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When Kashrut is Not "Kosher": The Post Postville Struggle Over Eating, Ethics and American Jewish Identity

Rebecca Z. Hornstein

Macalester College, rhornste@macalester.edu

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**When *Kashrut* is not “Kosher”:
The Post Postville Struggle Over Eating, Ethics and American
Jewish Identity**

Rebecca Hornstein

Advisor: James Laine

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Introduction: A Desecration of God's Name

Before the spring of 2008 the town of Postville, Iowa was best known as a setting of unlikely multicultural interactions many saw as only possible in the American heartland. Since the late 1980s, the tiny Midwestern town had been the site of Agriprocessors, the country's largest *kosher*¹ meatpacking and processing plant. A group of *Haredi*² Jews belonging to the *Lubovitcher* sect of *Chassidic*³ Judaism ran and operated Agriprocessors. Through their ownership of the plant the ultra-Orthodox Jews, and their mainly Guatemalan and Mexican immigrant workforce, lived alongside Iowans who had called Postville home for generations. By the early 2000s, the average Postville festival featured falafel and *pan dulce* alongside hot dogs and donuts (Jones). These events, while perhaps surreal, were emblematic of a town where disparate groups lived closely together, creating scenes that appeared as cultural curiosities to outsiders.

Around 10 am on May 12, 2008, Postville was interrupted by the sound of black helicopters belonging to US Immigration and Customs Enforcement (ICE). That morning the town became the site of the largest single day immigration raid in US history. The uneasy order these distinct communities had maintained for decades around a common economic interest was instantly, violently and permanently disrupted. In a matter of hours, ICE detained and criminalized approximately four hundred undocumented

¹ In accordance with the Jewish dietary laws of *kashrut*. The word kosher is generally translated as "fit."

² *Haredi* literally means "God-Fearing" and is often used to refer to ultra-Orthodox Jews. I use the two terms interchangeably.

³ "One of at least three main types of *Haredi* Jews, who trace their origins to the Yeshiva world of eighteenth-century Lithuania (and who originally opposed practices associated with *Chassidim*), and Jews with Middle Eastern backgrounds who emerged in Israel in the twentieth century."³ Samuel Heilman describes *Chassidim* in general as "the most enclavist" of all forms of *Haredi* Orthodoxy" (Gross).

workers, almost 20% of Postville's population at the time. After a disorganized and frenzied trial process, many were deported. The US government sent immigrant parents of US born children back to their home countries separating families in the process. Those left behind suffered from severe psychological and economic hardship (Camayd-Freixas 3). The raid on Agriprocessors was both unique in terms of scale; no single day raid that large with as many detentions had ever been attempted before, and in terms of the government's severe treatment of the arrested workers. State agencies hastily charged many detainees with felonies and forced them to spend months in jail prior to deporting them. The Postville School Superintendent described the event as a "natural disaster-only this one was manmade" (McCarthy 29). The raid devastated the entire town.

The national press became obsessed with the raid's impact and implications. For months, Postville was a fixture on the front page and opinion sections of the *New York Times*. Media accounts of the raid often emphasized the abuses to which Agriprocessors had allegedly subjected its workers. Though dramatic, the accusations of labor exploitation following the ICE raid reflected an ongoing pattern of questionable Agriprocessors practices. It first became clear not all was well in Postville in November 2004, when People for the Ethical Treatment of Animals (PETA) released a video showing what they described as inhumane animal slaughter practices within the plant. A 2006 journalistic investigation of Agriprocessors by Nathaniel Popper published in the *Jewish Daily Forward* made disturbing allegations of worker abuse and exploitation and put labor rights and immigration activists on notice.

Popper wrote about wages denied to Latino/a immigrant workers, working conditions resulting in lost limbs, and levels of worker intimidation that were uniquely

troublesome, even within the notoriously harsh world of meatpacking (*Kosher 'Jungle' Breeds Fear*). The investigation ended with a quote by Mark Grey, an Iowa professor of immigrant labor, “The bottom line here is that I’m not sure these devout Jews are using Jewish ethics to treat their workers,” (Ibid.). It was a sentiment that was both enthusiastically echoed and bitterly contested by Jews across the country. A collective “oy vey” reverberated throughout the American Jewish world during the ICE raid and subsequent media storm and intensified an already brewing intra-communal debate surrounding the connection between contemporary ethics⁴ and the ancient ritual practice of *kashrut*. As Jews who connected their Jewish identity with liberal⁵ politics began to question the relevance of a *kashrut* that allowed for the violation of their contemporary ethical concerns, they threw into dispute the power to define what it means to eat as an American Jew.

For ultra-Orthodox Jews, the aspect of the liberal Jewish response to Postville that sought to define *kashrut* through “ethical values” was a threatening and personal attack. Rabbi Pesach Lerner, Executive vice president of the National Council for Young Israel, a powerful umbrella group for ultra-Orthodox synagogues, stated his perspective in an

⁴ In the context of this particular debate “ethics” was explicitly connected to one or a combination of three specific values: Fair treatment of workers, humane treatment of animals and environmental sustainability.

⁵ I use “liberal” to mean adhering to a political view based in the ideas of progressivism, protection of civil liberties and universal equality. Thus when I use the term “liberal Jew” I mean to refer to Jews and Jewish groups who ascribe to this political ideology and connect it to their understanding of Judaism as a religion. The terms “Liberal” and “Progressive” Judaism are also often used to refer to non-Orthodox Jewish movements but that is not how I am using them here. When I mean to describe something or someone as religiously liberal as opposed to politically liberal, I will explicitly say “religiously liberal.”

editorial for the Orthodox newspaper *Yated Ne'eman*, written in the aftermath of the raid. “And yes,” he stated, “we began to hear rumblings from the liberal Jew, Orthodox and otherwise, who began to challenge our traditions of what is kosher and what is not, who began to call for additional and varied kosher supervision, and who began to challenge the Orthodox Jew - the Torah Jew - in general” (Lerner). For Rabbi Lerner, a conversation about *kashrut* that placed ethics and ritual side by side was not merely a commentary about the importance of labor rights, animal rights or the environment. Rather, the newly emerging ethical *kashrut* movement was a concerted assault on his brand of Orthodoxy as a whole. As Reform, Conservative, Reconstructionist and liberal Orthodox Jews began to connect ethics to the *halachic*⁶ practice of *kashrut*, the “Torah-True” Jews of Rabbi Lerner’s persuasion maintained unwavering opposition and emphasized the importance of ritual. These positions resulted in a polarized and heated dispute inside the Jewish community.

The role of *kashrut* in creating differences within the Jewish world did not begin with the actions of Agriprocessors. Historically, food related rituals have always been crucial in constructing Jewish identity. The laws of *kashrut* are a way for Jews to draw boundaries between themselves and their gentile neighbors, as well as between themselves and other Jewish groups. In *Jewish Identity and Eating*, David Kraemer’s historical analysis of *kashrut* as a means to articulate and form intra-Jewish boundaries, he rightly claims, “Jewish eating is and always has been a ‘negotiation’ that is, a struggle on the part of individual Jews and the community over where the boundaries of Jewish

⁶ From *halacha*-the collective body of Jewish law; includes biblical, Talmudic and rabbinic law.

identity should be laid”(5). In biblical times, concerns surrounding purity helped create the very foundation for an “Israelite” identity (10). Laws formed concerning the separation of milk and meat during the Rabbinic Period served to distinguish Rabbinic Jews from non- Rabbinic Jews (Ibid.). The elaborate system of dish separation established amongst European Jewry by the 18th century was, once again, a means to “divide, reflect and reinforce” (118) intra-Jewish differences. Jewish eating embodies a social act tied to identity. Food related rituals are used to create and reflect divisions within Jewish communities. In the United States today, the “many compromises or reinterpretations of Jewish eating restrictions are, in fact, attempts at reimagining what it means to live and identify as a Jew in a gentile world” (147).

While the type of intra-religious arguments over Jewish eating, and by extension Jewish identity, have been fixtures throughout Jewish history, the intensity of the debate surrounding the relationship between ethics and *kashrut* reflects current divisions within American Judaism. Maintaining a sense of unity is a far greater challenge to American Jews today than in the past. Widespread Anti-Semitism in United States during the 1920s, 1930s and 1940s⁷ contributed to “a strong sense of group identity that transcended factional divisions” (Sarna 220). Jews during this time “remained firmly rooted in a subculture that consisted largely of Jews” (Sarna 225). They even participated in a Jewish “sub-economy” through which they “helped to sustain one another” (Sarna 223). This sense of common fate shifted dramatically in the decades to follow as Jews moved out of closed communities after WWII and into middle class suburban affluence (Freedman 39). By the late 1980s, the strength of intra-Jewish disagreements was enough to disrupt the

⁷ Leading to widespread educational quotas, restrictive covenants, occupational discrimination and physical attacks (Sarna 219).

functioning of philanthropic institutions that had long catered to the “American Jewish Community.” Major donors threatened to stop giving to Jewish causes as the result of ideological disagreements with other Jews (Wertheimer, *A People Divided* 15).

In the past few decades these vast schisms have grown deeper. Some believe a general rightward turn within American religious life is sweeping traditional branches of Judaism along with it (Heilman 11). In this analysis, the divisions within American Judaism are not so different from growing ideological divisions within American Protestantism, Catholicism, Islam and Hinduism. Others have come to view the increasing polarization within American Judaism as the result of the uniquely comfortable space life in the United States has afforded to Jews. The unprecedented lack of a strong, institutionalized anti-Semitism, which historically served to unite Jews across ideologies, has caused “the most comfortable, secure and profitable Jewish community in history [to also be] one of the most factious” (Freedman, *Jew vs. Jew* 27). Many continue to predict American Jews will soon split into divided camps with little interaction across ideological lines, as groups choose between “Jewish continuity or American dynamism” (Freedman, *Jew vs. Jew* 358).

The revelation of various controversial practices within the Agriprocessors meatpacking plant, particularly through the 2008 ICE raid, forced Jewish groups to publically state the extent to which they believed unethically produced food could be considered *kosher*. The ensuing clashes surrounding dietary ritual and ethics were not, however, dichotomous ones between pre-existing “liberal” Jewish groups and their “Orthodox” counterparts. Rather than forcing Jews into one of two camps, the debate spurred by Postville compelled participating individuals, groups and institutions to

continuously negotiate their identity in relationship to each other. These tensions reflected, reinforced and complicated communal boundaries as the debate over contemporary liberal ethics' connection to *kashrut* escalated. Through the discourse, some Jews began to proclaim the often-discussed choice between Jewish continuity and American dynamism to be a false one. I argue that as Jewish groups negotiated new lines of demarcation in regards to the issue of ethical *kashrut*, they challenged established notions about how they should interact with their cohorts "to their right" and those "to their left." As they struggled over where to lay the boundaries of their communal identities through responding to Postville, they revealed that American Jewish communities have entered into a period of flux. Through this instability, many American Jews are challenging the once established power dynamics between liberal and Orthodox Jews, as well as the assumed binary between the two identities.

This thesis will explore and analyze how the Postville raid shaped the debate over ethical *kashrut* and Jewish identity. Most American Jews have not been engaged in, or are even aware of the post-Postville discourse regarding the relationship between ethics and *kashrut*. Although only a small number of individuals actively participated in the debate through public statements and actions, their perspectives reverberated throughout Jewish institutions. Journalists, commentators and self-published Internet blogs amplified the stances of prominent rabbis, Jewish activists and community leaders by giving their voices widespread media exposure. In order to explore how the dispute challenged previously held assumptions, the thesis will compile and analyze disparate Jewish organizational actions, public statements and in- depth semi-structured interviews conducted with several of the debate's most active participants. Interview questions

focused on Jewish identity, personal definitions of Jewish ethics and *kashrut* and motivations for taking action to advance those definitions within the American Jewish community. The purpose of the interviews is not to provide a statistically relevant sample or draw hard and fast conclusions as to who participated in this discourse and why. Rather, through analyzing the interview responses of specific participants in conjunction with statements published through the media, I will paint a clearer picture of what prompted these contributors to take action. Each of the following chapters is meant to be a case study comparing statements and responses to Postville in order to demonstrate how viewpoints emerged and shifted through the ongoing discourse surrounding ethical *kashrut*.

The first chapter recounts the story of Agriprocessors, the scandals surrounding it, and the debate it prompted. It is an introduction to the key players and events spanning from Soviet Russia to the fields of rural Iowa to the Upper West Side of Manhattan. The section explores the development of competing definitions of *kashrut* and provides a timeline documenting when and how they came to be. The purpose of the first chapter is to compile key events and arguments of the debate into one narrative utilizing the numerous newspaper articles, radio programs, online blogs and institutional statements published between 2004 and 2011,⁸ in addition to information gathered during interviews I conducted during the summer of 2012. The chapter introduces the debate's key players and the actions they took to promote their own perspective regarding ethics' place within

⁸ The debate over Agriprocessors' practices started with the PETA video in 2004 and peaked after the ICE raid, reaching its full intensity between 2008 and 2009. While the debate is ongoing, it has calmed significantly over the past few years.

the *halachic* ritual of *kashrut*, framing the analysis of the discourse in subsequent chapters.

The second chapter provides an in-depth look into the perspective of groups who see ethics and Judaism, and by extension ethics and *kashrut*, as synonymous. It delves into how Jewish political liberalism and Prophetic Judaism emerged as crucial voices within the American Jewish community and the motivations these groups have for its preservation. Through statements made in the press and through interviews, the chapter will describe how Postville prompted liberal Jews to equate *kashrut* and social ethics, reinterpreting Jewish ritual through liberal political ideology. In doing so, the response of politically liberal Jews to the Postville raid challenged the notion that religiously liberal Jews will always defer control over the definition of ritual *kashrut* to those to their right.

Chapter three explores the emergence of the Orthodox social justice organization *Uri L' Tzedek* (Awaken to Justice), a group who first asserted their place within a national Jewish discourse through their participation in debate over ethics and *kashrut* after Postville. The section explores new Conservative and modern Orthodox initiatives to define ethical *kashrut* practices. The existence of young modern Orthodox Jews committed to maintaining their Orthodox identities while simultaneously joining with liberal Jews to respond to the Agriprocessors raid further challenges the assumption of the “liberal” and “Orthodox” binary. Their perspective as a “postmodern Orthodox” Jewish social justice group breaks down the assumed dichotomy between liberal Jews who connect their Jewish identity to universal values and Orthodox Jews who prefer to remain insular and focused on “Jewish continuity.” Together, the post Postville reactions of disparate Jewish groups demonstrate shifting boundaries within the American Jewish

community as well as the current need to complicate old rules and assumptions regarding intra-Jewish relationships.

Chapter 1

Rabbis Gone Wild: The Story of the Postville Debate

For those active in the debate over *kosher* ethics and ritual in the context of Postville, the name “Rubashkin” tends to evoke strong emotions. For a number of liberal Jews, it conjures up feelings of anger and shame. Many members of the *Chabad-Lubuvitch* community, on the other hand, see the Rubashkin family as well respected and charitable co-religionists, egregiously wronged through scandals surrounding Agriprocessors. In 1929, when Aaron Rubashkin, the looming patriarch of the family, was born in the Russian city of Nevel, the name was undoubtedly much less controversial. In the old country, the Rubashkins, very much like the other mostly *Lubuvitch* members of the Jewish community, were deeply involved in *shtetl* life (Popper, “How the Rubashkins”). In 1941 the Nazi Army came to Nevel, forcing Aaron to Uzbekistan where he hid until the end of the War (Zman). Eventually, Aaron made his way to Brooklyn, the post-WWII headquarters of the *Chabad-Lubuvitch* movement. He opened a Butcher shop on 14th street, creating a community institution and building a prominent place for himself within the New York ultra-Orthodox world (Popper, “How the Rubashkins”).

In the 1980s Aaron saw an opportunity. The kosher food industry was undergoing several fundamental changes and there was ample room for a savvy ultra-Orthodox businessman to capitalize on those shifts. Orthodox communities were beginning to

demand only *glatt*⁹ kosher meat produced in accordance to the strictest ritual standards. In addition, national *kosher* certification agencies began to rise to prominence and replaced local kosher supervisors and slaughterers (Fishkoff, *Kosher Nation* 136). The time was ripe for *kosher* meat to “go industrial.” In 1987, the family purchased the abandoned Hygrade slaughterhouse in Postville and renamed it Agriprocessors, transforming the production of *kosher* food in the United States.

Agriprocessors employed mass-production techniques and became the first kosher business to slaughter, soak, salt, butcher and package the meat at the same facility (Fishkoff, *Kosher Nation* 280). The method allowed them to produce *kosher* meat more cheaply than it had ever been produced before. It made fresh *kosher* meat more widely available to observant Jews across the country. As the Rubashkins made kosher meat easier and cheaper to buy, they also created new markets for *kosher* meat by making it accessible to Jews and non-Jews who did not consistently observe the ritual practice of *kashrut*. Although expanding the availability of *kosher* food fits into *Chabad-Lubavitch* creed of promoting Orthodox Jewish observance, a religious calling was never Aaron’s sole aim in purchasing the plant. “We are going because we are businesspeople,” he said, “in *Chabad* philosophy, you are supposed to be very truthful. If I say to you, I did all the things with the intention to make people eat kosher only, that wouldn’t be truth” (Popper, “How the Rubashkins”).

As businesspeople, the Rubashkins were successful by all measures. By the time of the raid, 60 percent of kosher beef and 40 percent of kosher poultry in the United

⁹ *Glatt* is Yiddish for smooth. It has also come to mean meat from an animal whose lungs, upon postslaughter inspection, reveal no scarring or adhesions (Fishkoff, *Kosher Nation* 340).

States was produced in Postville (Fishkoff, *Kosher Nation* 279). Agriprocessors saw annual sales of \$250 million (Ibid.). There has always been, however, a darker side to Aaron Rubashkin's achievements. Due to both his bitter memories of Soviet Russia and his unwavering focus on the bottom line, Aaron carried a consistent and intense disdain for labor unions (Fishkoff, *Kosher Nation* 280). In 1995 the National Labor Relations Board stated that the Rubashkins had a "proclivity" for violating the National Labor Relations Act (Daily Kos). The Rubashkin family took full advantage of Iowa's status as a "right to work" state by blocking perennial efforts by the United Food and Commercial Workers Union (UFCW) to organize the plant's workers (Ibid.).

While their union busting practices invited critique from those concerned with labor rights, the Rubashkin's first real brush with public controversy had nothing to do with their treatment of workers. In 2004, People For the Ethical Treatment of Animals (PETA) released an undercover video showing what they defined as gratuitous animal cruelty at Agriprocessors. The graphic and "grisly" (*The Washington Post*) video of cattle slaughter brought international media attention (*The Forward*, *The Jerusalem Post*, *The Los Angeles Times*, *The New York Times*, *NPR*, *The Washington Post*, and others) and sparked a conversation among American Jews concerning ethics within the contemporary kosher meat industry (Gross). In the aftermath of the PETA video, hundreds of rabbis signed a petition declaring Agriprocessors' "unethically" slaughtered meat *treyf*¹⁰ while Orthodox leaders defended Agriprocessors' slaughter methods as *kosher*.¹¹

¹⁰ Non-*kosher* food.

¹¹ The Orthodox Union, the largest and most influential *kosher* certification board, issued a statement on December 29, 2004 vouching for the *kashrut* of Agriprocessors while indicating that changes to their slaughter methods should be made (Gross).

For about a year and half after the PETA video controversy died down, Agriprocessors managed to stay out of the public eye and continued to dominate the *kosher* meat market. As the Rubashkin family momentarily kept a low profile, two rabbis based in St. Paul Minnesota formed an unlikely alliance over a shared interest in making *kosher* food more widely available in the Twin Cities. Their partnership began in 2005 when the *kosher* butcher that had long catered to St. Paul's *kosher* observant Jews closed its doors. In January 2006, Rabbi Morris Allen, the leader of the Conservative¹² Beth Jacob synagogue, and Rabbi Asher Zeilingold, the local *Chabad-Lubivitch* rabbi, began to work together to encourage other supermarkets to stock *kosher* meat. For Rabbi Allen, interest in the accessibility of *kosher* meat was tied to his "Chew by Choice" initiative. Through "Chew by Choice," Rabbi Allen sought to encourage his Conservative congregants to engage with the ritual practice of *kashrut* (Prell 294).

Four months later, Agriprocessors came under media scrutiny once again, irreparably damaging the working relationship and burgeoning friendship between the two Minnesotan rabbis. On May 26, *The Jewish Daily Forward* published Nathaniel Popper's influential series of articles scrutinizing Agriprocessor's labor practices. The investigation found that the plant's workers were exploited, underpaid and received substandard safety instruction. Two days later, Rabbi Zeilingold took a trip to Postville with a Spanish speaking congregant to refute Popper's findings. He publically defended Agriprocessors, characterizing *The Forward's* accusations as "completely unfounded,

¹² Conservative Judaism is a movement at the religious center, generally considered to be situated between the more religiously liberal Reform movement and more traditional Orthodox movements (Wertheimer 2000; 2). The term does not at all indicate the political ideology of its members. Institutionally, the Conservative movement coordinates nationally through the United Synagogue of Conservative Judaism (USCJ).

without any basis in fact” (Freedman, “Rabbi’s Campaign for Kosher”). In response, Rabbi Allen brought a five person “Commission of Inquiry” (2 rabbis and 3 community leaders appointed by the Conservative movement) to Agriprocessors several months later. They spent a day in Postville speaking with workers and touring the plant. “We weren’t able to verify everything Popper wrote,” Rabbi Allen would later report, “but what we did find was equally painful and filled with indignities” (Ibid.).

On *Yom Kippur* of 2006, the Jewish Day of Atonement, Rabbi Allen came to his congregation with an idea. He proposed the American Jewish community create a way to, in his words, “evaluate ethical norms of the Jewish tradition, and laws that emerge from them that are no less important and may be found in the same Torah as the laws of *kashrut*,” (Spektor). The *Heksher Tzedek* or “Justice Seal” initiative, which became a catalyst for the debate over the relationship between ethics and *kashrut*, began with Rabbi Allen’s sermon that night. In Allen’s vision, the seal would demarcate products produced in accordance with “Jewish ethics and social values,” with the best practices for treatment of workers, animals and the environment (“Magen Tzedek Standard”). It would appear on products already bearing the ritual kosher certification seals, which currently adorn one-third to one-half of all processed food products sold in the United States (Fishkoff, *Kosher Nation* xii). After what he had seen in Postville, Rabbi Allen wanted to assure his congregants that the *kosher* food he was urging them to buy was produced in accordance “spirit of values of contemporary American Jewry, which acknowledges the importance of acting with integrity” (“Magen Tzedek Standard”).

In December 2006, the congregational arm of the Conservative movement, the United Synagogue of Conservative Judaism (USCJ), threw its support behind the

initiative and vowed to further develop the idea. The following summer, the USCJ and the Conservative movement's Rabbinical Assembly, officially launched *Hekhsher Tzedek* as a joint project. Immediately, prominent Orthodox rabbis vocally opposed it. They called the project an attack on traditional *kosher* certifications, and by extension, Orthodoxy and its values. Rabbi Zeilingold publically called Rabbi Allen's actions "deceptive" (Freedman, "Rabbis Campaign for Kosher") and predicted, "all [*Hekhsher Tzedek*] will accomplish is drive a wedge between Conservative and Orthodox" (Popper, "Orthodox Slam Effort"). The Central Rabbinical Congress, a body representative of the far right within the ultra-Orthodox community, told *kosher* companies not to let Conservative rabbis into their factories (Ibid.). A prominent Orthodox rabbi called *Hekhsher Tzedek* an "alien imposition" (Freedman "Rabbis Campaign for Kosher").

The idea of an ethical *kosher* certification backed by a religiously liberal Jewish movement prompted a carefully crafted response by The Orthodox Union (OU), arguably the most important player in the entire *kosher* food industry. The OU is a Manhattan based umbrella organization for Orthodox congregations in North America. The group is perhaps most well known for its *kosher* division, whose unprecedented success has made it the influential leader of a global *kosher* certification and supervision enterprise involving hundreds of millions of dollars (Fishkoff, *Kosher Nation* 8). Rabbi Menachem Genack, the kosher division's longtime CEO, took a more moderate yet still decidedly defensive stance in relation to Rabbi Allen's project. "Our expertise is in *kashrus*," he said in 2007, "fundamentally, all these different areas, workers' rights, animal treatment, and environmental concerns, require attention. But it requires expertise, authority, all that

is in place in terms of American law right now. There is not a more *halachic* requirement beyond that area of law," (Lipowsky).

The American law's relationship with the *kosher* food industry, however, shifted dramatically on May 12, 2008 as the US government conducted its largest scale single day immigration raid at the Rubashkin's Agriprocessors plant. The consequences of the raid, implemented by the United States Immigration and Customs Enforcement (ICE), were devastating for all involved. 400 undocumented workers found themselves in an unimaginably tragic position, criminally charged with accusations they did not understand and faced with the prospect of imminent deportation (Camayd-Frexias 2). The town of Postville lost a third of its population overnight. The future of a town that had economically relied on Agriprocessors for over two decades suddenly looked terrifyingly bleak (Camayd-Frexias 3). May 12, 2008 marked the beginning of a free fall decline for the Rubashkin family as well. The company was eventually forced to declare bankruptcy while members of the family, most notably Aaron's son Sholom Rubashkin, the CEO of Agriprocessors at the time, were arrested on multiple criminal accounts (Popper, "How the Rubshkins").

The raid received significant national publicity, and shed light on the actions of the country's largest *kosher* meatpacking plant. The New York Times editorial board published pieces titled "The Shame of Postville" and "The Jungle, Again," writing, "the conditions at the Agriprocessors plant cry out for the cautious and deliberative application of justice." Organized Jewish groups across the country took this call to action to heart, although the exact meaning of "justice" after Postville differed immensely

from Jew to Jew. The intra-Jewish debate surrounding ethical *kashrut* continued to escalate throughout the summer, becoming increasingly ugly as its stakes grew higher.

For the grassroots social justice organization *Uri L' Tzedek* (Awaken to Justice), formed by modern Orthodox rabbinic students the previous year, responding to Postville was an opportunity to participate in a national Jewish discourse for the first time. On May 27, 2008 just two weeks after the raid, the group delivered a letter to Aaron Rubashkin signed by 2000 Jewish leaders. The letter's signatories included rabbis, Hillel directors, Jewish day school principals and educators (Daily Kos). They demanded Agriprocessors commit to paying workers the federal minimum wage while following lawful workplace and worker safety practices. The letter also stipulated Agriprocessors go "beyond the bare minimum requirements" of the law and treat workers based on Jewish ethical principals ("Rubashkin Letter"). Until Agriprocessors agreed to the letter's demand, all signatories vowed to boycott Rubashkin produced meat.

Uri L'Tzedek's boycott resulted in pointed criticisms from other Orthodox Jews. An editorial in the *Haredi* newspaper *Yated Ne'eman* called *Uri L' Tzedek's* response to the raid "left leaning and anti-Torah" (Hoffenberg). In conjunction with Rabbi Morris Allen, it claimed, *Uri L' Tzedek* was not only inappropriately "lecturing the Torah community about *tzedek*," they were actually "putting *kashrus* in the US at risk" (Ibid.). As a response to the boycott, the Rubashkins sent a delegation to negotiate with *Uri L' Tzedek*. The team included Milton Balkney, Aaron Rubashkin's well-connected son-in-law, who would eventually be sentenced to prison for extortion, blackmail and wire fraud. As a result of both grassroots pressure and pressure from the US government, Agriprocessors instituted a compliance department, one of the letter's central demands.

On July 8th, after deciding Agriprocessors had sufficiently addressed their requests, *Uri L'Tzedek* called off their boycott.

Uri L' Tzedek was not the only Jewish social justice organization to respond to the Agriprocessors raid. Their religiously liberal counterparts were some of the loudest in defense of their definition of “justice” after Postville. Jewish Community Action (JCA), a group from the Twin Cities, joined with the Chicago based Jewish Council for Urban Affairs (JCUA) to organize a 1,000 person pro-immigrant rights interfaith service, march and rally in Postville on July 27. Four rabbis involved with the *Hekhsher Tzedek* initiative, including Rabbi Morris Allen, joined the rally to publicize the project amid like-minded Jewish protestors. The action became the largest and most public Jewish statement of support for Agriprocessors workers (Fishkoff, *Kosher Nation* 282).

A few days later, a very different group of Jewish outsiders paid a visit to Postville. Twenty-five Orthodox rabbis, including leaders of *kosher* certification agencies, found only positive things to say about the plant, calling it an “A-1 place” (Preston, “Rabbis Debate Kosher Ethics”) undeserving of the type of criticism it had received. The National Council of Young Israel, an umbrella organization for Orthodox synagogues, worked with Agriprocessors to organize the visit (Harris, “Orthodox Rabbis”). The attempt to restore Agriprocessors’ public standing came under criticism from others, including several Orthodox Rabbis, once it became clear that the Rubashkins were the ones footing the bill. “Give me a break,” Rabbi Pesach Lerner, the Executive Vice President of the council, declared in response to the criticism, “To impugn the integrity of twenty five people is out of line,” (Ibid.).

The July rabbinical visit was not Agriprocessor's only attempt to thwart public criticism. Almost immediately after the raid, they hired 5WPR, a Manhattan based Public Relations firm, to represent them. The Rubashkin's new PR agent was already well seasoned in scandal. He had previously represented *Girls Gone Wild's* Joe Francis and socialite Paris Hilton (Dvoskin). In July, a 5WPR employee was caught impersonating Rabbi Morris Allen in the comments section of failedmessiah.com, a blog run by Shmarya Rosenberg, a former *Lubovitcher* and Rubashkin acquaintance who had become highly critical of both the sect and the family (Ibid.). A spokeswoman for *Hechsher Tzedek* later claimed that 5WPR called her while she was on vacation and insinuated that if she had "cheated on her husband or her taxes," she would be in trouble. "That's when I entered Sopranoland," she later told the press. 5WPR claimed to be "unaware" of the incident (Ibid.).

The conflict between the Rubashkins and their Jewish critics continued to take place through more recognized and public channels. On August 5, Rabbi Shmuel Herzfeld of the modern Orthodox synagogue *Ohev Shalom* in Washington DC published an op-ed titled "Dark Meat" in the New York Times. He expressed "shame and embarrassment" at Agriprocessors' actions and called for the OU to appoint an independent commission of rabbinic experts to make recommendations to the plant (Herzfeld). Later that week, Herzfeld debated the OU's Rabbi Menachem Genack on National Public Radio. Rabbi Genack repeated his view that while social and ethical issues were important, the OU did not have the expertise to regulate them. "It will be completely arbitrary for us to establish that kind of a standard," he asserted (Martin). Herzfeld acknowledged the truth of Rabbi Genack's statement but continued to claim

Postville in particular warranted a different type of response, “it's been in the papers for so long and there's so much smoke around it that I feel, as a Jew, as a Rabbi, as a *kosher* customer, that we have an extra responsibility in this specific case.” (Ibid.).

On September 9th, the Iowa Attorney General’s office charged Agriprocessors with 9,000 child labor law violations. Following this development the OU demanded Agriprocessors hire new management. Otherwise, the plant risked losing the all-important and well-recognized acknowledgement of *kashrut*: The OU *hekhsher* (Daily Kos). *Hekhsher Tzedek* praised the Orthodox Union’s “no-nonsense action,” believing the ultimatum demonstrated the idea that ethical standards should be connected to *kosher* food “transcends denominational boundaries” (Preston, “Meatpacker May Lose Kosher Certification”). Later that week, Agriprocessors hired one of its own attorneys to replace Sholom Rubashkin. The OU stated that it was “satisfied” with the change and would continue to view Agriprocessors’ meat as *kosher* (Ibid.).

That same week, the Union for Reform Judaism (URJ) issued a resolution titled “Worker’s Rights, Ethical Consumerism and the Kosher Food Industry” (Resolutions-URJ). The previous month the Central Conference for American Rabbis, the Reform rabbinical body, passed a resolution in support of *Hekhsher Tzedek*. Both resolutions declared, “Those who keep *kosher*, including the growing number of Reform Jews who are embracing the observance of *kashrut*, should not be forced to choose between their ritual observance and their ethical values”(Ibid.). They declared Agriprocessors labor practices to be a *chillul hashem*, a desecration of God’s name.

Soon after the URJ issued its statement, the Rabbinical Council of America, the largely modern Orthodox rabbinical body associated with the OU, also released a

statement addressing the place of ethics within the *kosher* industry. On September 24, the council publically announced the creation of “a high level Task Force that will produce a detailed practical guide to Jewish Principles and Ethical Guidelines, as applied to business and industry in general, and the kosher food industry in particular” (RCA Taskforce). The purpose of the guide would be to both require that *kosher* certification adhere to civil law as well as formulate principles of Jewish ethics in relation to business conduct (Ibid.). The RCA announcement lacked the righteous anger of the URJ’s statement. Their stated goals were mainly material, “the RCA seeks as a practical matter to reinforce ethical values and corporate policies, while ensuring a reliable and affordable supply of food products for the kosher consumer.”

The following day, two Orthodox rabbis, Yitzchok Alderstein and Michael Broyde, published “*Hekhsher Tzedek*’s Law Problem,” an op-ed in *Jewish Daily Forward* slamming the project. In the article, they echoed the OU’s position that the government, not Jewish religious authority, should monitor ethical concerns. They claimed the initiative would undermine *halacha*, “It seems that those behind *Hekhsher Tzedek* have interpreted Jewish law in such a way so as to make it a servant to their ethical preconceptions,” (Alderstein and Broyde). The op-ed argued that ethics has never been the purpose of Jewish law while drawing a distinction between *Hekhsher Tzedek* and Judaism, “*Hekhsher Tzedek*’s narrow focus on kosher food seems to indulge the notion that Jewish law is not sufficient, and indeed not as important as ethics. Judaism, however, has wisely chosen to assert the value of the law in and of itself” (Ibid.).

As the Orthodox criticisms mounted, Rabbi Allen and his allies responded with a name change. As of December 2008, the project was no longer to be known as *Hekhsher*

Tzedek, which more explicitly tied the project to traditional *hekhsher* seals indicating *halachic kashrut*. Instead, they changed name of the ethical food seal to *Magen Tzedek* meaning “Shield of Justice.” The name change came partially as a result of pressure from the OU. According to the OU’s Rabbi Genack, “had the commission retained the term ‘*hekhsher*’ it would have been a problem” (Harris, “With a New Name”). Rabbi Allen used the name change to publically address criticisms from the Orthodox world, “In order to avoid any kind of misstatements made by others that this is an undermining of kashrut, as opposed to a vehicle to elevate kashrut, we just felt that in the long run it would be better to take the word ‘*hekhsher*’ off the products that we certifying,” (Ibid.).

The leaders of *Uri L’ Tzedek* understood their fellow Orthodox Rabbis’ criticisms of *Magen Tzedek*’s relationship to Jewish law. While the organization shared Rabbi Allen’s concerns about Rubashkins’ actions, they never fully endorsed his concept of ethical *kashrut* and purposefully avoided the Jewish legal ambivalence of his certification initiative. They launched their own ethical certification project, *Tav HaYosher* (Ethical Seal), on the one-year anniversary of the raid and pronounced it to be the “Orthodox response” to Postville (“What is Tav HaYosher?”). *Tav HaYosher* was to be issued to certified *kosher* restaurants and food businesses that treated workers fairly and complied with existing labor laws.

While the standards of *Tav HaYosher* did not go far beyond existing legal standards for worker treatment, it prompted criticism from groups to *Uri L’ Tzedek*’s right and left. Rabbi Allen did not believe *Tav HaYosher*’s criteria were bold enough, “Just as we as Jews would not be satisfied with entrusting the state to be the final arbiter of what is kosher or not kosher, we can’t be satisfied with state enforcement when it

comes to workers' safety and well-being" (Ramey). The seal offended many Orthodox Jews as well, who believed that it undermined kosher authority by bringing ethics into a conversation where it did not belong (Ibid.). Some ultra-Orthodox Jews even went so far as to boycott *kosher* restaurants carrying the *Tav HaYosher* (Ibid.).

Although *Uri L' Tzedek's* liberal Orthodox initiative was contentious with both liberal and Orthodox Jews, their actions the following summer aligned them with Jewish social justice groups outside of the Orthodox world. In June of 2009, a Canadian Orthodox businessman named Hershey Friedman bought the Agriprocessors plant¹³ and renamed it Agri Star. Local Postville leaders formed the Postville Community Benefits Alliance to prevent the new owners from replicating Agriprocessors' mistakes. They created a Community Benefits Agreement for the new *kosher* meatpacking plant and asked the new owners to sign it. Jewish social justice groups saw the changing ownership of the plant and Community Benefits Agreement as an opportunity to ensure Agriprocessors' troubled history would not repeat itself. Jewish Community Action (JCA) and the Jewish Council for Urban Affairs (JCUA) spearheaded a letter to Agri Star's president, urging him to consider signing on to the agreement. Fifteen other Jewish social justice focused organizations, including *Uri L' Tzedek*, co-signed the letter ("Jewish Groups Urge").

The ultra-Orthodox Jewish community of Postville blocked the attempt. They saw the Community Benefits Agreement as part of the same attack on Orthodoxy *Magen Tzedek* represented. "Some of Agri's old nemeses are already breathing down the necks of the new ownership. Everyone from PETA to Rabbi Morris Allen are looking to meet

¹³ Agriprocessors declared bankruptcy November 5th, 2008

the new ownership,” wrote Menachem Lubinsky in the *kosher* industry trade magazine *Kosher Today* (Rosenberg). The report coincided with lobbying efforts on the part of the ultra-Orthodox community. Their efforts to block the agreement proved to be successful and in the end, the Postville City Council passed a resolution opposing the agreement (Ibid.).

That November a federal court convicted Sholom Rubashkin of 86 accounts of federal bank fraud and sentenced him to 27 years in prison. The ultra-Orthodox world was up in arms. Rubashkin’s defense team argued the charges were “attacks on *kosher* slaughter” (Preston, “Life Sentence Debated”). Within the Rubashkins’ own *Haredi* community, the perceived attack on *kashrut* ran much deeper. As the ultra-Orthodox Newspaper *Yated Ne’eman* wrote, “Sholom Mordechai is actually a metaphor for us as a nation being imprisoned.” Orthodox Jewish leaders quickly mobilized 16,000 to sign a petition to the judge presiding over Rubashkin’s trial (Ibid.). “Free Sholom Rubashkin” was a rallying cry. The man at the center became a cause célèbre. The trial even sparked dozens of Orthodox musicians to create a “We Are The World” style musical production titled “Unity for Justice” to raise awareness for Sholom Rubashkin’s trial and raise money for his legal funds (Dachs).

The Rubashkin trial solidified the view of many in the ultra-Orthodox world that the liberal Jews who promoted ethical *kashrut* were enemies. According to Orthodox Rabbi Yitzchok Hisiger, “The *Heksher (Magen) Tzedek* initiative was partner in this greater effort aimed directly to bring down this successful company and family.” Hisiger’s claim was consistent with Orthodox Jewish press’ portrayal of “liberal Jews” and the “liberal Jewish media” as predatory figures within the Rubashkin scandal. “Many

liberal Jewish journalists showed up in Postville hoping to obtain incriminating information for their columns. They even went into the local church and took quotes from hostile spokesmen. The decline of Agriprocessors had been set in motion,” (Maimon) wrote *Yated Ne’eman*. Within the *Haredi* world, “liberal Jews” were an outside force seeking to challenge and antagonize the ultra-Orthodox community.

To this day, each time *Magen Tzedek* takes a step towards adding their Jewish ethical seal to *kosher* certified products, ultra-Orthodox organizations respond in full force. When *Magen Tzedek* formalized its status as a 501c(3) non-profit corporation in 2011, Agudath Israel spokesperson Rabbi Avi Shafran replied through an editorial for the Jewish Telegraphic Agency stating, “the “Whatever Tzedek” is simply the latest manifestation of Conservative leaders’ tradition of exchanging Divine mandates for contemporary constructs.” At the same time, individuals affiliated with the Rubashkin’s *Chabad-Lubuvitch* movement (although there has been no official encouragement from *Chabad* institutions) have continued to boycott *kosher* restaurants simply for carrying *Uri L’ Tzedek’s Tav HaYosher* seal (Lowenfeld).

Although the debate surrounding ethical kashrut reached its peak in the immediate aftermath of the Postville raid, the controversy continues to this day. Each time ethical *kosher certification* projects formed in response to the Agriprocessors raid come closer to fruition, the debate escalates rapidly as the typical players feel compelled to defend their positions once again. The narrative of the debate provides a window into how Jewish groups and leaders responded to Postville and then responded to each other’s responses. Through analyzing these responses in the following chapters, it becomes clear that the debate Postville sparked, illuminated shifts taking place within American Judaism.

Chapter 2

Justice, Justice Thou Shalt Pursue: Liberal Jews and Their Challenge to Orthodox *Kashrut*

Word of the Agriprocessor's raid travelled quickly from Postville to the offices of the non-profit organization Jewish Justice Initiative (JJI)¹⁴. For the staff members of JJI, who encourage their local Jewish community to take political action around social justice issues, the news struck a profound nerve. "I remember right after [the raid] happened coming into the office and tearing up hearing about the workers...it was on a very deep gut emotional level very very hard" recalls Sarah Alpert, who had been hired by JJI less than a year earlier, in part to organize around the issue of immigration reform. Her co-worker Maura Gumberg looks back on May 12th 2008 with a similar sense of outrage, "I just remember thinking this is the largest workplace raid ever. In United States history. And it happened at a Jewish owned plant producing kosher food. Oy. Just so many layers..."

On July 27th, Alpert and Gumberg brought three busloads of protestors, largely a combination of the religiously liberal Reform, Conservative, Reconstructionist, Humanist and unaffiliated Jews that make up the majority of JJI's membership, to Postville for a pro-worker's rights rally. Once in Postville, they joined with Jews organized by Jewish social justice organizations from other nearby cities. More than 1,000 people, half the population of the town, filled the streets to protest the government raid and Agriprocessors' exploitation of undocumented workers. They carried signs proclaiming, "Worker Injustice is *Treyf!*" and "Immigrant Rights Abuse is not *Kosher!*" They quoted

¹⁴ All names of interview participants and their organizations in this chapter are pseudonyms.

verses from the Torah, including the Exodus 23 commandment, “You shall not oppress the stranger for you know the feelings of the stranger having once been strangers in the Land of Egypt.”

From the beginning, it was inevitable that Jewish social justice organizations would respond to the Postville raid, “It was very clear...we didn’t know what the response would be but it was very clear working here that we’re not going to not do anything” remembers Alpert, “I think the stakes felt high and urgent and immediate and real.” Through participating in the debate, Jewish social justice groups reaffirmed their position that *kashrut* should be tied to a liberal political ideology. The recognition of incompatible difference with Jews who defended the *kashrut* of Agriprocessors forced them to engage in public discourse over the meaning of that ritual. The debate served as a means for JJI’s liberal Jews to defend their definition of acceptable American Jewish identity by defending *kashrut* as an ethical practice, clarified against a conflicting ritualistic definition put forth by ultra-Orthodox groups.

JJI’s claim that *kashrut* should be ethical became crucial after the debate surrounding the ethics of *kashrut* revealed ultra-Orthodox Jews were not, and would never become, appropriately Jewish according to the liberal Jewish understanding of American Judaism. The resulting liberal Jewish response to the Agriprocessors raid challenged the established ritual definition of *kashrut* controlled by Orthodox Jews. This dynamic revealed the need for a more nuanced understanding of old rules that have structured our understanding of how Jewish groups relate to each other. According to Michael Shapiro, “In practice, Jewish intergroup relations follow “Mendelssohn’s Law,” a principle once formulated by historian Ezra Mendelssohn: Jewish religious groups seek

legitimization by securing the approval of those to their right and denying it to those on their left.” (10). JJI’s response to Postville was informed by the revelation that *kosher* meat produced in Postville was not truly “kosher” according to their understanding of Judaism. Their actions challenged the established notions of *kashrut* promulgated by Jewish groups to their right. JJI’s participation in the debate over ethical *kashrut* after the Postville raid demonstrates Mendelssohn’s law no longer unequivocally describes the current state of intra-Jewish relationships.

The impulse for some American Jews to identify with contemporary liberal ethics and incorporate them into their understanding of religious practices, such as *kashrut*, stems from a particular history of social integration into the United States. Observers of American politics often marvel that Jews have maintained a tendency toward liberal and left wing political positions even though it is no longer in their direct economic self-interest to do so (Cohen 134; Staub 5). This narrative promotes the notion that Jews often used liberalism as a strategy and signifier for integration into a society that has not always completely welcomed them (Ibid.). Many Jews indeed saw advancing the tolerant pluralism of middle class liberalism and universal values as a means of greater acceptance as Americans (Cohen 147). In addition, advocating an agenda of liberalism and civil rights has historically served as a way for Jews as an ethnic group to place themselves outside of the problem of race in the United States as they assimilated more fully into a white racial identity following WWII (Delton 50).¹⁵

¹⁵ As David Roediger’s *Working Towards Whiteness* argues, many groups, including Jews, that are now considered to be “white” once held a liminal racial identity (4).

While integration into American society is a large part of the reason that many Jews were, and continue to be radicals, left-liberals or moderate liberals, Jewish liberalism cannot be understood outside what historian Michael Staub defines as the “religification” of political ideologies among Jews after WWII (8). Staub explores “religification” as the blending of religious traditions with political ideology in the context of Prophetic Judaism, which draws directly from the ancient Jewish prophets to argue that Judaism is a religion fundamentally committed to social justice (Ibid.). Prophetic Judaism has been considered a basic tenet of the religiously liberal Reform movement since the nineteenth century (49). The idea of an inextricable connection between Judaism and social justice gained renewed relevance in the mid-fifties in connection with Jewish participation in the Civil Rights Movement (Ibid.). A counter argument that Jews who ascribed to Prophetic Judaism had falsely politicized what should be an exclusively religious Jewish identity in order to promote Civil Rights activism emerged in response (Staub 51). It was through the intra-communal debates surrounding Prophetic Judaism and the Civil Rights movement that “appropriate ethnic and racial identity” became “intimately tied to ideology” (Staub 44).

The intra-communal rift regarding the tie between Judaism and liberal political ideology served as the basis for the response of Jewish social justice organizations to Agriprocessor’s alleged abuses of workers sixty years later. Interviews with the Jewish community leaders of the Jewish Justice Initiative (JJI) reveal a definition of Judaism inseparable from liberal politics. JJI’s executive director, Glen Goldenblatt describes a “direct connection between being Jewish and striving to make the world a better place” and sees his organizing work as “pushing people to sort of follow the voice of what it

meant to be Jewish...there is no greater law than to actually act on this stuff [referring to social justice].” JJI organizer Maura Gumberg similarly describes being Jewish and working for social justice as “synonymous.” The two have always been so synonymous to her that she “didn’t know until I was significantly older that there weren’t Jews who felt compelled to do justice.” For the Jews of JJI, as it was for the prophetic Jews of the 1950s, Jewish religious identity is genuinely and fundamentally linked to social justice.

The publication of Agriprocessors’ abuses of workers was a profound violation of JJI’s deeply rooted and particular view of Judaism as connected to social justice. News of worker exploitation within the plant violated the liberal values at the foundation of JJI’s Judaism and prompted a strong response by its adherents. It spurred the creation of a definition of *kashrut* that stood starkly outside of the purview of traditional *hechsher* agencies. This new definition equated the “fit-ness” of *kashrut* to fit-ness in accordance to contemporary food ethics. Liberal Jews across the country echoed this new concept of Jewish dietary law. Jewish food activist Alix Wall articulated her motivation for rejecting traditional definitions of *kashrut* in the context of the Postville raid, “Mixing milk and meat doesn’t mean anything to me. Especially after Agriprocessors, kosher meat no longer means clean meat. I only allow organic, humanely treated, grass fed meat into my home. To me that is the new *kashrut*” (Fishkoff, *Kosher Nation* 303). For Wall, the desecration of her previously held idea that *kosher* meat was somehow “clean” in accordance with her understanding of Judaism, created a space for organically raised meat to replace ritually *hechshered* meat as the truly and Jewishly fit food.

Brooklyn resident Simon Fell’s responded to Postville by starting an organic Turkey farm. According to Fell, “I kept *kosher* and I was surprised to learn that this

kosher meat was not humanely produced. If I'm going to eat meat, I have to make sure the process is as humane as possible. Even more so with *kosher* meat, because of the religious aspect," (Fishkoff *Kosher Nation* 304). Here, Fell describes the ethical production of the meat he eats as religiously significant. Interestingly, he also describes a humane process as the only aspect of meat production that matters in terms of religion, even though he had observed the traditionally defined laws of *kashrut* before Agriprocessors' actions revealed them to be inhumane. The values he already held as a liberal Jew became religiously tied to *kashrut* only after the discovery that traditional *kashrut* violated those values due to Agriprocessor's scandals. All religious meaning drained from the largely Orthodox controlled definition of *kashrut* he had previously accepted. The Orthodox *kosher* establishment lost the authority they once had to define *kashrut* for Wall as a liberal Jew.

JJI's Gumberg took the tendency toward creating a new definition of *kashrut* one step further by suggesting ethics should be incorporated into how the *kosher* food industry defines *kashrut*. For Gumberg, Agriprocessors' treatment of workers and animals revealed the entire kosher food system to be broken. "For us it was really painful to learn and hear about the disconnect between the worker treatment and the animals and the environment. And it is still painful. And that stuff to me is not a reason not to keep *kosher*, it's a reason to keep better *kosher*. To change the system so that *kosher* means *kosher* for real," said Gumberg. By coming to the conclusion that "real" *kashrut* was inseparable from ethical *kashrut*, it became easy to deduce that the established *kosher* food industry was falsely and invalidly defining Jewish dietary law by failing to hold *kosher* food producers to high ethical standards. In asserting her belief that the *kosher*

system should be changed to address ethics, Gumberg challenged the idea that when it comes to *kashrut*, the Orthodox authorities situated far to her right should have the final authoritative word.

While the debate over ethical *kashrut* in the context of Agriprocessors' scandals was not the first time liberal Jews have connected Jewish eating to social justice, it marked the beginning of liberal Jewish use of social justice as a criterion for measuring the *kashrut* of food. In the late 1960s, the leftist Jewish group Jews for Urban Justice (JUI) attempted to organize the Washington DC Jewish community to take part in the United Farm Workers Union (UFW)'s national boycott of California grapes (Staub 162). In their quest to pressure the Jewish community to participate in the boycott, JUI cited the Talmudic concept of *oshek*, which states that the fruit of exploited labor is not lawful food for eating (Ibid.). In the context of the grape boycott, liberal Jews never questioned the *kashrut* of grapes produced through unethical means. Instead, they brought in another relevant Jewish legal concept in order to tie their Jewish religious beliefs to their political actions. By contrast, after the Postville raid, a newly defined idea of ethical *kashrut* became the central religious concept liberal Jews used to connect their political ideology to their Jewish identity. JUI could have easily carried signs through Postville that referred to Talmudic *oshek*, which would not have challenged the established definition of *kashrut*. Instead, they explicitly called the food produced within Agriprocessors "non-kosher" and "treyf."

Michael Taussig's theoretical concept of "transgression" as a force that creates new ideas of sacredness helps clarify why Postville prompted liberal Jews to create new definitions of *kashrut* based primarily on ethics. According to Taussig, through

transgression, the sacred and the profane work to build each other as “it is in the space opened by transgression that we encounter empowering and sacred ritual, caused by and causative of this ‘space’” (350). The definitions of sacredness and profanity often become articulated only once sacredness has been violated. Transgressions of the sacred thus serve to both reveal and form it, demonstrating the “power of the negative” (349). In the case of the formation of new definitions of *kashrut* as tied to ethics, Agriprocessors’ exploitation revealed that the established concept of *kashrut* does not, to use Gumberg’s words, “mean *kosher* for real.” For the Jews of JJI, as well as politically left-leaning American Jews across the country, the “power of the negative” after Postville was indeed a revelatory and creative force. It revealed that the established definition of *kashrut* was no longer sacred in accordance with their idea of what it means to eat as an American Jew.

By defining *kashrut* as completely separate from the Orthodox controlled *kosher* food industry’s definition of *kashrut*, liberal Jews clarified an idea of eating Jewishly that stood firmly outside the authority of their ultra-Orthodox and modern Orthodox counterparts. The Orthodox world’s reaction to this new ethical definition of *kashrut* was as visceral and defensive as liberal Jews’ reaction to the Agriprocessors’ raid itself. Rabbi Pinchos Lipschitz, writing for the ultra-Orthodox newspaper *Yated Ne’eman*, saw JJI and their allies’ efforts to conflate ethics and *kashrut* as a “misguided and dangerous crusade” that needed to be stopped at all costs (Lipschitz). He went on to compare liberal Jews criticizing Agriprocessors to the *Amaleiks*, biblical enemies of the ancient Israelites who appear multiple times within Hebrew Scripture, “the *Amaleikim* hounding them are targeting *not only* the Rubashkins. They are targeting you and me and our ability to eat

kosher meat in this country” (Ibid.). By evoking the language of crusades, a period of history where Jews experienced intense persecution at the hands of non-Jews, and comparing liberal Jews to the archetypal biblical enemy of the Israelites, the *Amaleiks*, Lipschitz categorized liberal Jews promoting ethical *kashrut* as an outside enemy of his Jewish community as opposed to co-religionists.

Not only did the liberal Jewish response to Postville make them external enemies of “Torah true” Jews, the Orthodox saw efforts to bring ethical meaning into *kashrut* as an affront to the importance of Jewish ritual itself. “To in any way change *halacha* is to corrupt the essence of the concept of mitzvah, Divine commandment,” the *Haredi* Orthodox communal organization *Agudath Israel* wrote in their 2011 statement responding to the ethical *kashrut* movements that had emerged through Agriprocessors’ scandals. For *Agudath Israel*, bringing ethics into definitions of *kashrut* was not simply incorporating ethical meaning into an ancient practice; it was a rejection of the very purpose of the ritual, and therefore an attack on their Judaism by an opponent situated outside of their community.

Mary Douglas writes that bodily rituals such as *kashrut* observance serve the important function of external symbolic expression, a function that becomes endangered when ritualism is “openly despised” (40). Historically for many Jews, commitment to dietary law served as a “symbolic rampart of their commitment to their religion” (41). According to ritually observant Jews, *kashrut’s* sacredness comes from its communal symbolism, not from individual ethical meaning. Liberal Jews challenged, and transgressed, the foundational purpose of ritual sacredness through their response to Agriprocessors’ actions. In creating their own definition of *kashrut* in response to a

transgression of a fundamental aspect of their self-definition as Jews, liberal Jews in turn challenged the Orthodox understanding of *kashrut*. The “power of the negative” was thus revelatory for both groups.

The aftermath of controversies within Agriprocessors revealed to the Jews of JJI that ultra-Orthodox Jews are not properly Jewish, having violated what it means to keep *kosher* in accordance with values that the Jews of JJI believe to be fundamental to Judaism. In response, they created a definition of *kashrut* synonymous with their own values as liberal Jews. The liberal Jewish response posed a direct contradiction to how the Orthodox fundamentally understood both *kashrut* and Judaism. The Orthodox response was to designate liberal Jews as not appropriately Jewish and therefore outside their community, equating them with the Jewish people’s historic enemies. Thus, in the aftermath of Postville, both ultra-Orthodox and liberal Jews affirmed their respective identities as completely incompatible with each other’s deeply held definitions of what it meant to be a Jew in America. Both groups distanced themselves further from each other, re-affirming and deepening already harsh boundaries.

The recognition of Agriprocessor’s actions in illuminating ideological differences does not explain the intensity of the debate that followed. According to David Kraemer, disagreements over acceptable Jewish identity have existed as long as there have been Jews (161) and *kashrut* has been a site to negotiate those disagreements for just as long (Ibid.). During many periods of Jewish history, even into modernity, disparate groups have adopted “live and let live” attitudes towards each other, maintaining different and often opposing definitions of *kashrut* without intense hostility or aggression (Ibid.), as outlined with detail in the previous chapter, this was certainly not the case during the

debate over *kashrut* in the aftermath of Postville. On the contrary, this particular debate was intense, vicious and extremely public.

Prior to the media storm regarding practices within the Agriprocessors plant, the liberal Jews of JJI did not engage with their city's Orthodox community. According to Executive Director Glenn Goldblatt, JJI has never successfully worked with Orthodox Jews nor put significant effort into connecting with them:

The closest we ever came was we worked on some housing issues...there was a brief period of time where an Orthodox synagogue actually played a role, very short lived. And I think it was again it didn't work because our differences are great and in a lot of ways we get along better with non-Jews who are not Orthodox than we do with Jews who are Orthodox. Which is disappointing but it is what it is.

Goldblatt expressed an acceptance that his brand of Judaism is incompatible with that of the Orthodox Jews he tried to work with. He acknowledged greater compatibility with non-Jews than with Orthodox Jews, demonstrating ambiguity over whether or not he and the Orthodox belong to the same community. In the context of Goldblatt's frustrating and unsuccessful attempt to work with an Orthodox synagogue, he was willing to accept irreconcilable difference and move on. After the Postville raid, however, he characterized the actions of the ultra-Orthodox as "unacceptable," stating the Rubashkins' actions "need to be stopped."

Similarly, Goldblatt's co-worker Maura Gumberg acknowledged a change in her orientation to ultra-Orthodox Jews after the Agriprocessors raid, "my exposure before Postville was almost non-existent...I feel like my relationship with them isn't a relationship. So relationship, or lack thereof, with the ultra-Orthodox is one of like -to be honest-is confusion and misunderstanding and pain... it's not like I'd put any real effort

into it.” Out of acceptance of the fact that a lack of mutual understanding would cause her interactions with ultra-Orthodox Jews to end poorly, Gumberg never sought to build relationships across that particular ideological line. The media storm surrounding Postville changed her “live and let live” attitude. Postville forced not only an “exposure” to the ultra-Orthodox worldview that would not have otherwise happened, it forced her to react. Through learning about practices at Agriprocessors, which violated her understanding of Judaism, Gumberg began to articulate a new definition of *kashrut*, and in doing so entered into a debate over the meaning of *kashrut* with Jews she viewed as fundamentally different from herself.

The Jews of JJI did not take action after hearing about controversies in Postville out of a sense of shock or disappointment that a group they once viewed as part of their community espoused a version of Judaism incompatible to their own Judaism. Rather, they already understood the immense differences that existed between themselves and the ultra-Orthodox. It was a divide they had long realized would never be bridgeable which is why they never saw it is necessary to work within the Orthodox community. Engaging in conversation with ultra-Orthodox Jews became “inevitable” only when national media attention shined a public and harsh spotlight on the practices within a meatpacking plant designated as *kosher*.

Suddenly, through the media attention Agriprocessors attracted, a definition of *kashrut* that transgressed Gumberg’s definition became publically visible. The high stakes Goldblatt and Gumberg described while discussing their response to Postville was connected to clarifying just how different liberal and ultra-Orthodox Jews were from each other. According to Gumberg:

There's always that vulnerability of people know you're there, they can scapegoat you that kind of thing. So part of the Postville thing for us too, it wasn't only standing up for worker's rights, it wasn't only immigrant rights, it was also saying to the world there are other kinds of Jews who see this issue really differently. And that was really important to us too because it was like 'this is going to go viral' you know like 'this is going to be in the minds of the world' you know. Jews in Iowa.

The Rubashkins' diametrically opposed ideology did not pose a threat so much as the public nature of their actions. According to Gumberg, the fact that news of worker abuse by ultra-Orthodox Jews was "going to go viral," could lead to a potential "scapegoating" of American Jews as a whole, prompting her to take action by defining her *kashrut* as fundamentally in accordance with liberal political ideology while organizing Jews to publically respond to the 2008 raid. After controversies over *kashrut* in Postville became national news, Gumberg became afraid "the minds of the world" would see her American Judaism as connected to the opposing ultra-Orthodox version.

The public image of *kashrut* as connected to a definition of Judaism starkly opposed to liberal political ideology thus posed a threat to the Jews of JJI on many levels. Because for liberal Jews, Judaism as connected to left-wing political ideology has been religiously significant and an indicator for social belonging, news of Agriprocessor's labor and animal rights violations induced not only anger, but also a sense of danger. JJI's Glen Goldblatt expressed feeling a similar sense of peril after hearing of labor violations within Agriprocessors:

It was just sort of like well if we Jews don't police our own, you know. I'm old enough to have experienced enough anti-Semitism in my life. I know that there are already people out in the bigger community who think Jews are cheap or think that you know we only care for our own etc...etc... and one of the best parts of working for JJI is that I get to show people that there is another way that Jews behave.

For Goldblatt there is a real fear of anti-Semitic attitudes being reinforced through a public demonstration of insularity and cheapness, stereotypes historically associated with Jews, which he viewed as inherent within the Rubashkin's actions. For Goldblatt, engaging in debates over *kashrut* after Postville was not only a means to assert a definition of Judaism intertwined with liberal ideology, it was about "policing" the ultra-Orthodox definition, which threatened it directly.

Interestingly, the ultra-Orthodox response to liberal Jews arose out of a similar fear of Jewish exclusion as a minority within the United States. *Yated Ne'eman's* ultra-Orthodox Jews saw the liberal Jewish critique of Agriprocessors as threatening and dangerous in the same way JJI's Jews saw Agriprocessors actions themselves as threatening and dangerous. Rabbi Avrohom Hoffenberg wrote in *Yated Ne'eman*:

By parading the unproven allegations of PETA and other aberrant groups through the press that "kosher is not really clean," that Orthodoxy does not guarantee civil rights, who knows how many people these "humanitarians" will cause to turn away in revulsion when they see a kosher symbol on a product? How many stores will they be able to convince not to carry kosher meat? How many companies will they be able to hoodwink into accepting their rabbinic supervision? How many people will begin to honor the endorsement of their rabbis? How many will begin questioning our system of *kashrus* while swallowing the pop-propaganda of these arrogant groups?

By publically questioning the legitimacy of ritualistic *kashrut*, and by extension the entire *kosher* industry, the liberal Jews promoting ethical *kashrut* sparked a genuine panic within the ultra-Orthodox world that the rest of society would vilify the ultra-Orthodox, stop carrying *kosher* food, and threaten their ability to live as Orthodox Jews. The second fear expressed by Hoffenberg was that ethical *kashrut* could undermine the power and authority the ultra-Orthodox had over defining *kashrut* through what had been their basically unquestioned control over the entire industry (Fishkoff, *Kosher Nation* 273). If

liberal Jews began to “honor the endorsement” of their own rabbis, the ultra-Orthodox definition of *kashrut* would cease to be dominant.

For both JJI’s liberal Jews and Yated Ne’eman’s ultra-Orthodox Jews, the debate over *kashrut* became intensely contested. It was deeper than a debate over conflicting relationships to a particular practice and signified a means to defend each group’s ability to control the accepted definition of appropriate American Jewish identity. As each side responded to the public storm surrounding Agriprocessors, they clarified just how far apart their definitions of Judaism had become. JJI’s liberal Jews rejected the legitimacy of traditional, ritual *kashrut* upon realizing its incompatibility with the political Prophetic Judaism they espouse. In response, the ultra-Orthodox Jews reaffirmed that the *kashrut* they controlled was the true *kashrut*; their Judaism was the true Judaism. Both sides engaged in the battle over defining *kashrut* after Postville, as opposed to adopting a “live and let live” attitude, in order to ensure the future legitimacy of their own Judaism in the eyes of the broader public.

Liberal and ultra-Orthodox Jews espouse two competing and incompatible definitions of *kashrut* and of Judaism. Instead of seeking the approval of the ultra-Orthodox and allowing them to maintain their authority to define *kashrut*, as Mendelssohn’s law would predict, the Jews of JJI asserted their own definition of *kashrut* as legitimate. Their position in the debates claimed Agriprocessor’s idea of *kosher* was not what it should be, “Worker Injustice is *Treyf*.” Through that simple declaration, JJI revealed that as intra-Jewish boundaries are reified and groups move ideologically farther apart, the ways in which Jewish groups interact with each other shift as well. As changes

within American Judaism take place, old taken for granted conventions of how American Jews interact with Jewish groups to their right and left no longer consistently apply.

Chapter 3

Ethical Certifications, Orthodox Social Justice Activism and the Formation of Postmodern Orthodoxy Post Postville

On December 9, 2008, almost exactly eight months after the Agriprocessors raid, 500 people filled the auditorium of Yeshiva University (YU), the academic center of Orthodox Judaism. The overflow crowd of YU students and guests packed the Upper Manhattan campus to attend a timely rabbinic panel discussion titled *The Kosher Quandary: Ethics and Kashrut*. Four panelists were asked to respond to the question Postville had made relevant: “Is it still possible to consider something ‘kosher certified’ if it is produced under unethical conditions?” The event promised to be a lively discussion. Although made up exclusively of Orthodox rabbis, the panel’s participants held distinct opinions as to what the connection between ethics and *kashrut* should be in the aftermath of the Agriprocessors raid.

Rabbi Avi Shafran, Director of Public Affairs for *Agduath Israel*, the *Haredi* communal organization, was the first to speak. “Lapses of business ethics, animal rights issues, worker rights matters (*sic*) — all of these have no effect whatsoever on the *kosher* value,” he stated clearly and by his own admission “bluntly.” Rabbi Menachem Genack, the head of the Orthodox Union’s *kosher* division tactfully reiterated Rabbi Shafran’s central point but gave a slightly more nuanced response. He maintained ethics had nothing to do with *kashrut* but acknowledged them as a concern. “These issues are not obvious sometimes,” he asserted. The Executive Director of the Orthodox Rabbinical Council of America, Rabbi Basil Herring followed. He generally agreed with Shafran and

Ganack, even beginning his speech, “much of what I was going to say has already been said.”

Rabbi Shmuly Yanklowitz, the co-founder of the newly formed Orthodox social justice group *Uri L' Tzedek* (Awaken to Justice), had the fourth and final word. Both Yanklowitz and his fervently impassioned speech given in a mixture of English, Hebrew and Yiddish, stood in stark contrast to the rest of the panel. As a twenty-something fresh out of rabbinical school, Yanklowitz was decades younger than the other panelists. His clean-shaven face and tan *kippah*¹⁶ further set him apart from the bearded, black *kippah* clad¹⁷ rabbis who had preceded him. Yanklowitz spoke of travelling to Postville and hearing terrible stories of abuse from Agriprocessors workers, “In the cornfields of Iowa I realized that focusing exclusively on *kashrut* while failing to address the *ben adam l' chavero*¹⁸ concerns makes *halacha* morally irrelevant” he asserted. “Where is our moral courage?” He repeatedly asked the audience.

Although Rabbi Morris Allen was not invited to Yeshiva University that night (Vitello), he managed to be part of the panel debate even through his conspicuous absence. Allen’s growing *Magen Tzedek* initiative (by the time of the panel he had changed the name from *Hekhsher Tzedek*, which more explicitly had connected the ethical seal to traditional seals indicating ritual *kashrut*) was as much a catalyst for the Yeshiva University event as the scandal surrounding the Agriprocessors’ raid. Both

¹⁶ Traditional Jewish head covering.

¹⁷ Beards and black *kippot* (plural for *kippah*) are established identity markers for Orthodox Jewish men.

¹⁸ One of two types of commandments in the Torah. *Mitzvot ben adam l' chavero* are commandments observed between human beings. The other type of commandment, *mitzvot ben adam l' makom* are to be observed between human beings and God.

Genack and Shafran spent large portions of their speeches denouncing Allen's initiative. Years later in Minnesota, where he has served as the Rabbi of a Conservative synagogue since the mid-1980s, Allen reflected on the view of Judaism underlying *Magen Tzedek's* creation. Through his personal analysis of Judaism he sounded tellingly like Rabbi Shmuly Yanklowitz during his speech at Yeshiva University:

Devotion to God does not permit the denigration of the dignity of another human being. I think by the way that's grounded clearly in, you know, the Jewish construction of the commandment-you know there are both commandments between humanity and God, both *ben adam l'makom*, and commandments incumbent upon mitzvot *ben adam l'chavero*, between humanity and another human being. I would suggest that Judaism demands from us equal passion for both.

Both the modern Orthodox Yanklowitz and the Conservative Allen expressed the importance of *mitzvot ben adam l'chavero* and asserted the importance of ritual *halacha*. In doing so, they rejected both JJI's claim that ritual definitions of *kashrut* lost all meaning after Postville, and the ultra-Orthodox's staunch refusal to connect ethics and *kashrut*. The actions Yanklowitz and Allen took, the creation of the *Tav HaYosher*¹⁹ and *Magen Tzedek* initiatives respectively, were ways to negotiate between the two extreme perspectives discussed in the previous chapter through the creation of middle ground responses.

The similarity of Allen's and Yanklowitz's religious views echo the premonition of Samuel Freedman, a prominent commentator on American Jewish life. Freedman imagines the formation of a "Conservadox" faction of American Judaism as modern Orthodox Jews move ideologically farther away from their ultra-Orthodox counterparts

¹⁹ As discussed in previous chapters, the *Tav HaYosher* means "ethical seal" and is *Uri L' Tzedek's* ethical certification for *kosher* restaurants, which will also be discussed in greater depth later in the chapter.

(356). “Modern Orthodoxy will give up its already tenuous partnership with the *Haredim* and find more logical partners in the right wing of the Conservative movement,” (Ibid.) he offers. The debate over ethics and *kashrut* did indeed demonstrate that the young Orthodox Jews of *Uri L’ Tzedek* are more similar to liberal Jews who connect social justice to their Judaism than they are to ultra-Orthodox Jews. Instead of moving towards blending with more liberal movements, *Uri L’ Tzedek* used the dispute over the place of ethics within *kashrut* after the Postville raid to reassert the boundary between themselves and the Conservative movement.

Instead of rejecting Orthodoxy, the social justice minded Jews of *Uri L’ Tzedek* attempted to create a space within it where commitments to both Orthodox Judaism and liberal politics could coexist. The debate over ethics and *kashrut* after the Agriprocessor’s raid gave them a platform to assert the validity of that space within a public Jewish discourse. While on the surface Yanklowitz’s politically liberal modern Orthodoxy and Allen’s ritually committed Conservative Judaism share significant common ground, I argue the existence of young Jews who see a commitment to social justice as fundamental to their identity *as Orthodox Jews* and their participation in the debate over ethical *kashrut*, complicates Freedman’s prediction that the two are on their way towards merging. Instead, it shows that American modern Orthodoxy is entering into a state of unpredictable flux.

The young modern Orthodox Jews of *Uri L’ Tzedek* asserted their commitment to Orthodox Judaism as they moved farther from the rest of the Orthodox world by emphasizing the boundary between their version of ethical *kashrut* and the version that stemmed from the Conservative movement. In understanding the strengthening of that

boundary, it is therefore important to first more fully understand the impetus behind Rabbi Morris Allen's creation of the *Magen Tzedek* (formerly *Hekhsher Tzedek*) initiative, and its relationship to the Conservative movement. As outlined in Chapter 1, Rabbi Allen first proposed the creation of a new kind of *kosher* certification after his 2006 visit to Postville, which he took in response to a series of investigative reports about Agriprocessors' treatment of undocumented workers. The seal, which he originally called *Hekhsher Tzedek*, would indicate a *kosher* product's ethical production measured by fair treatment of workers, humane treatment of animals, and environmental sustainability. By 2008, leaders within the Conservative movement had adopted the initiative and created the Magen Tzedek Commission, which formalized its status as a non-profit corporation in 2011 ("Magen Tzedek Standard"). The commission clearly states that the *Magen Tzedek* seal "is available only for products that carry a traditional *hekhsher* seal from an authorized kosher certification company. It is not intended as a replacement, but rather a complementary enhancement," (Ibid.).

The Conservative movement strongly emphasizes the *Magen Tzedek* seal as an addition to, rather than a replacement of, traditional *kosher* seals for several reasons. This distinction has been crucial for the Conservative leaders of *Magen Tzedek* because of the historic role ritual *kashrut* has played in the formation of Conservative Judaism as a movement in the ideological center. Since its inception in 1850s Germany, Conservative Judaism defined itself in opposition to Reform Judaism's²⁰ original rejection of rituals such as *kashrut* (Fishkoff *Kosher Nation* 273). Instead of disregarding ritual *halacha*,

²⁰ Which arose out of the same Enlightenment circles as Conservative Judaism (Fishkoff *Kosher Nation* 273).

Conservative Jews defined it as binding, obligatory and divine in origin²¹ while simultaneously maintaining that Jews need to refine it in order to accommodate their community's changing needs (Ibid.). *Kashrut* long played a crucial role in determining Conservative Judaism's place as a movement ideologically between Reform Judaism and Orthodoxy. The Conservative Jewish movement in America strengthened its ranks in the aftermath of the infamous “*treyfah* banquet” of 1883 when many *kosher* laws were broken at the Reform movement's rabbinic ordination dinner (Sarna 145). The outrage that ensued caused several congregations to resign from the Reform Union of American Hebrew Congregations (UAHC) and eventually become Conservative (Ibid.). By utilizing the *treyfah* banquet as wedge issue, the Conservative movement used *kashrut* to distinguish itself from the Reform movement. Adherence to ritual laws of *kashrut* have been central to the identity of Conservative Judaism as a movement on the institutional level ever since.

While the Conservative movement has historically used *kashrut* as a way to draw a line between themselves and the liberal Jews who have rejected ritual laws of *kashrut*, they have also used it as a way to distinguish themselves from Orthodox Judaism. Most importantly, the Conservative movement allows for different permissions in *kashring*²² methods than those allowed by any branch of Orthodoxy²³ (Fishkoff, *Kosher Nation* 273). Although they have determined *kashrut* differently from the Orthodox throughout

²¹ Although this is currently widely contested within the Conservative Movement.

²² The process of making something *kosher*.

²³ Specifically, the Conservative movement does not require a *hekhsher* for cheese or wine. It continues to accept swordfish and sturgeon as *kosher* even after Orthodox authorities proclaimed them to be *treyf* in 1951 (Fishkoff, *Kosher Nation* 273). The movement also permits chemical additives derived from non-kosher meat products (Ibid.).

the twentieth century, they have only begun to challenge the “Orthodox hegemony on *kosher* certification and supervision” in the past few decades (Ibid.). As Orthodox regulations regarding *kashrut* have become more stringent, the religious identity and practice of the rabbi administering the *hekhsher* has also become a basis for determining the *kashrut* of the food they supervise²⁴ (Kraemer 153). Legal battles in New York, Baltimore and Minnesota in the past 10-15 years have challenged this dominance, arguing state law should allow for non-Orthodox rabbinic authorities to also be able to determine what constitutes “*kosher*” for their own community (Fishkoff, *Kosher Nation* 259). Assertion of the validity of Conservative *kashrut* led to a strong backlash from the Orthodox authorities long accustomed to controlling *kashrut*’s definition (Ibid.).

Rabbi Allen created *Magen Tzedek* in the context of recent debates over who has the authority to define ritual *kashrut*, in addition to scandals surrounding Agriprocessors. Rabbi Allen’s personal relationship with ritual *kashrut* serves as a basis for the creation of the initiative and mirrors the Conservative movement’s relationship with the practice on a broader level. Rabbi Allen describes *kashrut* as having been central to his Jewish identity from the start, “I grew up in a Jewish home where there were three aspects that defined Jewish identity: Engaging with the State of Israel, keeping *kosher* and voting Democratic.” According to Rabbi Allen, ritual *kashrut* in connection with liberal politics (voting Democratic) has been part of his singular and cohesive Jewish identity since childhood.

²⁴ For example, an Orthodox rabbi was deemed an untrustworthy kosher supervisor because he served as a pulpit rabbi in a New York synagogue that allowed for mixed seating (Kraemer 153).

Rabbi Allen's dedication to *kashrut* as a central tenet of his Jewish identity prompted him to become a Conservative rabbi; even though at the time he did not believe the Conservative movement meshed with his deeply held egalitarian beliefs:

Actually if you want to know the truth, I first applied to HUC²⁵ because even though I had never been to a Reform congregation, except once in my life, the rabbinical school was then not ordaining women to the rabbinate and I felt that I shouldn't have male privilege so I applied to HUC. I had my interview in January of 1977...but uh the first question I was asked was-they must have known who I was- if you were sent to a congregation in Louisiana, what blessing would for make over the congregation's shrimp²⁶ Friday night dinner and I sort of realized there were some differences between me and the Reform movement...And then eventually they [the Conservative seminary] started ordaining women. I decided to fight from the inside.

This anecdote is telling in several ways. First of all, the Reform movement's relationship with *kashrut*²⁷ was enough to prohibit Rabbi Allen from attending their seminary. Just as it has been historically for the Conservative movement, Rabbi Allen's relationship to *kosher* ritual became a way for him to clearly distinguish his Judaism from other religiously liberal Judaisms. Perhaps even more tellingly, Rabbi Allen wanted the seminary he attended to reflect both his egalitarian worldview, represented by his opinion that women should be able to be ordained,²⁸ and his commitment to ritual *halacha*. When that proved to be impossible, he "decided to fight from the inside" in order to create a

²⁵ Hebrew Union College, the Reform movement's rabbinical seminary.

²⁶ Shrimp is *treyf*, or *un-kosher* according to ritual *halacha*.

²⁷ As a Reform Jew who grew up observing ritual *kashrut*, I feel compelled to add there is a renewed interest in the practice amongst Reform Jews.

²⁸ The role of gender in creating boundaries between Jewish denominations is far beyond the scope of this project. Suffice it to say that it is a crucially important, quite arguably the most important, site upon which these divisions happen. Because I only hope to show *that* boundaries are shifting through analyzing the debate that occurred in the context of Agriprocessors scandals, not necessarily *how* or *why*, I will not attempt to analyze the role of gender within American Judaism.

movement where his commitments to all aspects of his identity could coexist in a holistic way.

It is that same desire to meld commitment to liberal politics and commitment to *halacha* into one harmonious Judaism that spurred the creation of *Magen Tzedek*, as becomes clear in Rabbi Allen's 2007 interview with the Jewish online Magazine ZEEK. Midway through her interview with Allen, ZEEK's Rachel Barenblat asks:

I think many Jews today feel the need to choose between eating in a way that fits traditional Jewish dietary practice, and a way that fits their environmental and social values (organic/sustainable food, perhaps belonging to a community-supported farm, etc.) Do you think that binary distinction is valid, and does *Hekhsher Tzedek* offer a way around the binary? (Barenblat)

Rabbi Allen responds with another anecdote:

I want to be working beyond the binary. That's exactly the issue. That's the reason *Hekhsher Tzedek* has to exist. I was teaching about this at Camp Ramah Wisconsin this summer -- they took their kids on a trip to Postville [where Agriprocessors is located], and I was there to prepare the kids for what they might see. Someone raised their hand and said, 'so rabbi, you're saying it would be just as good (because it's also Jewish law) to eat food prepared in an ethical way as it is to eat food with a kosher sticker!' And I said, that kind of bifurcation is the issue -- we shouldn't have to decide between one of these or the other. We need to be in a world where we can say that keeping kosher is the way in which I demonstrate not only a concern for my relationship to God and Torah but the Jewish concern for our relationship to the world in which we live. That's what I really want to get across to people. (Ibid.).

Rabbi Allen asserted the goal of *Magan Tzedek* (still called *Hecksher Tzedek* at the time of the interview) as the way to resolve the conflict the public nature of the scandals surrounding Agriprocessors raised. The biggest challenge to the holistic worldview Rabbi Allen espoused was for Jews to feel like they had to choose between social ethics and Jewish ritual. He wanted to live in a world where the act of keeping *kosher* means upholding both equally and seamlessly.

The revelation of worker exploitation at country's largest *kosher* meatpacking plant violated Rabbi Allen's understanding of Judaism's social ethics. It demonstrated that as the world existed, keeping *kosher* and eating ethically could not go hand in hand. Rabbi Allen responded by pushing for an ethical seal to appear *alongside* the ritual *hekhsher*. That way, socially and ritually conscious Jews could rest assured that in purchasing one product they were acting in accordance with both. *Magen Tzedek* is therefore an effort on the part of Rabbi Allen to create the possibility for a world where he would no longer feel as though a choice existed between *kashrut* and ethics, a world where all of his beliefs and commitments could exist as one. As he said in his ZEEK interview, unifying that apparent binary is "the reason *Hekhsher Tzedek* has to exist." The Conservative movement felt similarly, adopting Allen's project as an initiative of the entire movement.

Similarly to Rabbi Morris Allen, both ritual *kashrut* and ethics are important to the modern Orthodox Jewish leaders of *Uri L' Tzedek*, as became apparent through an interview with Rabbi Noam Silver²⁹, one of *Uri L' Tzedek*'s co-founders. Rabbi Silver attended the modern Orthodox seminary *Yeshivat Chovevei Torah* in the mid-2000s with Shmuley Yanklowitz and the group's other founding members.³⁰ According to Rabbi Silver, late night study sessions connecting modern social issues with Jewish religious texts eventually led to *Uri L' Tzedek*'s formation as an Orthodox social justice

²⁹ This is a pseudonym to protect the identity of this interview participant.

³⁰ The Yeshivat Chovevei Torah's motto is "cultivating a love of Torah, a passion for leadership and philosophy of inclusiveness." It believes modern Orthodoxy "requires a new breed of leaders - rabbis who are open, non-judgmental, knowledgeable, empathetic, and eager to transform Orthodoxy into a movement that meaningfully and respectfully interacts with all Jews, regardless of affiliation, commitment, or background ("Yeshivat Chovevei Rabbincal School-About Us")

organization. Responding to the Postville raid through organizing a boycott of Agriprocessors was the group's first large scale campaign and it eventually led to the creation of the *Tav HaYosher*, an ethical certification initiative for *kosher* restaurants.

According to Rabbi Silver:

There's not like a clear definition of *kashrut* but what it's come to mean is like ritual standards of food production as a finite you know Jewish law. I believe in those and I keep those. That's one very important part of my Jewish identity as an Orthodox Jew. And another really important part of my Jewish identity as a Jew is *yashrut*, which is ethics, so it's like the *Tav HaYosher* comes from that, from *yosher*.

Rabbi Silver's perspective on the relationship between ethics and *kashrut* is in many ways analogous to Rabbi Allen's point of view. Rabbi Silver declares ritual *kashrut* as separate from his ethics important to his identity while also addressing ethics as fundamental to Judaism. On the surface it would seem that Rabbi Allen's brand of ethical *kashrut* would speak to Rabbi Silver's worldview, supporting the idea that Conservative Judaism and the left wing of modern Orthodoxy are on a path towards merging into some form of "Conservadox Judaism." In reality, however, *Uri L' Tzedek* did everything they could to distance themselves from Rabbi Allen's ethical *kashrut* initiative. Rabbi Silver discussed his ambivalence towards *Magen Tzedek*:

Something that we are very clear about at *Uri L'Tzedek*, is we don't actually use the term ethical *kashrut* that often. I think that's actually a mistake that *Hekhsher Tzedek* made using the word *heksher*. A lot of the Orthodox really balked at that, like woah is that saying that kosher isn't enough or kosher is bad or something like that, are you trying to replace *kosher* with ethics? There's a lot of resistance. We've always been very clear to say we believe in *kashrut* and we believe in *yashrut*³¹ and we think they should both be you know done to a very high and exact standard by Jews. You know just as we've done.

³¹ While *yosher* does mean ethics, as far as I know, the concept of *yashrut* as something separate yet somehow connected or analogous to *kashrut* emerged through this debate surrounding ethical *kashrut* in the context of scandals surrounding Postville.

According to Rabbi Silver, even though as an Orthodox Jew he feels that it is part of his Judaism to make ethical food choices, the concept of ethical *kashrut* is not Orthodox. This becomes evident in his assertion that the very idea of a Jewish ethical certification for products came too close to equating ethics and *kashrut* for him to endorse it as an Orthodox Jew. Instead, *Uri L' Tzedek* created an ethical certification for *kosher* restaurants, as opposed *kosher* products, as a way to Jewishly address food ethics while maintaining a clearer distinction between *yashrut* (ethics) and *kashrut* (dietary ritual).

The *Tav HaYosher* sought to provide an Orthodox response to issues of labor abuse after Postville while clearly differentiating itself from *Magen Tzedek* by indicating a *kosher* restaurant's promotion of worker's rights and adherence to state and federal labor laws. According to *Uri L' Tzedek*'s online explanation of the project, "Given recent events in the *kashrut* industry, it is imperative that we implement a system that will prevent abuse and exploitation...*Tav HaYosher* is an opportunity to harness some of the power and influence we have as an observant community to strengthen *tzedek* in our world and create a true *Kiddush Hashem* (sanctification of G-d's name)." Here we see the *Tav HaYosher* as another explicit response to scandals associated with Agriprocessors (recent events in the *kashrut* industry) yet different from other responses in that it is catered to an "observant" (code word for Orthodox) community. *Uri L' Tzedek* felt the same imperative as Rabbi Allen and the Jews of JJI to respond to the Postville raid. They also felt the need to assert their response as particularly Orthodox in comparison to religiously liberal Jewish groups' similar responses.

Rabbi Allen noted both *Uri L' Tzedek*'s similarity to and ambivalence towards his initiative:

The people who work on the *Tav HaYosher*, the *Uri L'Tzedek* crowd, have kept their distance from us even though we spawned them. I think a lot of that has to do with the fear that if they were supportive of us they would lose even more of their credentials inside the Orthodox community despite the fact that they're doing really important work certifying *kosher* restaurants.

From Rabbi Allen's perspective, because the missions of *Tav HaYosher* and *Magen Tzedek* are so similar, both ensuring *kashrut* observant Jews also eat ethically as part of their Jewish identity, *Uri L' Tzedek* would work more closely with him if they were not so concerned with maintaining their legitimacy within the Orthodox world. It is because they are looking for approval from those to their right, in accordance with Mendelssohn's law, that they have to deny the legitimacy of Rabbi Allen's project even though in essence they come from a very similar worldview.

In reality, there are several factors that complicate and challenge Rabbi Allen's assumption. *Uri L' Tzedek's* clarification of the boundary between *Magen Tzedek* and *Tav HaYosher* was not driven primarily by a desire to be credentialed as legitimate by the ultra-Orthodox. First of all, *Uri L' Tzedek* never had legitimacy within the ultra-Orthodox world. From the start, the same ultra-Orthodox Jews who viciously attacked Rabbi Allen condemned *Uri L' Tzedek* in the same breath. According to the ultra-Orthodox Rabbi Avrohom Hoffenberg, writing for the *Haredi* newspaper *Yated Ne'eman*, "If we, G-d forbid, give the leftist rabbis any role in *kashrus*, we are putting *kashrus* in the US at risk...the faster we tell the Rabbi Allens and the *Uri L'Tzedeks* that they should not lecture to the Torah community about *Tzedek*, the better off we will be" (2008). The ultra-Orthodox media did not distinguish between restaurant seals and product seals. From their point of view, Rabbi Allen and *Uri L' Tzedek* were part of the same "leftist" attack on their authority over *kashrut* and could easily be placed within the same "outside

enemy” category as a result.

Rabbi Noam Silver understood the extent to which *Uri L' Tzedek's* response to Agriprocessors had made them enemies of many within the *Haredi* world. Once ultra-Orthodox Jews began to attack him personally while calling for a boycott of *kosher* restaurants bearing the *Tav HaYosher*, he had no choice but to understand it, “we face a lot of opposition still in the *Haredi* world. So like the *Tav HaYosher* we had it in about 100 places and then in the last couple of months people were threatening places that had the *Tav HaYosher* saying that it was bad, we’re going to boycott you if you have it because of Rubashkin...You know people think a lot of crazy things about us” he recalled. Rabbi Silver and his colleagues face clear hostility from segments of the ultra-Orthodox world, this antagonism has directly made their work more difficult.

Instead of attempting to improve their “credentials” among the ultra-Orthodox, as Rabbi Allen suggested they were doing by distancing themselves from his project, Rabbi Silver expressed an acceptance of the vast difference that existed between *Uri L' Tzedek* and parts of the Orthodox world:

Our style like our kind of just a little bit like cowboy-we just like go out and do what we think is right so which has it's pluses and minuses so like it enables us to do a lot but like if we spent like the next 6 months like investing in relationships in the *Haredi* world like maybe the *Tav* would be easier but you know maybe it wouldn't...

Rabbi Silver has no plans to invest time in creating a better relationship with *Haredi* Jews. He believes that attempting to do so would likely be fruitless. According to Rabbi Silver, *Uri L' Tzedek's* work ethically certifying *kosher* restaurants was “cowboy,” it has always existed outside a *Haredi* Orthodox framework. *Uri L' Tzedek's* motivation is not to gain acceptance within the ultra-Orthodox community. They admit that they operate

separately from the ultra-Orthodox world. Rather, they are trying to create a new kind of space where it is acceptable to espouse progressive political views while unambiguously identifying as Orthodox:

We need to support and create a community for those people in the Orthodox world who are committed to these broader justice questions that didn't exist before and that's been the most exciting process for the organization. People coming and being like I thought I was the only person here who like cared about this kind of stuff and like I had to choose like either I had to be *frum*³² or like I have to do my social justice work so to create a space for people to do both.

Uri L' Tzedek is not interested in merging their Jewish ethical food initiative with one stemming from the Conservative movement. They are not interested in moving towards "Conservadox Judaism" because they see themselves as decidedly Orthodox, despite the fact that many segments of the Orthodox world are not accepting of an Orthodox group with a progressive political agenda. They *are* interested in creating an Orthodox social justice community where the growing number of young modern Orthodox Jews who see both social justice work and Orthodoxy as central tenets of their identity can find others who have felt the same tension.

Clearly, the reason *Uri L' Tzedek* created their own negotiation between ethics and *kashrut* instead of fully endorsing *Magen Tzedek* had less to do with a desire for legitimacy within the ultra-Orthodox community and more to do with another, deeper difference between the perspectives underlying the two projects. This difference can best be summed up by the very different answers the Rabbi Silver and Rabbi Allen gave to the question "What does living an ethical life mean to you and how is that the same or different as living an ethically Jewish life?" Rabbi Allen's response was a reiteration of

³² Yiddish term referring to religious outlook associated with the *halachic* legal practice of Judaism. Colloquially means Orthodox.

the holistic worldview he attempted to create the possibility for by promoting *Magen Tzedek*, “my ethics are probably housed inside my understanding of myself as a Jew.”

Rabbi Silver’s point of view sharply contrasted with Rabbi Allen’s, as becomes apparent through his answer. For Rabbi Silver, it was impossible to neatly tie social ethics and Jewish identity together:

I mean I think the Rambam, Maimonides talks about in *The Guide to the Perplexed* that most of the *Mitzvot* are really designed to cultivate you know a greater sensitivity so one very powerful way you can look at pretty much all of the Torah and say like this is a way of life designed to create an ethical sensitivity toward the world. Sometimes I believe that, sometimes I struggle with that because there are like other things that I do that think are not so connected to ethics and even some things which like...go against my ethical concerns, certain Orthodoxy stuff around women...there’s a lot of complicated stuff there. So I’m not like...I can’t say that Jewish life lines up 100% with ethical life.

Just as Rabbi Silver has accepted that he could be Orthodox without legitimacy in the eyes of the *Haredi* community, he has also recognized his worldview is not holistic. He is aware his actions stemming from a commitment to Orthodox Judaism do not always match up with his “ethics,” as someone with a more politically progressive worldview.

Instead of trying to create a world where both could coexist as one, Rabbi Silver has accepted there are two parts of his worldview that will never completely line up. Instead, he wants to help carve out a new space within a self-consciously Orthodox context for other young, progressive, modern Orthodox Jews to express separate parts of themselves that do not always neatly fit together. Thus, on the surface *Tav HaYosher* and *Magen Tzedek* appear to be very similar negotiations of the place of ethics within *kashrut* as a response to alleged worker abuse within Agriprocessors. In reality, however, they come from two very different perspectives regarding the relationship between

contemporary liberal ethics and Judaism. It is not nor has it ever been feasible or “logical” for them to merge.

Rabbi Silver espouses what Sociologist of Orthodox Judaism Samuel Heilman has identified as “postmodern Orthodoxy.” According to Heilman’s study of modern Orthodox Jews in their twenties living on the Upper West Side of Manhattan, “Young modern American Orthodox Jews are living within and even committed to the closed practice domain of Orthodox Jewish law, custom, and practice...they want to be both Orthodox Jewish and modern American” (180). Heilman recognizes that these young Orthodox Jews “live in at least two cultures that feel true to them and that may not always be in harmony.” In today’s world, however, this lack of harmony is less of a problem than perhaps it was in the past. He goes on to claim, “In the post-Modern world that some have suggested we now inhabit, dichotomies are dialectically redefined. In this world, one can often avoid the either/or option of fragmentation and choose the both/and one of provisionality,” (304).

This is the world Rabbi Silver and his young modern Orthodox cohorts operate within. Whereas traditionally Orthodoxy has forced its adherents to choose one identity, increasingly boundaries between what is Orthodox Jewish and what is modern American are becoming blurred (Ibid.). Although the dialectically redefined dichotomy Heilman addresses is between the increasingly insular *Haredi* community and a generally counterpunctalist³³ modern Orthodoxy, his analysis also holds true for the dichotomy between modern Orthodoxy and the liberal political ideology historically prevalent within

³³ A term Heilman borrows from Mary Douglas meaning a model within which competing loyalties to potentially rivalrous institutions and cultures are permitted, even encouraged (Heilman, 3).

progressive Jewish movements. Rabbi Silver does not feel like he has to make a choice between his commitment to Orthodoxy and his commitment to social justice work, even as he recognizes that the two can never be completely compatible. He is attempting to reinvent the dichotomy by adopting a counterpunalist identity. The result is a community that according to Rabbi Hart, “didn’t exist before.” The both/and option is the one he has chosen; the types of binaries once taken for granted are no longer stable. As a result, new types of communities are beginning to form as boundaries are redefined.

At the end of his Yeshiva University panel speech on kashrut and ethics in the context of Postville, the *Haredi* Rabbi Shafran recognized, and hoped to challenge, the shift towards progressive politics happening among young modern Orthodox Jews. He directly addressed the young Orthodox social activists responding to Agriprocessors’ violation of their ethics:

If the term Orthodox Judaism has any meaning it lies in reverence for the past and for those who lie closer to the past than we. The proper communal way to determine whether a communal mechanism is warranted...and proper, to deal with a particular problem, whatever the problem, is to bring it to the attention of the elders of the community...I don’t expect a Conservative Rabbi to acknowledge that fact because the non-Orthodox movements are by definition “progressive” i.e. focused on the future, focused on change, focused on youth, not on *mesorah* not on *ziknah*. Not on our tradition handed down meticulously, not on respect for elders. But those of us who call ourselves Orthodox have to know on whose shoulders we stand and who the Torah teaches us to consider to be *einai chaida*, the farthest seeing and most perceptive eye.

Rabbi Shafran is insisting on maintaining the binary. If you are Orthodox you are cannot be progressive in any way. If you are looking for change coming out of scandals in the *kashrut* industry, you are not upholding tradition. If that is your aim, go become Conservative like Rabbi Allen. Otherwise, commit to believing Orthodoxy has one real “meaning” and listen to your elders to find out what that singular meaning is. To be both

Orthodox and a social justice activist is a profound threat to what Rabbi Shafran understands Orthodoxy to mean.

While Rabbi Shafran's speech may have resonated with many Orthodox Jews, for many others in the audience that night the "real meaning" of Orthodoxy has not yet been determined, if it can even be said to exist. The next day the New York Times quoted 21-year-old Shlomit Cohen, a senior at Yeshiva University's Stern College for Women and president of the Social Justice Society, which the article describes as "representative of a new wave of social activism among young Orthodox Jews" (Vitello). Cohen said she appreciated Rabbi Shafran's perspective and "his desire to retain respect for the authority of legal tradition...but this is more than a technical legal issue," she said. "Change is needed, and if it is not coming from the leadership we have, it will have to come from others" (Ibid.).

Conclusion: American Jewish Communities in Flux

Michael Staub ends his insightful historical analysis of mid-century intra-Jewish political debates with a gloom and doom prophecy. Anger as the opposite of indifference has been a historical sign of mutual investment for American Jews, he argues, and he worries that the Jews of today are just not mad enough at each other (308). He claims since historical period at the center of his study:

“American Jews seemed to have less to express to one another all together. They simply shared less than they once did. Organizations and groups have proliferated, but they coexist more than conflict. The possible links between religious and political identifications are subject to far less debate than they once were. And with a lost set of norms, the anger has served-however paradoxically-as a distinctive and reliable form of social cohesion lessened as well, and that collectivity known as the Jewish people came closer to an end” (308).

Staub’s fear is unfounded. Arguments between American Jewish groups are nowhere near ending, as the debate surrounding ethical *kashrut* after Postville revealed. The discourse between Jews as they responded to the violation of worker’s rights within the country’s largest *kosher* meatpacking plant was nothing if not intense and filled with anger.

While Staub’s belief that as groups splinter they are better able to coexist has not been the case after Postville, he is correct in identifying a lost set of norms and lack of cohesion within American Judaism. The Postville debate reveals that Jewish groups do indeed hold much less in common with each other than they once did. The liberal Jews of JJI and the *Haredim* writing for *Yated Ne’eman* are ambivalent about even claiming that they are part of the same community, when they do not reject the notion all together. When a huge, public scandal involving Jews takes place, however, they respond to each other. They participate in large part because each group uses the same language to

describe their practices and identity: *Kosher, treyf, Jew*. They hold competing and incompatible definitions to these terms, as their respective responses to Postville exposed to be the case. As a result, they conflict rather than coexist.

The Postville debates also complicate Samuel Freedman's declaration that "in the struggle for the soul of American Jewry the Orthodox model has triumphed" (Freedman, *Jew Vs. Jew* 338). Liberal Jews refused to cede the authority to define American Judaism to those to their right and young Orthodox Jews refuse to espouse the models of the past. In doing so they have shown American Jewish identity is in flux. The debate was not simply an argument over defining a ritual. It was an ongoing struggle as communal boundaries shifted and it was a contest for power as old rules destabilized. Broad declarations regarding how liberal and Orthodox Jews relate to each other that at one time seemed obvious can no longer be made with confidence. Boundaries that appeared to be breaking down have been reinforced while new types of communities are emerging.

As binaries such as "liberal" and "Orthodox" are challenged, the definition of what it means to be an American Jew may be "contingent and temporary and refuse to make claims to any single truth" (Heilman 305). Today many have their own vision of what the American Jewish landscape looks like but as for tomorrow—"who knows?"(Ibid.). What is certain is that American Jews across the ideological spectrum participated in the recent debate over ethical *kashrut* because they care deeply about the future of American Judaism, even while holding competing visions for that future. The Jewish people as a "collectivity" may indeed be coming to an end but American Jews from disparate communities are still invested in being Jewish and are still fighting with

each other over what exactly that means. Their arguments actively shape the future of American Jewish life.

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