinction must be made. For, surely an evildoer who is a sectarian and heretic abandoner of the Torah, one can be almost positive, will teach his false beliefs to his children...***then one can logically conclude that there is no reason to be concerned for the children...Thus, it appears to me that the accursed sect of believers in Sha"Z [Shabbetai Zev]...should be pursued with their sons and daughters...It is preferable that they be separated from the community of exiles, that they mix with the gentiles, they and their children.*** It would be considered a grand *mitzvah* if while they are still among

the Jews, their bread be the [prohibited] bread of the Kutites and their wine be the [prohibited] wine of libation. [Emphasis original] (69-70)

7. The analogy between the Reform and the historic list of sectarians who eventually split off from Judaism was used once again in the Hatam Sofer's strongest (and most quoted) statement regarding the status of the Reformers...

If we had the power over them, my opinion would be to separate them from us [our borders], we should not give our daughters to their sons and their sons should not be accepted for our daughters so as not to be drawn after them. Their sect should be considered like those of Zadok and Boethus, Anan, and Saul, they among themselves will be among ourselves. All this appears correct according to the law [halakha], but not in practice [*le-ma'ashev*], for without permission of the king...my words have no authority. (73)

8. Within the world of nonideological transgressors, The Hatam Sofer further distinguished between transgressors and full-fledged converts to Christianity...Sofer explained that a public Sabbath desecrator was a "*mumar* regarding the entire Torah" and on that basis was forbidden to circumcise and ritual slaughter. His testimony as well was disqualified. But he emphasized that there was still a great difference between such a transgressor and those who formally converted to Christianity. The major practical ramification of this distinction was in regard to the relationship of observant Jews to these two types of deviants. It was permissible to marry the children of public Sabbath desecrators, while apostates had cut off their offspring as well from the Jewish people: "As to their daughters too, we must distinguish between an apostate who has polluted himself among the gentiles – for he is essentially like a gentile [*ke-nokhri mamash*], while if he is an Israelite...it is possible that his sons will not follow him. (75)

Ferziger, Adam S. *Exclusion and Hierarchy: Orthodoxy, Nonobservance, and the Emergency of Modern Jewish Identity*. Philadelphia: University of Pennsylvania Press. 2005.