

THE
ANNUAL
OF
RABBINIC JUDAISM

ANCIENT, MEDIEVAL, AND MODERN

VOLUME 3

EDITED BY

ALAN J. AVERY-PECK
WILLIAM SCOTT GREEN
JACOB NEUSNER



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THE STATE OF THE FIELD

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THE RELEVANCE OF MYTH FOR UNDERSTANDING RITUAL IN ANCIENT JUDAISM¹

Ithamar Gruenwald
(Tel Aviv University)

There is no exaggeration in arguing that discussion of and scholarly writing on myth are often accompanied by certain feelings of uneasiness that give rise to various apologetic stances. Across the board, attempts are made to find for myth a more central, or respectable, place in human culture than is often allocated to it. This certainly is true of myth as a religious phenomenon in general, and it is all the more so in regard to myth in Judaism and other monotheistic religions in particular. The presence of myth in the context of forms of Judaic religion is almost by definition predestined to create problems. The first part of this article will, therefore, focus on the general problem of myth and religion, particularly in what are called monotheistic religions. The second part will do so in regard to the more specific aspects of the problem as it comes up in the Judaic context.

In my discussion of the subject, I refer to myth as a normal and essential cultural phenomenon. Many people and cultures have their respective myths (the Greek word signifies "story"). As is the case for most stories, the mythic "story" engages the domain of the imagination. It is composed of subjective data that seek ways of coming into life as objective realities. However, the central position that is taken in the present paper is that the mythic "story" is best characterized by its connection to a specific ritual or ethos. Myth generates ritual. However, in a number of cases, the order is reversed, and a certain ritual generates a myth or attaches itself to an existing one. While it is difficult at times to determine which of the two precedes the other, in any event, the connection of myth to a specific ritual appears to me to be the essential feature of myth.²

¹ In many ways, this article is a continuation of the discussion the inception of which was in my article "The Inevitable Presence of Myth," in *Eshel Be'er Sheva*, 4 (1996), pp. 1-14 [in Hebrew]. My thanks go to my colleagues, Professors Sarah Klein-Braslvay and Shlomo Biderman, who read various versions of the article and offered useful and important comments. Likewise I would like to thank my friend Dr. Israel Rosensohn for lending me a listening ear. An earlier Hebrew version was published in *Jewish Studies*, vol. 38 (1998), pp. 178-210.

² For a similar tension between myth and the mythic experience, see Hans Jonas, "Myth and Mysticism: A Study of Objectification in Religious Thought," in *The Journal of Religion*, 49 (1969).

This connection helps us understand the difference between myth and mythology. Myth is here viewed as a story that exists by virtue of its connection to ritual, whereas in mythology—a collection of stories about gods—the story exists without any active connection to an existing ritual. At times, though, myth can change to mythology, that is to say, it may turn into a story that has no active ritual connectedness. In this case, it functions like any other story, primarily appearing in an aesthetic context. The mythic “story,” and for that matter mythology, too, is different from any other story in the materials that it uses. In the first place, it traverses the lines that regularly demarcate objective from subjective forms of knowledge. Thus, the mythic story may branch out and engage remote mental or imaginative domains in which the supernatural becomes a realistic probability. From a psychological point of view, it may be said that myth establishes the facticity of supernatural notions and of subjective desires or fears that seek full realization. Realization here means objectification, which is needed to create a tangible reality to which rituals, as behavioral factors, can relate. Rituals are made to address such realities. But what really matters here is the fact that rituals connect the subjective and objective to become structures that enact a reality in which the rituals generate the constitutive dynamics of effective actions. In the realm of ritual, actions are not the aimless movements from here to there but the creative forces that cause changes in given realities. Without myth all this is unthinkable.

Myth is a natural form of expression of human imagination. It is not an irregular phenomenon and does not deserve the lifting of an eyebrow. Imagination has a reality of its own. Its first links are not the fictitious but the really creative. It is an integral part of human consciousness. Admittedly, the human need for rational and critical judgment is an important aspect of the mind. It is often supported by philosophical and theological rationalizations that highlight its primacy.³ But it does not exhaust the totality of the capabilities of the human mind.

Thus, in speaking of myth, many would say that, at best, it is a symbolic expression of ideas. Its background is viewed as a certain spiritual design that is dramatized in the mythic narrative. There are, indeed, instances in which myth functions that way. However, according to the approach presented in this paper, myth is a unique

³ The status of myth as primarily a symbolic narrative has been discussed in the writings of Ernst Cassirer, discussed below. We must note, though, that Cassirer does not see in myth a symbolic expression of some particular concept but rather a way of expression that creates its own special language in a broad spiritual context.

form of expression. Its existence depends on the link that is assumed to connect it to ritual. Myth may attempt to provide an interpretation of events. But what matters is that this information is, then, embedded in a ritual performance. Accordingly, when myth refers to events connected to gods, there is a specific ritual that these gods allegedly favor and to which the specific myth refers. When these events have no connection to ritual, or once they have lost that connection, they are removed to the location in which mythology prevails. In my understanding, mythology is myth deprived of its ritual connection.

It would be a mistake, therefore, if we accept for our purposes the philosophical-rationalistic orientation. Furthermore, we should distance ourselves from the line of argumentation that is fostered in theological circles, to the effect that myth allegedly undermines religion in its monotheistic purity. The reasons for treating myth with suspicion are often located within the strangeness of its narrational setting. Myth entails epistemological exceptionality, to say nothing of its interest in the supernatural.⁴ I incline to view myth as an ever-present phenomenon. People may criticize the level of intellectual seriousness that is here attached to myth. However, those doing research in religious and cultural studies know the power of myth in creating remarkable and interesting intellectual designs. The essence of myth, however, lies in its energizing rituals. Generally speaking, rituals create transformative processes that are believed to preserve and safeguard vital aspects of human and social existence. At critical moments of danger to life and existence, rituals are introduced to reverse adverse conditions.

The stories behind these ritual events are here viewed as myth, even when the danger is a real and material one. Why is this the case? Using pesticides on a coffee plantation looks like a rational means of destroying insects and other harmful organisms. However, when priests are called to perform their special blessings, and the farmers join in, this clearly is a ritual. In other words, rituals engage modes of behavior and activity that, more often than not, invoke supernatural agents. But even in the case of secular rituals, for instance, performing certain routine acts before surgery or flights, an element of the irrational is introduced. In normal parlance, people would speak of superstition that finds its way into rational forms of behavior. But matters are much more complex than that. They certainly require myth to sustain their existence.

⁴ In the theological controversy of the twentieth century, the name of Rudolph Bultmann needs special mentioning. See his *New Testament and Mythology and Other Basic Writings* (Philadelphia, 1984).

The uniqueness of the mythic "story" lies, as indicated, in its creating life patterns that are fixed in ritual and ethos. Ethos is here viewed as structured forms or modes of life that crystallize as a culture that has religious dimensions. In comparison to institutionalized religion or a fully developed culture, these forms of life do not add up to more than structured life styles. These forms of life have neither a constitutional law nor the fully developed religious hierarchy and bureaucracy. Still, they contain foundational factors that impart valuable meaning to the life of the people. Myth here contributes to the creation of conceptual patterns that are gradually constituted as segmented rituals. These in turn become a fully-fledged religion.

Furthermore, when linked to any particular ritual, myth creates symbolic signs that are vital to establishing personal, or group, identity. Structurally speaking, then, myth and ritual create, in an intertwined manner, identity-marks that unfold in a narrative of their own. The "narrative" of the ritual is in the myth that sustains the doing. The myth can relate to the past, the present, or the future. It may relate to living people, to dead ones, and to deities. Speaking of rituals, identity comes into effect, in the first place, in a behavioral configuration. That is to say, people are identified by what they do and by the manner in which they do it. Since the philosophical way of life aims at establishing fixed patterns of moral and spiritual identity and behavior, one is entitled to seek myth there, too. It should not come as a surprise to the reader that we shall argue here that, even in the philosophical-rational position like that of Maimonides, there is a substantial core that functions as a myth.

In short, our discussion of myth will move along two complimentary lines that ultimately are integrated into a single statement. The first line determines the familiar channels by which myth is revealed. Myth, in this respect, will be examined along lines that can be assessed by psychological and epistemological means. The second line leads to examining the place of myth and ritual and their respective functions. Here, anthropological criteria will be supplemented by religious studies. In this manner, the mind that stands behind the rituals will receive special attention. In any event, one aspect, central from a methodological point of view, receives special emphasis. It concerns myth and ritual in their non-religious configuration. Although, in its fullness, myth is a central religious factor, it is not unique to that realm. The essence of myth, as we suggest here, is its function as the "story" that constitutes a ritual. Rituals, we argue, are found both in the area of religion and outside of that domain.

1

We are guided here by the idea that a fruitful discussion of myth must be carried out from a standpoint that ignores the evaluative manner in which people are used to viewing the difference between the worlds of objective and subjective consciousness. The value judgment regarding this issue as formulated in many instances says that the subjective forms of consciousness do not have the same epistemological standing as the evidence gained from the material world through sense perception. For the sake of an opposing viewpoint, I offer the approach of the British pediatrician and the psychoanalyst D.W. Winnicott,⁵ who argues that:

In the healthy individual who has a compliant aspect of the self and who is a creative and spontaneous being, there is at the same time a capacity for the use of symbols. In other words, health here is closely bound up with the capacity of the individual to live in an area that is intermediate between the dream and the reality, that which is called cultural life.⁶

A similar claim is made here:

It may be necessary...to speak in terms of man's cultural life, which is the adult equivalent of the transitional phenomena of infancy and early childhood, and in which area communication is made without reference to the object's state of being either substantively or objectively perceived. It is my opinion that the psycho-analyst has no other language to refer to cultural phenomena.⁷

It is useful to relate Winnicott's words to our discussion here. They may be taken to allocate a cognitive value to myth and consequently to its epistemological and, hence, scholarly assessment. In fact, what Winnicott says gives myth a status of positive and creative value in human culture. Winnicott helps us view myth as sustaining a dialogue between the worlds of objective and subjective consciousness. Myth can only exist in a place in which the commonly maintained borderlines between these two forms of consciousness are suspended for the sake of cultural creativeness and formative imaginativeness.

In other words, Winnicott may be viewed as offering a justification for a fresh approach to myth. In this approach, the negative insinuations often made to discredit myth intellectually can be laid aside. I

⁵ D.W. Winnicott, *Through Paediatrics to Psycho-Analysis* (New York, 1975), mainly pp. 229-242; idem., *The Maturation Processes and the Facilitating Environment: Studies in the Theory of Emotional Development* (Madison, CT, 1991), pp. 150, 184-85. I owe this reference to my son-in-law, Beni Kashani.

⁶ *The Maturation Process*, p. 150.

⁷ *Ibid.*, p. 184.

believe there is no longer room for reflecting on myth as fictional redundancy or trite and subjective creativity. We make it a point to argue that myth lies outside the realm of fictitious literature. We do so arguing that although myth may have aesthetic values, it functions on a completely different level of imaginative creativity. It creates, or connects itself to, ritual. In this respect, it is embedded in the hard core of praxis in human action. In my view, any study of myth that wishes to be fruitful has to show that there are modes of cognition that are fashioned in a specially conceived mental space. These modes have a special place in culture. The space that is created for them becomes feasible in the realization of the framework of the fluid boundaries that exist between the natural/objective and the supernatural/subjective. We should repeat here that the realization of the mythic modes happens in the conceptual framework that grants validity to patterns of behavior that are ritualized. In other words, the full realization of myth is in the ritual that grows out of, and with, it. The questions of the shaping of the identity of the people involved or the consolidation of their cultural identity also come into play.

As already stated, I seek to present myth as a dominant cultural phenomenon. In other words, myth should not be viewed as belonging to the realm of religion only. Where it belongs in the first place is the mind of the people who create myth and then use it for, or in, their ritualized modes of behavior. More broadly stated, myth equals the ethos that sustains ritual. We have already referred to ethos above. We may add here that ethos is the domain of factors that are normative in the social, moral, conceptual (including religious), and at times even economic orders. On a broad scale, ethos may constitute pre-cultural or pre-religious settings.⁸ Culture and religion entail institutions, a structured law-system, and rituals that are repetitive (rather than spontaneous), communal (rather than individual), and enacted on large life-cycles (rather than sporadic).

What rituals mainly do, even at the level of ethos, is to bring about substantial changes in the performer or in anything that relates to these rituals. Rituals operate in social and mental realms in which actions have constitutive or re-constitutive functions. It helps their users to reorient themselves in relation to a world the existence of which has come under threat. When the prevailing order is damaged or demolished, a need arises to reconstitute it. Since, mentally and

⁸ For a wider definition of the concept "ethos," see Clifford Geertz, *The Interpretation of Cultures* (New York), pp. 126-141.

physically speaking, human resources are limited, rituals epitomize for people the ability to interact with, and to influence, their immediate environment. That environment includes the world of the gods, seen as responsible for preserving a means of existence and survival. Ritual performance gives people a means of reversing the processes of destruction.

In this respect, ritual has corrective functions. In addition, it establishes models of self-correction (substitutes and punitive acts) that are applied when the ritual at hand has not been done properly or has failed its users. In the structuring of rituals, communal participation in foreseeable, timed repetitions is a key factor. To repeat, the sustaining story that goes with ritual (not the belief or the theology) is myth. When a theological moment is added or comes into effect, myth may lose its imaginative power. It may become a story the truth of which has to be validated through means that are not commensurate with the essence of the subject.

My intention so far has been to present the problem of myth in a wide context. This problem is often viewed as rather perplexing, particularly when modes of Judaic religiousness are discussed. What is generally viewed as Judaic monotheism is held to have taken shape in an utterly non-mythic environment. Monotheism, as viewed by many, cannot live together with myth. If the annihilation of the mythic factor in Judaism has reached a stage of ritual performance, then everything that is told to sustain it, even on the scholarly level, is, in the terms used here, myth. But following Winnicott's propositions, myth is a natural phenomenon in the mental layout of all people. It is as positively imaginative as any other form of human creativity. Thus, whenever human cognition is turned towards worlds the representation of which is not perceived by the senses, humans branch out into the realms of religious belief. There the limitless can be reached by the power of belief. But, epistemologically speaking, the limitless has its own reality. Thus, religion cannot be without its mythic forms. Myth originates from special modes of consciousness, and these are active in practically every form of religion or religious expression.

One necessary conclusion of this is that myths that are designated "pagan" belong to people whose rituals are forbidden. This does not mean that epistemologically speaking these myths are false. Their truth lies in their connectedness to certain rituals, even when these rituals are rejected by other religious systems. As indicated above, when myths lose this connectedness, they become mythology. Almost the same stories can be found in various religions about the origins and lives of gods, their genealogical relationships, and even their

deaths. However, in not adopting or rejecting a particular myth, a cultural statement is made. In the first place it says that this myth does not have ritual connectedness. It has been side-tracked to the realm of mythology. In other words, they are in the realm of the aesthetic, or better even, in that of the polemical. But we should repeat that no religion is free of myth in the sense that it houses a mode of telling stories that are ritual-bound. The question is, what is the nature of borrowed mythic materials in their culturally displaced setting, for instance in Scripture?

In other words, we need to distinguish between two forms of representing the problem of myth and mythology in the context of Jewish religion. The question is always an open one. Are the traces of mythic materials as contained in Scripture, for instance, myth or mythology? I believe that everyone will agree that these materials are mythology, that is, myth devoid of its ritual context. The question is whether these remnants in Scripture initially had a myth-ritual configuration. The question can always be debated with no conclusive results. There is no uniform and unequivocal answer, because, in their present form, the mythological, rather than the mythic, character prevails.

Still, a brief examination of one such case may be an eye opener. When Scripture says that God created the human species ("the Adam") in "[the] *Tselem* of Elohim," the scriptural text hastens to add that "they" (!) were created male and female (Gen. 1:27, 5:2). What may be implied here is the bisexual, or the indeterminate sexual, nature of the "*Tselem* Elohim." The Hebrew term *tselem* derives from the Akkadian *tsalmu*, which, according to Irene Winter, consistently means image, which may occur as a "statue, or a stele, carved in relief, painted, drawn or engraved."

The common interpretation of *tselem* sees in it the spiritual quality of God. But if we accept Winter's definition, adding to it an orally conveyed observation by Simo Parpola, the usage indicates primarily a physical representation of a certain being and, then also, the spiritual qualities attributed to the *tsalmu*. In other words, the notion of the bisexual nature of God, which is attested, e. g., in Platonic writings, is in the first place a mythological concept. But what if the passage in Genesis has a ritual connection? It may easily be linked to the notion of human procreation, which is made a into basic ritual principle in human life, crossing all religious borderlines. Once it has its ritual connection, it obviously is a mythic notion.

Scholars writing on the creation stories from Adam to Noah often insist on seeing in the materials included in Genesis an anti-mytho-

logical program. These stories are viewed as lacking any mythic/mythological inclinations.⁹ Where scholars are more inclined to give in is in their discussion of the subject of the primeval battle between the god and the sea and land monsters that attempted, as it were, to challenge the absolute hegemony of God.¹⁰ Here, scholars argue, one can clearly discern what I would define as the residues of mythic materials. These materials were allegedly used in several scriptural writings for polemical purposes.

It is important to note that the mythological materials in Scripture basically appear in fragmentary form. Needless to say, there is no known and coherent method that makes itself evident as to what guided their selection and manner of presentation. In fact, the various forms of their presentation tell a rather striking story. After all, myth *is* found in every religious statement that relates to a god or angels. The existence of the divine world as an actuality with personal qualities (anthropomorphism) seeks to create notions of a mutual relationship with humankind. This cannot but be myth in the sense discussed here.

Let me sum up this part of the argument. Myth creates a link between a certain reality and its re-enactment in structured actions, referred to here as rituals. Myth is created in a special cognitive space that is not limited by the usual constraints of sense perception, the material world, and the negation of the body. As we have seen, the psychology of the mythic condition assumes the existence of an active attitudinal system that rests primarily on imagination. Perception is directed to the inner world of people in which the boundaries regularly assumed to separate the internal and external worlds have been

⁹ Of interest in this context is the way M.D. Cassuto relates to this material. In most cases, he refrains from using the word "mythology," instead talking about "oriental legends" or "early poetic traditions." In contrast, Ezekiel Kaufmann demonstrates more sophisticated acrobatics in his attempt to deal with the subject of "Scripture and mythological idols." He acknowledges the indirect influences of early oriental mythology upon certain sections of Scripture. However, in the main, he notes, Scripture does not recognize the mythological idols and therefore is not influenced by them in any significant manner.

¹⁰ See, for example, John Day, *God's Conflict with the Dragon and the Sea: Echoes of a Canaanite Myth in the Old Testament* (Cambridge, 1985). This approach is also found in the article of Benjamin Uffenheimer discussed below. It should be noted that most scholars do not maintain a clear distinction between myth and mythology. By way of an interesting example, one may refer to the work of Yehuda Liebes. In various studies, he discusses myth and mythopoesis. However, no distinction is made by Liebes between myth and mythology. See, mainly, his *Studies in Jewish Myth and Messianism* (Albany, 1993).

melted away. Hence, myth determines important new areas of activity for human cognitive faculties.¹¹

Finally, it is imperative in my eyes to note that, in maintaining the distinction between mythology and myth, an essential statement is maintained in regard to the relationship of Judaic forms of religiousness to mythic materials. This statement concerns the legitimacy of using the term “myth” in regard to materials found in Scripture and elsewhere in the classical works that constitute the Judaism of ancient times. At the center of our attention are various forms in which God becomes a leading concept in any religion, including, for that matter, the ones designated as monotheistic. The religious concept of God is not shaped, as is so often assumed, by philosophical definitions and concerns. Rather it activates cognitive processes that entail mythic realizations. Myth, as we saw, is created in the dialogue that people sustain between forms of subjective and objective consciousness. This dialogue eventually grants an objective and approving status to the objects of subjective consciousness.

2

Since this discussion entails a departure from prevailing modes of research, some elaboration is required on our way of handling the subject. Scholars often focus on questions regarding the historical-archaeological and sociological information that myth allegedly contains. Many seek in myth details that identify the kind of society that is created by it. In principle, there is nothing wrong with such an approach. However, scholars with a philosophical orientation discuss the question of the ontology of myth, regardless of its sociological and anthropological setting. From that particular angle, myth is often depicted as representing notions of fictitious information that have no reality of their own. This is to say that the ontological reality of myth is seriously called into question. However, in my view, the truth of myth is neither verifiable nor held in any esteem from a rational, or materialistic, point of view.¹² If we accept the model of Karl R. Pop-

¹¹ Maimonides, in line with Alfarabi and others, defined the issue in its religious context by saying that, in religious consciousness or prophecy, the “imaginative power,” or “the image,” are primarily active. However, according to his opinion, the power of imagination, if it is subjected to the examination of the discursive intellect, is active even from the “prophetic-philosophical” standpoint.

¹² This matter is made clear in the title of the book *Myth and Fictions* (Shlomo Biderman and Ben-Ami Scharfstein, eds. [Leiden, 1993]). There the epistemological distinction between fiction and non-fiction or reality stands at the center of the

per, we may say that since one cannot prove myth, one cannot deny its truth. In this respect, myth must be viewed as a form of meta-scientific thinking. It has cognitive value but does not organize its information in critical and scientific patterns.

There is a way to challenge the validity of myth. This happens when its relevance, that is, its ritual connection, is abandoned. One inclines to say that the myth of the "other" is not true. What is meant is that its connection to a specific ritual is cut off. In a Judaic context, the fight goes on between different kinds of worship, not between the stories that accompany these forms of worship. The "other" is the idol-worshipper, the "heretic," or the one who believes in what is called "superstition." The gods are false not because they convey notions of a polytheistic myth but because they can be ridiculed as man-made. In a cultural context that is defined philosophically, myth and mythology alike are considered prototypes of paganism or barbarism.

Anti-mythic approaches that, practically speaking, combine religious and philosophical considerations are found for the first time in the pre-Socratic philosopher Xenophanes, one or two generations before Plato. He directed a fierce polemic against the widespread outlook found in Homeric literature. His polemic was motivated equally by religious and philosophical considerations. According to that outlook, Xenophanes argued, gods were born and died. They even had incestuous relationships. In his eyes, all this degraded the gods and was therefore philosophically unacceptable. Xenophanes is

discussion. Our discussion here seeks to take a clear stand in this respect. In my view, what should interest scholars in religious studies is not the difference between various kinds of ontic realities, as also the question, which reality facilitates the existence of myth, but rather what is the general reality that also includes myth, and especially religious myth, in the context of ritual. Where myth flourishes, the boundaries of reality are ontologically different. The boundaries are maintained, if at all, not by their technical scope but, mainly, by psychological and philosophical considerations. Thus, dreams are part of reality, although that reality is different in its psychological context from the one defined by conditions of wakefulness only. However, for many people, the boundaries between the two kinds of reality—that of dream and that of wakefulness—are blurred not because of a failure of their creative imagination but because, in their consciousness, dream and reality are confused. Surely, where myth operates, no traces of psychological disturbance can be detected but, rather, forms of consciousness with different boundaries of reality. From this point of view, it seems to me, in the discussion of myth there is no room for raising the question of truth in the rationalistic sense of the term. For those who possess a myth, myth is part of the existent truth. The concept of truth in the context of myth is also discussed in the studies found in Frank E. Reynolds and David Tracy, eds., *Myth and Philosophy* (Albany, 1990).

quoted by Clement of Alexandria,¹³ who uses the authority of the old Greek master to wage a polemic against what in his eyes are anti-Christian, that is, pagan viewpoints. Viewpoints like that of Xenophanes made many a writer turn to a hermeneutic stance, involving the translation of religious myth into philosophical truth. In Judaic thought, it was Philo of Alexandria who first gave systematic expression to a rationalistic interpretation of scriptural myth. He applied philosophical allegory to Scripture.¹⁴ An additional change came into effect in this opposition to myth at a later historical phase. Its essence was the theological-rational opposition to myth, as voiced by Maimonides. People were persuaded to see in myth the embodiment of religious paganism.¹⁵

As already stated, here I seek to free myth from the need to refer to it in apologetic or critical terms. Furthermore, I refrain from defining myth as something diametrically opposed to what has become known as transcendental monotheism. As has already been stated, myth is connected with ritual, a cognitive entity that creates

¹³ The subject is discussed primarily in the fifth book of the *Stromata*.

¹⁴ Practically, Philo does not polemicize against myth but seeks to represent it as a story that possesses philosophical truthfulness, an approach facilitated by the allegorical interpretation of Scripture. His hermeneutic method enables Philo to see in the scriptural narrative (and in any story in which the gods play a part) a veil that hides the abstract philosophical truth.

¹⁵ To the best of my knowledge, there is no clear formulation of this opinion. Rather, this view is expressed in various formulations, especially those that seek to explain Scripture by comparing it to Babylonian, Assyrian, Egyptian, and Ugaritic sources. The relativization of the uniqueness of the scriptural world, and even the diminution of its exclusive meaning, brought on harsh responses from all sides. Ezekiel Kaufmann outdid himself by attempting to establish the sources of Scripture and its exclusiveness so as to get an idea of the concept of the monumental world of the Scripture. See Benjamin Uffenheimer's discussion of the problem in Yair Hoffman and Frank Pollak, eds., *Or L'Ya'akov: Studies in the Scripture and the Dead Sea Scrolls in Memory of Ya'akov Shalom Leicht* (Jerusalem, 1997), pp. 17-35 [in Hebrew]. I would note here that I am not in accord with Uffenheimer's view, according to which Scripture, in its presentation of vestiges of ancient concepts from the pagan world, seeks to fight against them. It seems to me that many of the cases that allegedly support Uffenheimer are open to an opposite interpretation. To the best of my understanding, Scripture does not in oppose forms of religious consciousness that support the worship of other gods. This issue often surfaces in scholarly writings that argue that the religion of ancient Israel maintained a philosophical monotheism. But what is at stake is monolatry, the worship of one god, not his philosophical mono-existence. Whenever vestiges of the pagan world are linked to the world of Scripture, they do so without any critical tone or negativism. The victory of the God of Israel over the legendary sea-creatures does not constitute a polemic against myth in general but rather a description of God's power over those creatures, in all likelihood when they desired to attain a divine position in the world. Uffenheimer's is his last article and also the last article on the subject known to the present writer.

transformative events that operate as generative, life conserving, and reconstituting factors in the existence of people. The practical goal of ritual is to bring into effect a constitutive act that establishes, restores, and preserves the undisturbed self-identity of those doing the rituals. The breadth of the desired changes and their special character depend on the special "cosmos" (or cosmology), the existence of which creates the setting for the ritual performance. Time and place are clearly among the most important components of that "cosmos." But we may also include other factors, like the status of the performing agent (e.g., a priest), the vestments used, as well as the kind of text that is said and the music played. The primary uniqueness of every such "cosmos" comes into effect on the platform that aims at bringing about the desired change, or transformation. Any ritual "cosmos" is structured on a social context, a certain history, and an ideology. However, its essence is supported by a myth. The persistence of this cosmos through time (tradition) may in turn give rise to new phases of the constitutive myth.¹⁶

Myth often narrates an archaic or primordial event. This is especially true of myths created in a religious context. However myth is not necessarily an archaic story. Particularly when a ritual is at hand, the mythic past does tie to the present. However, emphasizing the connection between myth and ritual makes no assumption in regard to the question of whether one event tends more than the other to take on a mythic form. It is clear, though, that mythopoesis is almost an immanent characteristic of stories that claim to present paradigmatic truths about supernatural beings. Indeed, there is no way to bypass the mythic elements in religion. However, we should be reminded that not every myth is a story about gods. *Mutatis mutandis*, stories about the god(s) can well become mythology, when their ritual function is lost.

As stated, I am seeking ways of applying the notion of the omnipresence of myth in areas that are not necessarily religious. Modern

¹⁶ These issues are frequently discussed in the studies of modern anthropologists. Their adaptation to the study of the monotheistic religions, though, has hardly started. For the sake of a general orientation, I refer the reader to Bruce Kapferer, *The Feast of the Sorcerer: Practices of Consciousness and Power* (Chicago and London, 1997). See also Don Handelman, *Models and Mirrors: Towards an Anthropology of Public Events* (Cambridge, 1990), pp. 191-233 (this chapter in Handelman's book is written in collaboration with Eliahu Katz). Of special value for the understanding of the writer's approach are: Bruce Kapferer, *A Celebration of Demons: Exorcism and the Aesthetics of Healing in Sri Lanka* (Washington, 1991), and Steven M. Friedson, *Dancing Prophets: Musical Experience in Tumbuka Healing* (Chicago and London, 1996). See, further, Lawrence E. Sullivan, *Ichanchu's Drum: An Orientation to Meaning in South American Religions* (New York, 1988). See also the next note.

anthropology directs its attention to the existence of ritual dimensions in human behavior in general.¹⁷ The mythologization of an event or story is, therefore, tantamount to adapting it to become part of the myth-ritual axis in general. Ritual, too, does not necessarily have to be religious. There are many kinds of behavior that unmistakably have ritual patterns, marked by such factors as timed repetition, doing things according to a certain text that has a normative status, communal participation, and the awareness that failure to do the ritual may cause some disaster to befall the people.

To sum up this part of the discussion:

- (1) In the language of Winnicott, myth is enabled by, and then determines, modes of communication between the objective and the subjective consciousness of humans.
- (2) Myth is the narrative that generates and sustains ritual practice. In many cases it establishes a conceptual framework that is configured as a narrative.
- (3) Ritual enables the re-enactment of mythic events or stories as a group experience. Ritual fixes these events and stories as essential components in a live tradition and identity. Tradition and identity impart meaning that is essential to the shaping of the special forms of "cosmos" by, and in, which people organize their lives on a wide socio-historical scale.
- (4) Rituals are here perceived in structuralistic terms.¹⁸ In this sense, they relate to actions as channels facilitating communication between individuals who seek ways of becoming, or staying together as, a group.
- (5) In many cases, myths establish the foundational terms of reference for cultures and states. Cultures and states assume the relevance of practices that are ritually enacting the presupposi-

¹⁷ Here we need to note that not every ritual is dependent upon myth. Religious rituals are more inclined to receive validation from myth rather than "secular" ritual. However, secular forms of ritual bear a striking resemblance to religious ones. See Bruce Kapferer, *Legends of People, Myths of State: Violence, Intolerance, and Political Culture in Sri Lanka and Australia* (Washington and London, 1988).

¹⁸ The words of Claude Levi-Strauss are quoted in many discussions of myth. The essence of his complex views, as I understand them, is that myth serves as a bridge, or platform, on the surface of contradictions between different systemic structures of cultures. Myth, according to Levi-Strauss, facilitates communication with these systems and between them. An attempt to summarize the teaching of Claude Levi-Strauss from a critical stance seems to me basically justified. However, the harsh formulations found in G.S. Kirk, *Myth: Its Meaning and Functions in Ancient and Other Cultures* (Berkeley and Los Angeles, 1970), pp. 42-83, is less justified.

tion—factual, legal, and historical—upon which cultures and states are established. Events like Independence Days, Memorial Days, and parades re-enact, in various ways, the foundational past upon which the behavioral grid of institutions and events rests. One should note that as long as myths are created in a spontaneous way and are willingly accepted by people, there is nothing in them that deserves criticism. The problem with myth arises when it is manipulated to justify violence or coercion or when an attempt is made to enforce a specific myth on those who hold another one.¹⁹

- (6) Myth empowers events or stories to become transformative factors in the lives of individuals and groups. Correspondingly, rituals are the re-enactment of these events as ongoing processes in the lives of the people who are the cultural heirs of those who lived in the mythic days.
- (7) The qualities of charismatic heroes are forged in myth.²⁰ Almost every religion has examples of such heroes. Charisma is essential to establishing the status of the founders of religions, such as Moses, Jesus, and Mohammed.²¹
- (8) One last feature of myth is its capacity to facilitate introspection and the search for the almost unlimited scope of human imagination. The myth-making mind explores the scope of the inner horizons of people and the extent to which the mental capacities of people can shape and maintain their creative imagination.

¹⁹ We need note in this context that throughout history many people underwent conversion from one religion to the other. Furthermore, many military conquests were justified by divine mandate; Temples and treasures of other peoples were demolished by commands of the gods. Iconoclastic rituals were undoubtedly sustained by the assumption that by doing them the will of the respective gods is appeased. In many cases, one finds the urge to abolish the myth of the "other." The Israelite destruction of the cultic places of the Canaanite peoples is, therefore, tantamount to the destruction of the culture and the myths of these peoples. This destruction was guided by the desire to destroy the ritual system of these peoples. When the rituals were destroyed, the myth connected to them lost its unique functional meaning.

²⁰ Indeed, myth is connected in many instances with the name of a leader whose charismatic characteristics are preserved in the memory of the people. The charisma of the leader is the myth of the hero-cult.

²¹ In this context, the case of Moses gains interest. Judaism does not sanctify the memory of Moses in any way. Indeed, as many have noted, in the tradition of the Tannaim there is a pronounced tendency to minimize the image of Moses almost to the extent of erasing his memory. See Abraham Joshua Heschel, *Torah from Heaven in the Mirror of the Generations* (London and New York, 1965), vol. II, pp. 301-305 [in Hebrew].

In his various studies, Mircea Eliade noted some of the major characteristics of myth: (1) Myth is found in the domain of the "holy" or "holiness." (2) Myth tells about supernatural beings. (3) Myth is connected mainly with "creation" stories and tells of primordial events. (4) Myth characterizes primitive societies. (5) Myth is used as a model story that contributes to the consolidation of certain kinds of behavior.²² Other scholars discuss myth from this angle, too, though they use slightly different modes of characterization. Thus, myth is almost universally viewed as a phenomenon belonging to the distant past. Its normative status derives from the society that was constituted by it. I share with Eliade the notion of the paradigmatic status of myth. However, the connections of myth with a distant past, primitive society, and the realm of the holy seem to me to be specific cases that do not necessarily fit the universal presence of myth.

The assumption that myth reflects general, and not specifically religious, patterns of cognition comes close to the views expressed by Ernst Cassirer. Cassirer speaks of myth as one of the "symbolic forms" that characterize human cognition. "Symbolic forms," such as language and myth, organize the human experience in structured patterns. These patterns imaginatively reflect the kaleidoscopic configurations of the diverse activities of the human mind. Symbolic forms shape human experience as events and notions that are shared and communicated. Every symbolic form has its own intrinsic rules as well as its ideational and practical structuring. However, it should be noted that Cassirer takes a unique position on ritual, viewing it as functional in the creation of myth, while I go in the opposite direction, viewing myth and its functionality in the shaping of ritual.²³ In other words, since myth is here viewed as a phenomenon that is not necessarily connected to the realms of the religious, there is no need to see it functioning, as Eliade argues, in the context of the holy. There can be no mistake that religion operates with modes of behavior that have specific ritual configurations. Yet, religion has no special claims on rituals.

We may take one extreme example. Religious faith is usually viewed as the model of absolute credulity. Initially, in face of the supernatural, there is not much room for the application of discursive

²² See Mircea Eliade, *Myth and Reality* (New York, 1963), pp. 18-19. The issues are enumerated here in a different order from that found in Eliade.

²³ For a brief summary of Cassirer's view on ritual and myth, see E. Cassirer, *The Myth of the State* (Garden City, 1955).

thinking. However, from an academic standpoint, one can relate to faith in God as to any other kind of human faith. It is created where the accepted discernment between the subjective and the objective disappears. There, cross-fertilization between the two modes of consciousness creates the rich world of the mythopoetic imagination. In as much as imagination has any influence on human behavior, its epistemological validity cannot be called into question. The reality of the ritual act projects validity onto modes of cognition that generate rituals. I consider the viewing of the imaginative world of myth in these terms as a highly important conclusion and major epistemological step. Faith exists where the subjective is aiming at being shaped in the form of the objective. Rituals are the arena in which this happens. Practically speaking as well as from a psychological point of view, there is no substantial difference between one kind of faith and another, including for that matter religious faith. Preferably, in the eyes of the believer seeking a mode of rationality, faith requires some kind of objective proof. However, if one follows D.W. Winnicott, the notions of transitional realities and phenomena have their own ontic existence. Hence they require no proof in the ordinary sense of the term.²⁴

From our viewing point, rituals are reckoned as a self-sustained and self-sustaining system the efficacy of which requires no proof. Rituals create their own experiential edifice. This edifice is structured so as to create links of coherency between the situation that gives rise to the ritual practice, the way in which it is practiced, and the transformed condition that is created through that practice. These links are assumed but not given to rationalistic modes of proofing. One example is the Law of Purity as developed within the Judaic framework. The overall system that I have in mind is assumed to exist in the inter-relationship between several components, including (1) the physical universe in which and through which impurity and purity come into being; (2) the sanctuary/temple that gives the overall sense of relevance to the notions at hand; and (3) the mind/body that is

²⁴ See Winnicott, *Through Paediatrics to Psycho-Analysis*, pp. 229-242. It is worth quoting a few more sentences from Winnicott's discussion of the subject: "From birth, therefore, the human being is concerned with the problem of the relationship between what is objectively perceived and what is subjectively conceived of... The intermediate area to which I am referring is the area that is allowed...between primary creativity and objective perception based on reality testing" (p. 239). We should note here that Winnicott speaks of the process of growth of children. However, the concepts seem to me applicable to the characterization of the special transitional stage that myth forms.

activated in the various ritual processes that cause migration from one category to the other.

In this respect, for instance, the rules of the Pentateuch and Mishnah that declare liquid excretions from the body (menstrual blood, semen, saliva) as incurring impurity may look arbitrary. Furthermore, other liquids, seven in number, are liable to become instrumental agents in passing on impurity to edibles. However, water is the major purifying substance and agent. If the discussion of the purity rituals is to be enfranchised from the rationalistic type of criticism, some kind of coherence has to be found in the various segments of the ritual process. Thus, since both the creation of the habitable earth and the birth of human beings are related to various forms of wet substances, the disturbance of the cosmic and microcosmic order, even its destruction (the flood), is conceived as being effective in the same substances. Re-birth, or the reconstitution of order, comes into effect through the purifying effect of water. Entering the water, or baptism, comes under the same category. In a sense, it enacts the return to the embryonic state.

Without the act of purification, the Temple and its wholeness remain functionally threatened and even disrupted. The Temple is notionally and spatially conceived as the center of everything. Once that wholeness is threatened by disorder, the integrating, constitutive, powers of this center become dangerously affected. Needless to say, all this belongs to a sphere of notions that are predominantly mythic. The Christian notion of the individualization of the Temple (every Christian is a temple of God) carries these notions into completely new realms.

4

We have reached a point at which examples will make sense, beginning with the ritual performed on Passover eve (the Seder). In the national ethos, the Exodus from Egypt and everything that is connected with it serves as the myth behind the Passover ritual. The ritual holds everything together, from the memory of the historical events to the very last detail that is observed during the Passover night. As stated before, the concept of "myth" does not signify that the event is not a historic reality. Equally, it does not say that the event is historically verifiable. "Myth" indicates that a constitutive narrative is linked to a certain ritual. What matters is the constitutive function of the ritual and its contribution to the life saving and the life enhancing processes. Thus, even if the story is likely to turn out to be

a historic fabrication, its functioning as a myth makes it into a reality that eradicated from the memory of the people. In short, mythic reality is empowered by ritual.

This is the point at which memory becomes mythically and ritually relevant. In our instance, the biblical narrator himself indicates the ritual status of the memory of the Exodus. That is, by building a ritual structure into the story (the sacrifice of the Passover sheep/lamb in Egypt), and by telling the reader that this has to be performed in the future, he determines the mythic function of the narrative. Retrospectively viewed, he does not do it for the Israelites only but also for every Christian. The manner in which the Exodus from Egypt is presented in Scripture makes clear that its purpose is connected from the outset with its future re-enactment in ritual modes.²⁵ The initial Passover celebration and its following annual commemoration were, practically speaking, interwoven from the outset in the scriptural story.²⁶ In this respect, Christianity, too, is ritually re-enacting the myth of the Passover meal, whether the one in Egypt or the one in Jerusalem (the Last Supper).

The annually re-enacted ritual, in the form the Passover Haggadah, emphasizes in a verbal mode that "The Lord did this for me when I came out of Egypt" and "In every generation a Jewish person must see himself as if he has come out of Egypt." The commemorative functioning of these sayings is ritually significant. Participating in the ceremony signifies entrance into the redemptive circle. This is clearly expressed in these statements: "In every generation we are at risk of perishing and the Holy One, Blessed be He, saves us from their hand;" "Not only did the Holy One, Blessed be He, redeem our Fathers, but even us He redeemed along with them;" "Blessed art Thou Lord, Our God King of the Universe, who redeemed us and redeemed our Fathers from Egypt, and has brought us to this night to eat unleavened bread and bitter herbs. Thou, Lord our God and God of our Fathers, hast brought us to this festival and

²⁵ This issue is repeated in almost every reference found in the Torah regarding the Exodus from Egypt, including even the Sabbath. This is true at least according to the Ten Commandments as presented in Deuteronomy. It is interesting to note that in the version in Exodus, the creation motif is brought forth as the mythic reason for the Sabbath.

²⁶ A similar connection is created in the account of the handing over of the Law in Deuteronomy. The text there is interesting: "Not with our ancestors did the Lord make this covenant, but with us, who are all of us here alive today" (Deut. 5:3). Note that the story of the receiving of the Law in Exodus presents a different literary tradition that does not include this statement.

to other Festivals...happy in the building of Thy city and rejoicing in Thy work...and we shall give thanks to Thee for redeeming us...." Every word in this short prayer emphasizes the mythic axis leading from the Exodus to redemption and its ritual re-enactment. The events of the past and the future are quintessentially entwined within the present lives of those participating in the ritual. The Passover ritual compresses every aspect of the dimension of time—past, present and future—into the temporal framework within which the ritual takes place.

Myth opens the way to the creation of a ritual ambience that facilitates, in a compressed time frame, movement on an all-encompassing axis of transformation. In our instance, the transformative axis moves from slavery to redemption. In the life of a single person, life within multiple planes of existence, temporal as well as spatial, can be accomplished only in a ritual framework. In other words, ritual compresses any kind of complex reality into a dynamically livable experience. In this respect, it symbolically enacts that reality. Symbol here means that an event is condensed into a time span that is fully realizable as a formalized ritual.

Thus, everything that is done in the course of the Passover Seder is, representationally, the ritualized commemoration of the Exodus from Egypt. This act of commemoration is consummated through reference to the constitutive myth of the Exodus. Thus the myth enacts the ritual, and the ritual consolidates the myth. After the destruction of the Temple, an additional layer of "memory" was added. It concerned the memory of the altar and the Passover sacrifice in the Temple. This layer marks the increased density of the various commemorative events that are viewed in relation to the Passover. "A memorial of the Temple [Passover] as done by Hillel. This is what Hillel used to recite when the Temple still stood."²⁷ For our purposes, it does not really matter whether or not Hillel acted this way or another. The narrative about Hillel is of interest to us because it constitutes an event that, according to our way of understanding, embodies mythic information. It is narrated for constitutive purposes. It is supposed to enhance a certain layer in the ritual performance.

²⁷ As stated by Daniel Goldsmidt, *The Passover Haggadah: Its Sources and History* (Jerusalem, 1960), p. 60 [in Hebrew]: "...and it is according to the Talmud which says there, that he who eats Matzah and bitter herbs together remembers the Temple as Hillel, but it is not mentioned that he needs to say this with his mouth." As will be immediately seen, the oral statement adds a layer to the myth.

The night of the Seder also signifies the ritual status allocated to the repetition of the mythic narrative.²⁸ Re-telling the story has its own ritual purposes. It functions, though, on the level of memorization. In this respect, memorization amounts to preserving the actuality of the event in its ritual dimension. We have already noted that when viewed from this angle, the occurrence of the event does not require “proof,” nor does it lend itself to the scrutiny of the “historical archaeologist.” Historiography, highlighting historical realism and rationality, does not count as an active factor in this respect. On the contrary, precisely the dependence of the occurrence on “miraculous” factors—that is to say, the emphasis given to the supernatural dimension of the event—adds to its ritually real configuration. Rituals are the realms in which myths thrive, widening the imaginative spectrum through which the mythic dimensions of the event become visible. The meta-natural dimension is the heart of religious myth. It intensifies the formative weight given in religion to experiences that involve the subjective consciousness of the people concerned.

5

Another example of the manner in which we conceive of myth refers to the ongoing debate that currently occupies biblical scholars and historians of the biblical period. According to many scholars, the beginnings of the religion of ancient Israel are to be dated with the inception of the monarchy, that is, approximately at the beginning of the last millennium B.C.E. This is the age of David and Solomon and it also marks the beginnings of Hebrew script. Thus, the monarchy, script, and religion are all culturally intertwined. Consequently, the beginnings of literacy cannot be dated prior to that time. That is, in creating a culture that assumes literacy—reading and writing—the way stood open for the consolidation of a canon of writings that ultimately became Scripture.²⁹ Scripture, we should remember, is one

²⁸ As we saw, this part of the ritual relates to the earlier ritual reference, namely, the ones done in the Temple. One can discern here three stages: the story of the Exodus from Egypt, the ritual that relates to it in the Temple, and, finally, the Haggadah of the Seder-night that relates to both of them together. Past, present, and future are collapsed into one single ritual act. Thus the Temple altar and the future redemption are transformed into part of the ancient myth.

²⁹ On this issue, see Nadav Naaman, “The Historiography, Formation of the Collective Memory and the Creation of Historic Consciousness of the People of Israel at the End of the First Temple Period,” in *Zion*, 60 (1995), pp. 449-472 [in Hebrew].

of the major factors in setting the prescriptive forms of rituals. All the Biblical narratives up to that period, including for that matter those relating to David and Solomon,³⁰ are in the eyes of those scholars part of the information that can be verified historically only when scholarly concessions are made.

According to the approach adapted here, however, we can say that, even when these patriarchal narratives do not yield historical certainty, their essence in Jewish tradition is fixed. This is done by virtue of their mythic context. The pre-Sinaitic ethos of ancient Israel contains several forms of religious behavior that are embedded in what is known as the patriarchal life-style. Its marked preference for sheep herding as the major economic system cannot be overlooked. On the level of divine worship, too, God is shown as preferring the sheep sacrifice. To make this point clear, Abel becomes the sacrificed sacrificer. God's rejection of the fruit of the earth that Cain wished to offer marks more than just culinary predilections. In the context of the narrative, it clearly marks an ethos-preference. Cain's ethos is agriculture. It is the opposite of sheep herding and nomadism. Where sheep herding and nomadism are highlighted, the social order is tribal. It was to prevail as long as the monarchy was a distant dream. The life-style that is epitomized by agriculture, urbanization, and the monarchy constantly came under attack in the biblical narratives.³¹ The reasons were more complex than just the evil of the people involved.

Thus, when, historically speaking, the patriarchal stories came up in monarchic times, they could be justified as a myth that wished to argue in the opposite direction of the historical development. Histori-

³⁰ On this issue, the radical opinion of those who became known as the "minimalists" (the Copenhagen Group) is well known. They seek to eradicate the historical dimension of the story of David and Solomon, seeing in the biblical stories up to, and even after, the days of David and Solomon a collection of myths. Their use of the concept myth, however, is completely different from mine. They view myth as a literary collection that does not have the status of a historic text. For a balanced appraisal of this issue, see James S. Strange, "Reading Archaeological and Literary Evidence...", in Jacob Neusner, ed., *Religion and the Political Order: Politics in Classical and Contemporary Christianity, Islam, and Judaism* (Atlanta, 1996), pp. 49-58. See also the extensive article in *Biblical Archaeology Review* 23 (4) (July-August, 1997); 24 (2) (March-April 1998). Another dimension to this argument is in the debate over the descriptions of the finds, especially the city-gates, at Hazor, Megiddo, and Gezer. Do these gates really represent the architecture of the early kingdom (the period of Solomon) or of the period that falls about a century later? This is not the place, however, to expand upon on these issues.

³¹ This issue is taken up in my article in Jacob Neusner, ed., *Religion and the Economic Order*.

cally, of course, these stories cannot be verified. However, their polemical nature can be easily assessed in the context of the rise of the monarchy. From the point of view brought forward in this paper, these stories establish standards of ritual preference and action. Thus, in comparison to the Temple in Jerusalem (built by King Solomon), the wandering sanctuary in the desert epitomized everything that marked the opposite of the Temple. In the eyes of those telling the stories about the sanctuary, Jerusalem (urbanization) and the monarchy belonged, so to say, to the paradigmatic assertion of the Cain ethos.

A further example, in line with the previous ones, is the belief in the heavenly origin of the written and the oral Torah. In the eyes of the faithful, this is a historical fact. Practically speaking, though, it constitutes a hermeneutic stance. On a literary level, the expression given to this faith is formulated in a number of ways. "Two kinds of Torah were given to Israel, one in writing and the other orally." "This is to say that the Torah was given in all its various kinds of explicatory details—by Moses at Sinai." "As all the laws of the Sh'mitah year were specified at Sinai, so the rest of the specified rulings of the Torah were said from Sinai."³² Many see in these statements the theological foundations of the religion of Israel. Speaking in mythic terms, the fact that only the parts regarding the written Torah are textually evidenced in Scripture should cause no problem. Constitutive facts have the same power, whether they are conceived as myth or as historical reality. In fact, where it really matters, that is where the mythic facts are in demand, myth is given priority. It receives the status of historical reality. Scripture is intended to provide the solid core of historical information in contrast to midrashic-Aggadah that is supposed to provide the hermeneutic layout.

However, in accordance with the approach outlined in this paper, this fact does not affect the impact of Aggadah on the shaping of the meaning of the scriptural statement. On the contrary, Midrash has absolute control over the meaning of Scripture. Thus, those seeking to sustain their belief in the reality of what rituals can accomplish will maintain no difference between the written and oral Torah, between the historical reality and myth. For them, the statements contained in both parts of the Torah have the same status. It is all a matter of the cognitive approach that establishes the kind of authority required for this ritual purpose or that. This holds true of both the historical and the ritual parts of Scripture. In other words, facticity is not necessarily

³² All of these quotes are from Sifra, from the section on "*Behar Sinai*."

dependent on empirical, that is, objectively verifiable, experience. Epistemologically speaking, the ontology of the fact is in its being part of a certain consciousness that relates to it. In this respect, facticity is also independent on any particular text. The text that matters may well be in the mind of its user. He makes of it what he considers right and adequate for the occasion. Since the user is fully in command of the hermeneutic situation, he or she may be the one who adds the mythic dimension to any narrative believed to demand ritual status. Thus, in connection to ritual, even historicity is likely to be shaped in and by myth. Myth rids us of the need to ask whether this or that is historically true. This is particularly the case when what matters is what the event in question is made to mean to the people concerned. Thus being is dependent on meaning. What counts in this matter is the attitude people maintain vis á vis what they consider to be the kind of truth that is relevant to the practice of their rituals.

The link created between myth and ritual is often maintained in an interpretative stance. We refer to this link in terms of the "midrashic condition,"³³ that is, the interpretative layout that makes a certain midrashic statement into a fact that shapes or represents reality. Philosophical interpretation, too, belongs in this domain. However, philosophical interpretation is often viewed as aiming at the removal of the basic mythic configuration from any given text. *Prima facie*, it is likely to place the story in a "midrashic condition" that has no connection to ritual. However, as we shall immediately see, even a philosophical interpretation can have an important function in establishing the mythic dimension of a scriptural text. This happens when certain philosophical premises connect the text to a ritual.

As is known, Maimonides continued a line of philosophical interpretation that had started with Philo. It argued that the biblical story has a latent philosophical agenda demanding special deciphering and assessment. When does this interpretation retain, as is argued above, a mythic layout? Maimonides seems to give an interesting answer to this question. In *A Guide for the Perplexed*, he advocates the view that the ultimate purpose of all philosophical activity is political. This idea is succinctly maintained at the very end of the book (Third Part, Chap. 54),³⁴ where Maimonides says that philosophical activity reaches its

³³ See Ithamar Gruenwald, "Midrash and the 'Midrashic Condition': Preliminary Considerations," in Michael Fishbane, ed., *The Midrashic Imagination: Jewish Exegesis, Thought, and History* (Albany, 1993), pp. 6-22. See also Eric Hobsbawm and Terence Ranger, eds., *The Invention of Tradition* (Cambridge, 1983).

³⁴ Various opinions have recently been expressed on the place of this chapter in the philosophy of Maimonides. For our purposes, there is no need to inquire into this issue.

peak in maintaining “steadfast love, justice and righteousness in the Land” (Jer. 9:23). The models for this kind of behavior can be found in every part of Scripture. This is the essence of the philosophical discourse believed to be latently present in Scripture. Exegetically speaking, it is discovered with the interpretative tools of allegory. It does not necessarily extract the mythic substructure from any biblical story or statement. On the contrary, philosophical allegory helps in establishing or maintaining the mythic, and hence ritual, relevance of many stories that otherwise would have fallen out of the philosopher’s respect.

The manner in which Maimonides relates to what might look like a logical discrepancy—between the material aspects of the scriptural story and the philosophical truth—is by declaring that the scriptural story, in its simple and historical-literary form, is intended for the masses. The philosophical interpretation establishes every relevant story in a mode that is commensurate with preset philosophical conclusions, however pragmatic they may be. Obedience to the ethical principles implied in the catchwords “steadfast love, justice and righteousness in the Land” is the epitome of the kind of philosophical pragmatism Maimonides advocates. Its ultimate meaning for us is in its preserving a ritual dimension in the midst of the philosophical interpretation of Scripture. If an attribute of ritual status is preserved in all these philosophical cases, then the mythic validity of Scripture is not expropriated. Apart from a basic concern that Maimonides shows for the Judaic form of ritual, Halakhah, it is important to note that many components in his philosophical theology have clear ritual tones. For example, the notion of the joining together of the passive intellect of humans with the active intellect of God is, at least in my understanding, a myth in its own right. It entails a certain assumption that has no empirical way of being proved. It dictates a philosophical way of life that indeed has ritual dimensions.

6

We have mentioned above the notion of the “midrashic condition.” In many respects, any specific myth may be viewed as the midrashic condition of a certain ritual. The notion of “midrashic condition” is not specifically concerned with establishing the historicity, or the verisimilitude, of a given story, but with the facticity of its relevance. Relevance is here related to institutionalizing specific ideas or rituals. In other words, the mythic status can either be added, or removed, from a story. It all depends on its connectedness to the institutional-

zation of a certain ritual. In any event, myth can clearly be detached from the need to characterize it as either a negative or explicitly positive factor in the history of a religion. What matters in this case is maintaining the essence of myth as a functional factor. Thus, when referring to the story of the giving of Torah at Sinai as a myth, what is meant is determining the story as a functional factor in establishing the ritual history of ancient Israel.

The space created for the mythic dimension to evolve and to stay is supposed to do the same to the rituals in question. That space does not necessarily emerge directly out of a specific text but may well emerge from a hermeneutic stance.³⁵ Furthermore, if the text is not originally created in a ritual context, it may later on be viewed as mythic when transformed to be so in a midrashic condition. In many instances, performing the commandments in the mode of "Oral Law"³⁶ is based on a mythic assumption.³⁷ One may even say that ritual can retrospectively determine the dimension of interpretive reality viewed as mythic. In that case, myth is forged in the interpretative reality determined by ritual. Furthermore, together, myth and ritual create an exclusive interpretative reality that emerges as a result of the unique relationship that exists between them.

In my view, only those who assume that ritual requires a mythic connection see in the story of the giving of two Torahs at Sinai a statement that has real relevance. In this context, it is of interest to note that the question of the historicity of the giving of the Torah at Sinai arises from the Scripture alone. This fact was not known, in the cognitive sense of knowing, to those who had another version of the history of ancient Israel. There were indeed people who were either

³⁵ Naturally, there are also interpretative dimensions within Scripture itself. The most extensive discussion is Michael Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford, 1985). Recently Professor Fishbane has studied mythopoesis in midrashic literature, his primary preoccupation being the way mythic foundations are created in Midrash and how mythopoesis operates in serving the midrashic interpretation of Scripture. This is a different approach from the one taken here. See Michael Fishbane, "The Holy One Sits and Roars": Mythopoesis and the Midrashic Imagination," in *Journal of Jewish Thought and Philosophy*, vol. 1 (1991), pp. 1-21.

³⁶ The Oral Law, which declares itself to be above the normative status of the "Written Torah," is, of course, nothing but an interpretative innovation. However, the Oral Law requires the written text. On this matter, see David Weiss Halivni, *Midrash, Mishnah and Gemara: The Jewish Predilection for Justified Law* (Cambridge, MA, and London, 1986); idem., *Derash and Peshat: Plain and Applied Meaning in Rabbinic Exegesis* (New York and Oxford, 1991).

³⁷ See Ithamar Gruenwald, "The Midrashic Condition: From the Derashot of the Sages to the D'rashot of the Qabbalists," in *Jerusalem Studies in Jewish Thought*, vol. 8 (1989), pp. 255-298.

not familiar with the story or, for one reason or another, consciously passed over it as if non-existent. Thus, for example, one can find in the Psalms utterances that tell the wonders of God when liberating Israel from Egypt without mentioning the Sinai revelation. This cannot be accidental. It repeats itself in at least three instances: (1) "A Maskil of Asaph" (Ps. 78) declares: "I will open my mouth in a parable; I will utter dark sayings from of old, things that we have heard and known, that our ancestors have told us." In what follows there are many familiar details. However, the giving of the Torah is not included. (2) Ps. 105 asks: "Remember the wondrous works He has done, His miracles, and the judgments of His mouth." The ensuing poetic narrative mentions in detail the history of Israelites. It indicates what that history included as well as what it omitted. To our amazement, the giving of the Torah is omitted. (3) The famous litany (Ps. 136: "... for his steadfast grace endures forever") is remarkable for omitting the giving of Torah from its list of biblical events. Thus, at least three Psalms, and perhaps more (Ps. 68 may be another example), refer to the Exodus history with no explicit reference to the giving of Torah.

If the giving of Torah is as foundational an event in the history of ancient Israel as is almost universally assumed, it surely is improper to leave it out. The silencing of the event in the poetic narrative must have a reason. I would suggest that a possible explanation is the fact that, in the eyes of some people, this story had no mythic functions. Without that function, there was no point to attach to it historic validity. In other words, if the analysis presented here makes sense, myth is a constitutive factor in the writing of the religious history of ancient Israel. One cannot but conclude that in the eyes of the psalmists the Sinai revelation had no such constitutive function.

One must, though, leave the door open to yet another possibility. In not referring to the revelation on Mount Sinai, the psalmists in question maintained a polemical attitude towards that event. Although this looks quite unlikely, it is the only other explanation that seems to make sense.³⁸ The polemic could be taking the same line as

³⁸ Examination of the context of Maimonides' opinion on this problem may be fruitful. In the *Mishneh Torah*, he notes that it is "a clear and explicit thing in Torah that it (= Torah) endures forever and ever" (*Hilkhot Yesodei Ha-Torah* 9, 1); however, he does not say explicitly that Torah is from Heaven. On the other hand, the idea of Torah from Heaven, apparently without a metaphoric interpretation of any kind, surfaces in the *Mishnah Torah* in a context of a prophecy of Moses: "And what did they believe in? In the giving of Torah, that our eyes saw and not a stranger's and our ears heard and not another's...thus Moses, our teacher, all Israel are witnesses to

that taken by the angels who argued with God over his willingness to give the Torah to the Israelites. This is a subject that has often come up in modern scholarship. Various interpretations have been given, and the antinomian one should not be shunned offhand.

As already indicated above, the epistemological classification—according to which there allegedly is a substantial difference between objective historical truth and truth the existence of which is established in and by myth—started, on Judaic grounds, with the writings of Philo of Alexandria. As is known, the rigid methodological working out of this line of thinking is to be found, mostly, in the writings of Maimonides.³⁹ However, as mentioned above, Jewish philosophy in the Middle Ages marks an important step in the direction of conveying mythic dimensions to philosophical assertions.

It seems to me that Maimonides would have agreed with this formulation: Without the philosophic interpretation of Scripture, many of the biblical utterances would have remained in the domain of falsehood (in Hebrew, *kazav*), in the epistemological sense of the term. Many biblical stories require hermeneutic adaptation before the philosopher can accept them. Establishing the truth of the details contained in a certain story depends, therefore, on the type of interpretation that is given to the story. In other words, it is all hermeneutics. At times this hermeneutics entails an unequivocal digression from the simple sense of the scriptural text. This interpretation is essential for maintaining coherence, in the line of the Maimonidean kind of interpretation, between the philosophical truth of “Aristotle” and the Mosaic truth of Torah. When that coherence is

him after the giving of the Torah. And he does not need to perform a sign for them...” (*Yesodei Ha-Torah* 8, 1-2). In the continuation of this discussion Maimonides says that, concerning Moses, “There is no parable but the matter is seen straightforwardly, without any riddle and without parable...he does not prophecy in a riddle but rather in [direct] vision. For he sees the thing clearly...” (*Yesodei Ha-Torah* 7, 6). While a thorough examination of Maimonides’ views in the *Mishneh Torah* will indicate the ambiguity of his opinion, there is no need to go into the details of the *Guide for the Perplexed*. Maimonides opinion there is decisive and consistent and does not stray from his pedantic metaphoric formulations. We will note here one last example: “But they said ‘and Moses went up to God’ (Exod. 19:3)—not that the Lord, may he be exalted, has a place that one ascends to it or descends from it. God is above and above any of the fantasies of fools.” In other words, the mythic function of the biblical story is preserved only in the way of philosophical interpretation.

³⁹ A summary of the stance of Maimonides on this issue—which may be referred to as “the metaphorization of the biblical text”—is formulated in these words: “Everything is according to human cognition...and the Torah spoke in the language of humans. Thus, all the names are (to be read as) metaphors...everything is a parable and high flown rhetorical device” (*Mishneh Torah, Yesodei Ha-Torah* 1, 9; 12).

maintained, the status of the commandments is safeguarded. However, Maimonides takes things one step further. He determines the special parameters of the keeping of the commandments. That is, he creates a thematic identity between the philosophical formation and its ritualistic result.

Thus, we have seen, if there is a myth, it is the one that is likely to establish its truth and relevance in face of those who negate it. In Herderian terms, the myth of myth is epitomized in making myth real. This is done through the attaching of myth to ritual.

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ANCIENT JUDAISM

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THE BABYLONIAN TALMUD'S TREATMENT OF LEVIRATE MARRIAGE

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In an earlier piece on levirate marriage and *halitzah* in the Mishnah, I concluded that

Mishnah Yebamot expands on the laws of levirate marriage found in the Bible and, at the same time, restricts the scope of levirate marriage. At first glance, these two trends seem contradictory, and most scholars focus on one or the other when discussing levirate marriage. In fact, I would argue, the two tendencies reflect a consistent and coherent approach on the part of the rabbis. The central concern in Mishnah Yebamot is determining whether a levirate bond exists between a widow and her brother-in-law and resolving that bond, either through levirate marriage or *halitzah*.¹

In this article, I consider Babli Yebamot's treatment of levirate marriage and *halitzah*. Does the Babli exhibit a preference for levirate marriage or *halitzah*, or does it consider both equally valid responses to the levirate bond? If the Babli exhibits a preference for one response over the other, is that preference absolute? Are there situations in which levirate marriage is the preferred outcome and others in which *halitzah* is recommended? Can we determine why the sages favor levirate marriage or *halitzah*? To what extent does the Babli follow the course set by the Mishnah and to what extent does it set a new course?

Following up on another focus of my earlier research, I also consider attitudes toward levirate marriage. What motivates individual men or women to enter into levirate marriage or to eschew it in favor of *halitzah*? Is the Babli aware of a reluctance on the part of men or women to enter into levirate marriage and, if so, how does it respond to such reluctance? Do the Babli's rules and cases respond equally to the concerns of men and women, to the claims of the deceased or the desires of the living?

The answers to these last questions will help us understand how levirate marriage evolved as an institution within Judaism. Most cul-

¹ Dvora E. Weisberg, "Levirate Marriage and Halitzah in the Mishnah." *Annual of Rabbinic Literature*, Volume I (1998), p. 68.

tures that practice levirate marriage view it as an obligation upon the widow and brother of a childless man. The desires of the widow and the levir are irrelevant; they are expected to enter into a levirate union for the sake of preserving the name of the deceased.² Women were forbidden to marry outside their late husbands' families; in some cases a marriage outside the family was accepted but the children of the marriage were legally those of the woman's first husband.³ While levirate marriage might be said to be an imposition on both men and women, some argue that the burden falls disproportionately on women.⁴ The changes we see in the rules governing levirate marriage may reflect the sages' awareness of the burdens it placed on both widows and levirs and their desire to alleviate those burdens.

While many scholars who have written on levirate marriage are interested in determining whether levirate marriage was actually practiced in the Tannaitic and/or Amoraic periods, there is no consensus on this question. Samuel Belkin argues that levirate marriage was performed in the rabbinic period,⁵ while Tal Ilan believes that levirate marriage was replaced by *halitzah* in the tannaitic period.⁶ Both Belkin and Ilan cite rabbinic texts, including the Babli, to support their arguments. Reuben Ahroni offers a more nuanced analysis, arguing that, in the talmudic and post-talmudic periods, *some* rabbis "continued to cling to the levirate duty and view it as far preferable to *halitzah*."⁷

Focusing on the Babli's reaction to levirate marriage and *halitzah*, some of the texts from the Babli that I discuss here recount or mention incidents of levirate marriage or *halitzah* that are said to have taken place, whether with or without rabbinic supervision and approval. Despite the claims of these texts, I do not believe that, on their basis alone, we can determine the frequency of levirate marriage

² A.R. Radcliffe-Brown and Daryll Forde, *African Systems of Kinship and Marriage*, (London:1967). The obligatory nature of levirate marriage is stressed again and again in this work. The deceased is entitled to children—in some cases even if he has surviving children—and the obligation to provide them falls upon his wife and his closest male kin.

³ Max Gluckman, "Kinship and Marriage among the Lozi of Northern Rhodesia and the Zulu of Natal," in Radcliffe-Brown and Forde, p. 183.

⁴ Reuben Ahroni, "The Levirate and Human Rights," in Nahum Rakover, ed., *Jewish Law and Current Legal Problems* (Jerusalem:1984), p. 67, 73-75.

⁵ Samuel Belkin, "Levirate and Agnate Marriage in Rabbinic and Cognate Literature," *JQR*, 60 (April 1970), pp. 275-329.

⁶ Tal Ilan, *Jewish Women in Greco-Roman Palestine* (Peabody, Massachusetts: 1996), p. 152-157.

⁷ Ahroni, p. 72.

or *halitzah* or even establish the degree to which one was preferred over the other. We are uncertain of the extent of rabbinic influence on the Jews of Babylonia during the Amoraic period. The Babli reflects the views of the rabbinic elite, and we do not know whether it reflects the attitudes of the common people as well. We must also remember that while *halitzah* required the presence of three judges and is portrayed in the Mishnah and the Babli as a public procedure (M. Yeb. 12:1-6), levirate marriage could be contracted without rabbinic supervision; incidents of *halitzah* may outnumber incidents of levirate marriage in the Babli because the rabbis were not called upon to solemnize the latter.

Following a brief summary of levirate marriage and *halitzah* in the Bible and Mishnah,⁸ I turn to Babli Yebamot. Discussion of the Babli's approach to levirate marriage and *halitzah* focuses on a number of topics. First, I analyze the Babli's introduction of general principles of the relationship between levirate marriage and *halitzah*, principles that, while they may have their foundations in the rules of the Mishnah, are first set forth in the Babli itself. Next I consider the sages' treatment of specific cases, asking whether the sugyot of the Babli indicate a preference for levirate marriage or *halitzah*. While I am attentive to attributed statements and the possibility that sages' views differed from place to place or generation to generation, my primary interest is in the overall tone of Babli Yebamot, with the possibility that the final redactors of the tractate arranged or chose material to reflect their own distinctive preference.

Next I analyze sugyot that suggest why and under what circumstances *halitzah* might have been preferred over levirate marriage. Clearly, the Torah portrays *halitzah* as a concession to men who are unwilling to marry their brothers' widows. Why, then, do some sages not only condone *halitzah* in situations in which levirate marriage is possible but actively encourage it? Finally, after summarizing the Babli's views on levirate marriage and *halitzah*, I discuss how these views differ from earlier Jewish sources and point out the factors that might explain the evolution of these laws.

⁸ On levirate marriage in the Bible, see Richard Kalmin, "Levirate Law," in *The Anchor Bible Dictionary* (New York, 1992), vol. IV, pp. 296-297. For a detailed discussion of levirate marriage in the Mishnah, see Dvora Weisberg, "Levirate Marriage and Halitzah in the Mishnah," *Annual of Rabbinic Literature*, Volume I (1998).

Levirate Marriage and Halitzah in the Bible and Mishnah

In ancient Israel, as in other patrilineal cultures, offspring were extremely important. Children, especially sons, guaranteed that a man's property would remain in his family and that his name would be preserved. Various strategies, including polygyny and concubinage, were employed to maximize a man's chance of having offspring. Levirate marriage, described in Deut. 25, provided a man who died without offspring a chance to father children posthumously. The deceased man's brother married the widow in order to provide his brother with an heir.

Deuteronomy 25 anticipates the possibility that some men will be unwilling to enter into such marriages. Should the levir (the deceased man's brother) wish to avoid the marriage, his sister-in-law loosens his shoe, spits in his face, and criticizes his choice in the presence of the elders. This ceremony, known as *halitzah*, clearly expresses the community's disapproval of the levir. Unwillingness to enter into levirate marriage is also criticized in Gen. 38 and, according to some interpretations, in Ruth 4.

The Mishnah contains laws that attempt to make levirate marriage more attractive to prospective levirs.⁹ At the same time, the Mishnah recognizes *halitzah* as a socially acceptable choice. The sages of the Mishnah do not criticize men who choose *halitzah* rather than enter into levirate marriage. In fact, some sages prefer *halitzah* (M. Bek. 1:7). In addition, the sages of the Mishnah determined that, in some situations, levirate marriage was forbidden and *halitzah* was required.¹⁰

The Babli's discussions take the Mishnah's materials as their starting point, with Babli Yebamot clarifying and expanding the Mishnah's rules regarding levirate marriage and *halitzah*.¹¹ At the same time, the Mishnah is only a starting point, as the material in Babli Yebamot significantly adds to our understanding of the rabbinic response to the institution of levirate marriage. Thus, while many of the ideas about levirate marriage and *halitzah* found in the Babli rest upon Mishnaic foundations, they also provide new ways of looking at these institutions.

⁹ Weisberg, p. 49-50.

¹⁰ Weisberg, p. 52-53.

¹¹ Both Mishnah and the Babli Yebamot treat topics other than levirate marriage, in particular priestly marriages and the procedure to be followed when a man dies abroad. These topics, while an important part of Tractate Yebamot, do not contribute to our understanding of levirate marriage and *halitzah* and will therefore not be dealt with in this article.

General Principles in Babli Yebamot

In discussing levirate marriage and *halitzah*, the Babli refers to several disputed principles. While there is no clear consensus whether these principles are legally operative or universally accepted, considering them helps us understand the relationship between levirate marriage and *halitzah* as portrayed in the Babli.

In the opening segments of its first sugya, Babli Yebamot analyzes the language of the Mishnah. The Mishnah states that "Fifteen women exempt (*potrot*) their co-wives and the co-wives of their co-wives from *halitzah* and from levirate marriage." B. Yeb. 3a questions the use of the word "exempts."

- A. What prompts the tanna to teach "exempts?" Let him teach "prohibits!"
- B. If he taught "prohibits," I might have said it is prohibited to perform levirate marriage, but he may release her through *halitzah*. This [use of "exempts"] teaches us [that neither *halitzah* nor levirate marriage] need be done.
- C. Let him teach "she is prohibited from performing *halitzah*!"
- D. What is he doing [that justifies the language of prohibition]?
- E. Why not? If you say she is eligible for *halitzah*, one might think she is eligible for levirate marriage. Where there is an obligation to perform levirate marriage, there is the prohibition [against the co-wife of one's daughter] and where there is no obligation to perform levirate marriage, there is no prohibition. Thus it teaches "exempts."
- F. And what prompts the tanna to teach "from *halitzah* and from levirate marriage"? Let him teach only "from levirate marriage"!
- G. If he taught only "from levirate marriage," I might have said that she is eligible for *halitzah* and ineligible only for levirate marriage. This [phrase "from *halitzah* and from levirate marriage"] comes to teach that any woman who is eligible for levirate marriage is eligible for *halitzah* and any woman who is ineligible for levirate marriage is ineligible for *halitzah*.
- H. Let him teach "from levirate marriage and from *halitzah*." Or let him teach only "from *halitzah*."
- I. This [mishnaic passage represents the opinion of] Abba Shaul, who said, "*Halitzah* takes precedence over levirate marriage."

This sugya introduces the principle "any woman who is eligible for levirate marriage is eligible for *halitzah* and any woman who is ineligi-

ble for levirate marriage is ineligible for *halitzah*.” While the principle does not, in fact, accurately reflect the rules set out in the Mishnah, which requires *halitzah* in those cases in which there is a doubt whether levirate marriage is mandated,¹² it does tell us something about the connection between levirate marriage and *halitzah*. Levirate marriage and *halitzah* are not seen as opposed acts, although performing one does negate the possibility of performing the other. Rather, they represent two ways of responding to the bond created between a levirate widow and her husband’s brother. The bond may be cemented by levirate marriage or dissolved by *halitzah*. If, because of a prohibited degree of consanguinity between the brother-in-law and one of the wives of the deceased, the bond is never established, as is the case in the opening sugya of Babli Yebamot, neither levirate marriage nor *halitzah* would be required.

The principle “any woman who is eligible for levirate marriage is eligible for *halitzah* and any woman who is ineligible for levirate marriage is ineligible for *halitzah*” is mentioned four additional times in Babli Yebamot (20a, 36a, 41b and 44a). In each case, the principle is cited to prove that a woman who is exempt from levirate marriage is exempt from *halitzah* as well. B. Yeb. 44a is instructive:

- Mishnah: If a man who is married to two women dies, intercourse or *halitzah* with one releases her co-wife [from the levirate bond]
- A. Let him enter into levirate marriage with both of them!
 - B. R. Hiyya b. Abba said in the name of R. Yohanan: Scripture teaches, “...who will not build up the house of his brother”—he builds up one house and not two.
 - C. Let him perform *halitzah* with both of them!
 - D. Mar Zutra b. Tuvia said: Scripture teaches, “[He shall be called] ‘the house of the unsandaled one’”—he releases one through *halitzah*, but not two.
 - E. Let him enter into levirate marriage with one and perform *halitzah* with the other!
 - F. Scripture teaches, “If he does not wish [to marry his sister-in-law]”—if he wishes, he can marry her. Any woman who is eligible for levirate marriage is eligible for *halitzah* and any woman who is ineligible for levirate marriage is ineligible for *halitzah*.

Here the Talmud clarifies the obligations of men who have multiple

¹² This contradiction is noted in the Babli at Yeb. 20a.

levirate widows bound to them. A man cannot marry or perform *halitzah* with more than one of his deceased brother's wives. The Talmud's suggestion that a man could marry one widow while performing *halitzah* with the other is rejected because "any woman who is ineligible for levirate marriage is ineligible for *halitzah*." Once the levir marries one of the widows, the other is forbidden to him. Since she is no longer eligible for levirate marriage she is no longer eligible for *halitzah*. This establishes *halitzah* as a ritual closely linked to levirate marriage. It is only necessary (and permissible) when levirate marriage is necessary (and permissible).

A similar point is made in a sugya that discusses the delay of levirate marriage or *halitzah* until three months after the husband's death (B. Yeb. 41a-b):

Mishnah: A levirate widow does not perform *halitzah* or contract levirate marriage until she has been a widow for three months....

- A. It is understandable that she does not contract levirate marriage—
- B. Perhaps [she would be found to be pregnant and] the child would be viable and the levir would have been guilty of transgressing the prohibition against marrying one's brother's wife—
- C. But why shouldn't she perform *halitzah* ?

After several attempted answers, the Babli offers the following response: "Scripture teaches, 'If he does not wish [to marry his sister-in-law]'—if he wishes, he can marry her. Any woman who is eligible for levirate marriage is eligible for *halitzah* and any woman who is ineligible for levirate marriage is ineligible for *halitzah*." The levirate widow is not eligible for levirate marriage until three months of widowhood. Thus she is not eligible for *halitzah* until that time, even though *halitzah* with a potentially pregnant woman raises fewer concerns than levirate marriage. *Halitzah* only becomes an option when and if levirate marriage becomes an option.¹³

The principle that "any woman who is eligible for levirate marriage is eligible for *halitzah* and any woman who is ineligible for levirate marriage is ineligible for *halitzah*" reflects a shift in the way *halitzah* is viewed. Following the Mishnah, the Babli does not regard *halitzah* as a ritual intended to shame the levir into marrying his

¹³ Likewise Rava argues at Yeb. 35b-36a that *halitzah* with a pregnant woman is legally effective only if levirate marriage with a pregnant woman is legally effective.

brother's widow. Nor does the Babli see *halitzah* as a less desirable choice than levirate marriage or a last resort when levirate marriage cannot be performed. Instead, the Babli posits that *halitzah* is a legitimate option for any woman who is eligible for levirate marriage, a legitimate option for any couple that finds itself bound by the levirate bond.

Another general principle found in Babli Yebamot provides additional insight into the relation between levirate marriage and *halitzah*. This principle first appears at B. Yeb. 17b-18a:

- A. R. Huna said in the name of Rav: If a woman dies while awaiting levirate marriage, [the levir] is permitted [to marry] her mother.
- B. This implies that there is no pre-existing bond [between the levir and his sister-in-law].
- C. Shall we say that the law follows the one who says there is no pre-existing bond?
- D. Even if we said this I might say this is the case when there are two [levirs], but when there is only one, there is a pre-existing bond.
- E. Shall we say that the law follows the one who says there is no pre-existing bond even when there is only one [levir]?
- F. Even if we said this, I might say this is the case during the life[time] of the widow. This comes to teach us that after her death, he may [marry her mother], but while she is alive, he may not, because it is forbidden to abolish the obligation of levirate marriage.

According to B. Yeb. 17b "it is forbidden to abolish the obligation of levirate" (*asur levatel mitzvat yebamin*). Once a man finds himself in a situation that necessitates levirate marriage or *halitzah*, he cannot enter into another relationship that would make both of these options impossible. As spelled out in the sugya, a man cannot marry the mother of his deceased brother's widow, for that marriage would render the levirate widow exempt from levirate marriage and *halitzah*. The same principle is invoked in several other sugyot (B. Yeb. 18a, 24a, 26a and 28a). In one of these sugyot, we have a different view; a rule attributed to Rabban Gamaliel suggests that he holds that "it is permitted to nullify the levirate obligation."

In at least one instance, the principle "it is forbidden to abolish the obligation of levirate" causes the sages to prescribe *halitzah* instead of levirate marriage. M. Yeb. 3:1 tells us that when "there are four brothers, two of whom are married to two sisters and the two broth-

ers married to the two sisters die, the widows perform *halitzah* and do not contract levirate marriage." The Babli asks why each of the surviving brothers cannot marry one of the widows. The Babli then invokes the principle "it is forbidden to abolish the obligation of levirate." We are concerned, according to the Babli, "lest after one of the brothers contracts levirate marriage, the other brother die and you would have abolished the obligation of levirate" because the second widow would be ineligible for either levirate marriage or *halitzah* with her sister's husband. According to the Babli, the Mishnah insists on *halitzah* in this case because two acts of *halitzah* are preferable to one act of levirate marriage and an exemption from either procedure.

Whether one formulates this principle in the negative or, like Rabban Gamaliel, in the positive, it indicates that levirate marriage and *halitzah* were seen as two valid responses to the circumstances described in Deut. 25:5. When the Talmud raises an objection by citing this principle, it is clear that *halitzah* is a valid way to fulfill "the commandment of levirate." This stands in sharp contrast to Deuteronomy, where levirate marriage is clearly preferred to *halitzah*; there the latter is intended to shame the man who refuses to perform the former. In Deuteronomy, *halitzah* is a legal way to avoid one's levirate duty; in the Babli, *halitzah* fulfills one's levirate duty.

In analyzing these sugyot we see that the Babli assumes that levirate marriage and *halitzah* are two equally valid responses to the obligation that falls on a man when his brother dies without children. While there are cases in which *halitzah* is the only viable option, in many cases either levirate marriage or *halitzah* is permissible. As we will see, the choice is usually left to the levir. At times, the sages take into consideration the widow's preference. The sages clearly are prepared to offer any individual levir advice as to the preferable decision, but this advice is based on social circumstances, not on a legal preference for one option over the other.

Levirate Marriage and Halitzah

Given their equation of the two, do the sages express a preference for levirate marriage over *halitzah* or vice versa? Is either option equally acceptable? A survey of the sugyot in Babli Yebamot offers no definitive resolution to this question. That multiple opinions on the subject existed is clear from B. Yeb. 39a-b:

Mishnah: The obligation to perform levirate marriage rests on the oldest [surviving brother]. If he does not want [to perform levirate marriage], we go to each of the remaining brothers.

If they do not want [to perform levirate marriage], we return to the oldest and say to him, “The obligation rests on you; either perform *halitzah* or perform levirate marriage. [If the oldest brother wanted to] delay [his decision] until a minor [brother] grew up, we do not listen to him....

I.

A. There was an Amoraic dispute regarding intercourse [between a levirate widow] and a minor [levir] and *halitzah* with an adult [levir].

B. R. Yohanan and R. Joshua b. Levi disagreed. One said: Intercourse with a minor is preferable, while the other said: *Halitzah* with an adult is preferable.

C. The one who said that intercourse with a minor is preferable is of the opinion that the commandment is to perform levirate marriage.

D. The one who said *halitzah* with an adult is preferable is of the opinion that, when there is an adult, a minor’s intercourse is inconsequential.

E. We learned in the Mishnah: If [the eldest brother] does not want [to perform levirate marriage], we go to each of the remaining brothers.

F. Does this not mean that he is unwilling to perform levirate marriage but wishes to do *halitzah*, and the Mishnah teaches us that we go to each of the other brothers—this implies that intercourse with a minor is preferable [to *halitzah* with an adult]?

G. No, this means that he is unwilling to perform *halitzah* or levirate marriage....

H. We learned in the Mishnah: [If the oldest brother wanted to] delay [his decision] until a minor [brother] grew up, we do not listen to him.

I. If intercourse with a minor is preferable [to *halitzah* with an adult], why don’t we listen to [the older brother]. Let’s wait; perhaps the minor will grow up and perform levirate marriage....

J. Rather, we never delay the fulfillment of an obligation.

K. There are those who say that no one disagrees when intercourse is involved; everyone agrees that intercourse with a minor is preferable [to *halitzah* with an adult]....

II.

- A. They taught there in the Mishnah [M. Bek. 1:7]: Levirate marriage is preferable to *halitzah*. [This was true] at first, when the intent was to fulfill the commandment. Now, when the intent is not on fulfilling the commandment, *halitzah* is preferable.
- B. Rav said: We do not push [the levir in either direction].
- C. When [levirs] came before Rav, he said to them, "If you wish, perform *halitzah*; if you wish, perform levirate marriage.
- D. The Torah leaves it up to you, as it is written, "If the man does not wish [to perform levirate marriage]"—If he wishes, he does *halitzah*; if he wishes, he performs levirate marriage."
- E. R. Judah also was of the opinion that we do not push [the levir in either direction]....
- III. A. [M. Bek. 1:7 teaches: Levirate marriage is preferable to *halitzah*. This was true] at first, when the intent was to fulfill the commandment. Now, when the intent is not on fulfilling the commandment, *halitzah* is preferable.
- B. Rami bar Hama said in the name of R. Isaac, "They went back to saying that levirate marriage was preferable to *halitzah*."
- C. R. Nahman b. Isaac said to him, "Have later generations become more trustworthy?"
- D. At first, they were of the opinion of Abba Shaul and later they were of the opinion of the sages.
- E. As it was taught: Abba Shaul says, "A man who marries his brother's widow for the sake of her beauty, for the sake of matrimony, or for the sake of another matter (*davar aher*), is like one who has intercourse with a forbidden relative and I am close to regarding the child [of such a relationship] as a bastard (*mamzer*).
- F. And the sages say, "Her brother-in-law shall have intercourse with her' (Deut. 25:7)—in any case.

This sugya presents several approaches to levirate marriage and *halitzah*. The first part of the sugya centers on a discussion that considers whether levirate marriage between a widow and her minor brother-in-law is preferable to *halitzah* with an adult brother-in-law. One of the disputants, either Yohanan or Joshua b. Levi, is, according to the Babli, of the opinion that "intercourse with a minor is preferable" because levirate marriage is preferable to *halitzah*. The other disputant prefers *halitzah* with an adult, presumably because, in such a situation, intercourse with a minor is inconsequential. This implies that were the potential levir an adult, levirate marriage might

be preferable to *halitzah*. The Babli's attempts to support one position or the other are inconclusive; it offers and then rejects arguments that privilege levirate marriage or *halitzah*. The sugya then notes that "there are those who say that no one disagrees when intercourse is involved; everyone agrees that intercourse with a minor is preferable [to *halitzah* with an adult]...." Overall, this section of the sugya suggests an interest on the part of the Amoraim mentioned and the Babli in promoting levirate marriage if one of the deceased's brothers, even a minor, is willing to marry the deceased's widow.

The second section of the sugya opens with a citation from M. Bek. 1:7, which records a shift in the sages' attitudes toward levirate marriage and *halitzah*. Originally, levirate marriage took precedence over *halitzah*, but, at the present time, *halitzah* is preferable. This shift appears to be a response to social conditions, or perhaps the sages' perceptions of society. The motives of the levir (and perhaps those of the levirate widow) are now suspect; we worry that levirate marriage may be performed for ulterior motives.

The Amoraim cited in this section of the sugya apparently do not share the concerns expressed in the Mishnah. Rav and Judah see no reason to privilege levirate marriage or *halitzah*, that is, they feel no need to encourage the average levir to choose one course of action over the other. Their view is based on a reading of "But if the man does not want to marry his brother's widow" (Deut. 25:7). This verse implies that the choice is that of the levir; he may choose to perform levirate marriage or submit to *halitzah*. While subsequent verses indicate that the levir's choice to undergo *halitzah* rather than enter into a levirate union is less than admirable, the midrash cited by Rav focuses on the levir's right to choose; either choice is acceptable to the Amoraim.

The third segment of the sugya also opens with a citation from M. Bek. 1:7. According to Isaac, the shift mentioned in the Mishnah was later reversed. This dispute among sages reflects a dispute between Abba Shaul and the sages. Abba Shaul prefers *halitzah* because he suspects that couples enter into levirate marriage for the "wrong" reasons. The sages, on the other hand, cite Deut. 25:7 as proof that levirate marriage is desirable and effective regardless of the levir's motivation.

As this sugya clearly indicates, there is no consensus on whether levirate marriage or *halitzah* takes precedence. M. Bek. 1:7 records a shift that presumably occurred in the Tannaitic period, but there is evidence that later sages returned to a preference for levirate marriage. It seems that individual sages may have preferred one option over the other.

A preference for *halitzah* is evident in other sugyot in Babli Yebamot. Commenting on the Mishnaic rule "nothing whatsoever follows the rite of *halitzah*," B. Yeb. 53b comments:

Let him also teach: Nothing whatsoever follows intercourse. Abbaye and Rava both said, "There is a Tannaitic tradition: Nothing whatsoever follows intercourse. But our Tanna prefers that the levirate widow should be free to marry anyone.

Abbaye and Rava interpret the Mishnah's language as an indication of the Tanna's preference for *halitzah* over levirate marriage. Here the preference is motivated by the desire to allow the levirate widow to "marry anyone," that is, to choose a new husband or be chosen as a wife by any eligible man rather than to be restricted to her deceased husband's brother(s). It is impossible to ascertain whether Abbaye and Rava, like the Tanna they cite, preferred *halitzah* to levirate marriage.

At B. Yeb. 109a, there is a baraita that clearly favors *halitzah* over levirate marriage.

Bar Kappara taught: A man should always cling to three things and stay far from three things. A man should cling to three things: *Halitzah*, reconciliation, and the annulment of vows....

The Babli explains that Bar Kappara is in accord with Abba Shaul. This suggests that Bar Kappara's preference for *halitzah* reflects his belief that men enter into levirate marriage for improper reasons, thus rendering the institution suspect.

Even a statement that on the surface considers the possibility that a man could legitimately perform either levirate marriage or *halitzah* in some ways appears to favor the latter. B. Yeb. 101b records a baraita that offers a potential levir advice on which course of action he should follow.

They summon [the levir]—they and not their representative—and they speak to him—giving advice that is appropriate to [his situation]. If he is young and [the levirate widow] is old, or if he is old and [the levirate widow] is young, they say to him, "What business have you with this young woman?" or "What business have you with this old woman?" "Go find a wife suitable for yourself and do not bring trouble into your house."

We certainly could infer from the baraita that, if the levir and the levirate widow are "suitable," that is, if they are properly matched in age, the court would advise the levir to perform levirate marriage. At the same time, the baraita only spells out one possibility, the possibility that the court will advise against levirate marriage.

In addition, the Babli provides numerous accounts of sages' overseeing *halitzah*. These accounts involve both Tannaim and Amoraim spanning hundreds of years and take place in both the land of Israel and Babylonia.¹⁴ In contrast, it is interesting to note that Babli Yebamot contains no mention of cases in which levirate marriage was performed. This could, of course, reflect the fact that levirate marriage, unlike *halitzah*, did not require judges or rabbinic supervision. At the very least, it indicates that *halitzah* was practiced during the rabbinic period and that the rabbis saw it as an acceptable response to a levirate bond.

There are also sugyot, in addition to the one cited above, in which we find a preference for levirate marriage over *halitzah*. At B. Yeb. 21a, we are told that Resh Laqish holds that, while there are times when *halitzah* is the only valid response to the levirate bond, "*halitzah* in a situation in which levirate marriage [may be performed] is not a *mitzvah*." If one can perform levirate marriage, we make no accommodations to allow for the performance of *halitzah*. While this does not invalidate *halitzah* or force a man to choose levirate marriage, it does suggest the primacy of levirate marriage.

The willingness to permit or condone levirate marriage is evidenced even in situations in which the need is questionable. M. Yeb. 2:7 posits cases in which the relationship between the parties is unclear:

If a man betroths one of two sisters, and [afterward] does not know which of them he betrothed.... If he dies, leaving one brother, the brother must perform *halitzah* with each of the women. If there are two brothers, one performs *halitzah* and one performs levirate marriage. If [the brothers] go ahead and marry [the two sisters], we do not compel them to divorce.

If two [unrelated] men betroth two sisters, and neither knows which of them he betrothed.... If [the men] die, each leaving one brother, each brother performs *halitzah* with each of the sisters. If one of the men had one brother and the other had two, the sole brother performs *halitzah* with each of the sisters; one of the two brothers performs *halitzah* with one of the sisters and the second brother performs levirate marriage with the other sister. If [the two brothers] go ahead and marry [the two sisters], we do not compel them to divorce.

¹⁴ B. Yeb. 101b-103b, 105a. Sages mentioned as supervising or being participants in the ritual of *halitzah* include R. Judah and R. Tarfon, Judah ben Betera, R. Pappa, R. Huna b. Joshua, R. Ashi, R. Kahana, Rav Judah, Rav, R. Joseph, Rava b. Hiyya Ketospa'ah, R. Ishmael ben Elisha, R. Akiba, and R. Ammi.

If each of the men had two brothers, one brother from each pair performs *halitzah* with one of the sisters; one of the remaining brothers performs levirate marriage with the woman who performed *halitzah* with the man [who is not his brother] and the other remaining man performs levirate marriage with the woman who performed *halitzah* with the man [who is not his brother]. If [the two remaining] go ahead and marry [the two sisters], we do not compel them to divorce.

In a series of events that would have confused even Solomon, a number of men find themselves confronted by possible sisters-in-law. The Mishnah prescribes a series of responses meant to fulfill the levirate obligation while preventing the possibility that a man will marry the sister of a woman with whom he has a levirate bond (*ahot zequqato*). If avoiding levirate marriage was a desideratum, surely the sages would prescribe *halitzah* in all these cases. Instead, they allow for levirate marriage when possible and refuse to compel, after the fact, divorce even in those cases in which it is possible that a man has married the sister of a woman with whom he has a levirate bond.

How does the Babli respond to this Mishnah? It insists that the order of the Mishnah—"If there are two brothers, one performs *halitzah* and one performs levirate marriage"—is significant; the act of *halitzah* must precede the act of levirate marriage to avoid an improper union. It insists that the wording of the Mishnah (if one of the men had one brother and the other had two, the sole brother performs *halitzah* with each of the sisters; one of the two brothers performs *halitzah* with one of the sisters and the second brother performs levirate marriage with the other sister) precludes the possibility of forbidding levirate marriage in such cases as a safeguard. It also notes that here, where each man who marries can assert that he believes he is fulfilling the obligation of levirate marriage, there is no legitimate reason to make a decree forbidding the marriages. While a doubtful case often necessitates *halitzah*, here the presence of doubt is that which allows for levirate marriage.

This sugya provides no evidence that its authors objected to or tried to limit levirate marriage. Levirate marriage and *halitzah* are presented in the sugya as appropriate responses to particular circumstances. Furthermore, if men perform levirate marriage on their own initiative (*qadmu vekansu*), presumably without consulting the sages,¹⁵ the sages cannot invalidate their marriages.

¹⁵ Rashi to B. Yeb. 23b, s.v. *qad'mu ve'kan'su*.

The Role of Motivation

I have argued that the Babli demonstrates no clear preference for either levirate marriage or *halitzah*. As was the case in the Mishnah, the Babli regards the two practices as equally effective and appropriate to resolve the levirate bond. A levir can, in most cases, legitimately choose to dissolve the bond by marrying his brother's widow or by releasing her through *halitzah*. In either case, he removes the status of "levirate widow" (*yevamah*) from his sister-in-law. Through levirate marriage, the levirate widow is transformed into a wife.¹⁶ Through *halitzah*, she becomes a "normal" widow, that is, a woman free to marry whomever she wishes.¹⁷

While the Babli offers both levirate marriage and *halitzah* as acceptable responses to the levirate bond, it is clear that there are some sages who prefer one or the other. It is not difficult to understand why some rabbis might prefer levirate marriage. After all, levirate marriage is prescribed by the Torah. In Deut. 25, *halitzah* hardly receives a recommendation. It is a concession to a man's lack of a sense of familial obligation; the nature of the ceremony indicates that the refusal to perform levirate marriage is shameful. The question we must ask, then, is not why some sages prefer levirate marriage but why others prefer *halitzah*?

Clearly some of the rabbis who privilege *halitzah* are concerned about a levir's motives for performing levirate marriage (B. Yeb. 109a):

Bar Kappara taught: A man should always cling to three things and distance himself from three things. He should cling to three things: *Halitzah*, reconciliation (*hava'at shalom*) and annulling vows.... this follows the opinion of Abba Shaul as it is taught: Abba Shaul says, "A man who marries his sister-in-law (*yevamah*) for the sake of her beauty, for the sake of matrimony, or for the sake of another matter (*davar aher*), is like one who has intercourse with a forbidden relative, and I am close to regarding the child [of such a relationship] as a bastard (*mamzer*).

¹⁶ This was not true in some societies that practice levirate marriage. Often the widow remained her husband's wife *de jure*; her children by her brother-in-law were legally recognized as her deceased husband's. The sages, however, declared that the levirate widow becomes her brother-in-law's wife "in all matters" (M. Yeb. 4:4) and recognize the children of levirate marriage as the offspring of their biological father.

¹⁷ This reading of the Mishnah reflects the assertion of Jacob Neusner that one of the primary concerns of the Mishnah is taxonomy. The death of a childless man leaves his wife in limbo; she is neither wife nor widow. Either levirate marriage or *halitzah* restores her to a normal status.

Bar Kappara recommends that a man embrace *halitzah*, presumably choosing it over levirate marriage. The Babli links this recommendation to Abba Shaul's statement regarding levirate marriage. Abba Shaul has no objections to levirate marriage in theory, but he is concerned with the motivations behind these marriages. Levirate marriage supersedes an incest prohibition; a man is permitted to marry his brother's widow in order to preserve his brother's name. If the marriage is motivated by the levir's desire to have this particular woman as his wife, the marriage smacks of incest.

In another place in Babli Yebamot, questions are raised about the motives of both the levir and the levirate widow. These questions are raised in a discussion of whose testimony may free a woman to remarry. Mishnah Yebamot 10:3 lays down the rules covering a woman who is told that her husband and son died abroad. If she remarries, believing that her husband died before her son and she is thus exempt from levirate marriage and later learns that her son predeceased her husband, leaving her obligated to perform levirate marriage or *halitzah*, her second marriage is invalid. Similarly, should a woman enter into a levirate marriage, believing that her son predeceased her husband, and later learn that the opposite was true, she must leave her levirate marriage, since marriage between a woman and her brother-in-law is forbidden except in cases requiring levirate marriage. Aware that the Mishnah allows a woman to remarry on the testimony of one witness, our sugya, at Babli Yebamot 93b-94a, asks if a woman may enter into levirate marriage on the testimony of one witness.

I.

- A. They asked R. Sheshet, "What is [the status of] one witness in the case of a levirate widow?"
- B. Is the reason for [accepting the testimony of] one witness [in other cases] that the truth of matter will surely come to light and therefore [we can feel confident that] the witness will not lie? [If so,] here too, [we can feel confident that] the witness will not lie.
- C. Or might the reason for [accepting the testimony of] one witness [in other cases] be that the widow will be careful and investigate before she gets married, but here, since sometimes a woman loves her brother-in-law, she may be less careful before marrying...

II.

- A. There is one who taught: You need not ask this question, for

even she is believed [when she testifies to the death of her husband].

- B. As it is taught in the Mishnah: A woman who says, "My husband died," may remarry; a woman who says "My husband died," may enter into a levirate marriage.
- C. The question you must ask involves permitting a levirate widow to marry as she chooses.
- D. What is the reason for [accepting the testimony of] one witness [regarding the availability of a levir]?
- E. Is the reason for [accepting the testimony of] one witness [in other cases] that the truth of matter will surely come to light and therefore [we can feel confident that] the witness will not lie? [If so,] here too, [we can feel confident that] the witness will not lie.
- F. Or might the reason for [accepting the testimony of] one witness [in other cases] be that the widow will be careful and investigate before she gets married, but here she may be less careful before marrying because she hates her brother-in-law...

This discussion acknowledges that there might be a pre-existing relationship between a woman and her brother-in-law and that this relationship, positive or negative, might influence the woman's vigilance in investigating reports of her husband's or brother-in-law's death. While women may have had minimal contact with men outside their family, they were likely to have greater contact with family members, including in-laws. During the course of a marriage, a woman might come to admire her brother-in-law and find the idea of marrying him attractive. Should we be concerned that her feelings for this particular man might cause her to be less meticulous in insuring that her husband is dead before remarrying? It is also possible that familiarity with her brother-in-law might breed contempt, and that a woman would be eager to believe reports of his death rather than contemplate levirate marriage with him.

Later in the sugya, the sages consider the possibility that a man or woman might even lie in court to enter into or avoid a levirate marriage or a marriage to another in-law. We read

A woman's testimony is not accepted when she says, "My brother-in-law is dead"—and I can marry whomever I choose, or "My sister is dead"—and I can marry her husband. A man's testimony is not accepted when he says, "My brother is dead"—and I can marry his widow, or "My wife is dead"—and I can marry her sister."

Clearly the attraction to an in-law might even, in the sages' opinion, override one's feelings for one's spouse or sibling.

Does this material indicate that sages other than Ben Kappara preferred *halitzah* to levirate marriage because they suspected the motives of individuals who entered into such unions? Not necessarily. The question here centers around what type of evidence is permissible in court. Can we trust—should we accept—the testimony of one witness in cases involving levirate marriage? Can we accept the testimony of the parties most affected by the outcome of the case—the presumed widow or levir? To what extent do we worry that emotions might lead a person to remarry in haste or to lie in court?

While the sugya acknowledges that a levir may want to marry his brother's widow for reasons other than the fulfillment of his brotherly duties, or that a woman might want to avoid levirate marriage despite her responsibility to her deceased husband, it does not suggest that a levirate marriage based on attraction is invalid or undesirable. The marriages described in the Mishnah are invalidated because they were contracted illegally; a levirate widow cannot be released from the levirate bond without *halitzah* and a widow cannot contract levirate marriage unless her husband dies childless. The woman's motives, or those of the levir, are irrelevant here, as is the fact that they entered into marriage in good faith. Furthermore, the sugya asserts, in the course of discussion, that the testimony of a single witness is adequate to allow a widow to enter into a levirate marriage or to marry as she chooses. Provided there is proper testimony, there is no concern as to the reasons the couple agrees to levirate marriage.

The previous sugya indicates that an individual woman might have disliked her brother-in-law and might have tried to avoid levirate marriage for personal reasons. It seems reasonable to assume that certain men might resist levirate marriage due to their dislike of their sisters-in-law. Was there discomfort with levirate marriage that went beyond the personal? Might the institution itself have disturbed or repelled some men and women? I have suggested that the Bible and the Mishnah may be aware of men's discomfort with the idea of performing levirate marriage.¹⁸ This might explain Onan's reluctance to consummate his relationship with Tamar. This discomfort is also evident in other cultures in which levirate marriage is practiced.¹⁹ At Babli Yebamot 111b-112a, we learn that discomfort with a woman

¹⁸ Weisberg, p. 54

¹⁹ Hilda Kuper, "Kinship Among the Swazi," in Radcliffe-Brown and Forde, p. 109.

may prevent a man from consummating his marriage, in the case discussed here, a levirate marriage.

Mishnah

- A. A levirate widow who says within thirty days [of her marriage to the levir], "Intercourse has not occurred"—They press him to perform *halitzah*. After thirty days, they ask him to perform *halitzah*.
- B. If he acknowledges that intercourse has not occurred, even if a full year has passed, they press him to perform *halitzah*.
- C. If a woman takes a vow not to derive any benefit from her brother-in-law—[if the vow was made] while her husband is alive, they press him to perform *halitzah* ; [if the vow was made] after her husband's death, they ask him to perform *halitzah*.
- D. If she intended [to avoid levirate marriage by making the vow], they ask him to perform *halitzah*.

Gemara

- A. "A levirate widow who says within thirty days..."
- B. Which tanna teaches that up until thirty days a man might desist [from intercourse with his new wife]?
- C. R. Yohanan said: It is R. Meir, as it is taught, "A claim against a bride's virginity may be made up to thirty days [after the wedding]"—these are the words of R. Meir. R. Yose said: If she is secluded [with him, the claim must be made] immediately. If she is not secluded [with him, the claim may be made] even years later."
- D. Rava said: It could even be R. Yose. There R. Yose was speaking of his betrothed, with whom a man feels comfortable, but [when the wife was formerly] his brother's wife, he is uncomfortable with her.
- E. Before they press him to perform *halitzah*, let them press him to consummate the levirate union!
- F. Rav said: [We are dealing with a case] where he has given her a bill of divorce.
- G. They objected: "A levirate widow who says within thirty days [of her marriage], "Intercourse has not occurred"—Whether he says, "I performed intercourse," or whether he says, "I have not performed intercourse," they press him to perform *halitzah*. [If she makes the claim] after thirty days, they ask him to perform *halitzah*. If she says, "Intercourse occurred," and he says, "Intercourse did not occur," he divorces her with a bill of

divorce. If she says, "Intercourse did not occur," and he says, "Intercourse occurred," a bill of divorce and *halitzah* are required.

H. R. Ammi said: She requires *halitzah* with her bill of divorce....

In discussing the Mishnah's statement "within thirty days," the Talmud makes a distinction between a man who marries under normal circumstances and a man who performs levirate marriage. It is assumed that the former is eager to have intercourse with his new wife. The latter, on the other hand, finds himself expected to have intercourse with "his brother's wife;" in this situation, according to one amora, the levir finds himself "shy with her." Even a man who is willing to enter into a levirate marriage may find it awkward to have marital relations with a woman who was previously his brother's wife, especially since he has married her only as a result of her first marriage.

The willingness on the part of the sages to demand or request that the levir perform *halitzah* reflects their concern for the woman. If the man has not yet abandoned the idea of continuing the marriage, the sages might encourage him to consummate the union. Once it is clear that the marriage will not be consummated, the sages encourage or force the levir to perform *halitzah*.

Even when the reasons for avoiding levirate marriage are unclear, the sages seem inclined to encourage *halitzah*. In a number of sugyot, including the continuation of the sugya at Babli Yebamot 112a-112b, the reasons for avoiding levirate marriage are not specified.

II.

A. "If a woman takes a vow not to derive any benefit [from her brother-in-law]...

B. At first, they said: Three types of women are divorced [against their husbands' wishes] and still entitled to their marriage settlements—One who says, "I am impure to you," one who says, "The heavens [stand] between you and me," and one who says, "I am separated from Jews" {She vows not to have intercourse with any Jewish man.} Later they retracted, concerned that a woman might desire another man and [falsely] discredit [her relationship with] her husband.... As for one who says, "I am separated from Jews," let her husband annul the part of the vow that applies to him and she can have intercourse with him....

C. It was asked of them: Does "I am separated from Jews" impact the levir? Did she consider the possibility that her husband

would die and she would be obligated to perform levirate marriage or not?

- D. Rav said, "A levir is not like a husband," and Samuel said, "A levir is like a husband."
- E. Abbaye said: Rav's statement is makes sense, for the Mishnah teaches, "If a woman takes a vow not to derive any benefit from her brother-in-law—[if the vow was made] while her husband is alive, they press him to perform *halitzah*." If we were concerned that she considered the possibility [and made the vow to avoid levirate marriage] it should say, "They ask him [to perform *halitzah*]...."

The Mishnah and the Gemara acknowledge that a woman may use a vow specifically to avoid levirate marriage. The sages were aware that women, who could not initiate divorce, might make false claims to force their husbands to grant a divorce and tried to limit such claims. In cases involving levirate marriage, however, the sages accommodate a woman's desire to avoid levirate marriage by requesting that the levir submit to *halitzah*. Clearly, some sages are willing to counsel *halitzah* in any situation where one or both of the parties is reluctant to enter into levirate marriage.

Another sugya, one that deals with the status of *halitzah* performed under incorrect assumptions, suggests that the rabbis were well aware that men's reasons for entering into levirate marriage were sometimes inappropriate. Moreover, the sugya indicates that in such cases, the rabbis were willing to deny men the right to perform levirate marriage, resorting to trickery if necessary.

Babylonian Talmud, Yebamot 106a

- A. Our rabbis taught: *Halitzah* performed under a false premise is valid.
- B. What constitutes *halitzah* performed under a false premise?
- C. Resh Laqish said, "They say to him, 'Perform *halitzah* and you may marry her.'" {In such a case, despite the fact that the levir is now forbidden to marry the widow, the *halitzah* is valid.}
- D. R. Yohanan said to him, "I have learned, 'Whether he intended [to perform *halitzah*] and she did not or she intended [to perform *halitzah*] and he did not, *halitzah* is invalid until both intend [to perform *halitzah*].' Yet you say the *halitzah* is valid!"
- E. Rather, [this is a case in which] they say to him, "'Perform *halitzah* and she will give you two hundred *zuz*. {In such a case, even though she doesn't give him the money, the *halitzah* is valid.}"

- F. There was a case of a woman who found herself with an unsuitable levir. They said to him, "Perform *halitzah* and she will give you two hundred *zuz*. The case came before R. Hiyya and he validated [the *halitzah*].
- G. A man came before R. Hiyya bar Abba [regarding levirate marriage].
- H. [R. Hiyya bar Abba] said to [the widow], "My daughter, stand up."
- I. She said to him, "Say, 'Her sitting is her standing up.'"
- J. He said to her, "Do you know something about him [that pertains to this matter]?"
- K. She said to him, "Yes, he sees the money and wants to possess it."
- L. He said to her, "Is the matter not acceptable to you?"
- M. She said to him, "No."
- N. [R. Hiyya bar Abba] said to [the levir], "Perform *halitzah* with her and through doing so you may marry her."
- O. After he performed *halitzah*, [R. Hiyya bar Abba] said to him, "Now she is unfit for you; perform a proper *halitzah* so she can marry anyone else."
- P. R. Pappa's sister-in-law fell before a levir who was unsuitable for her.
- Q. The matter came before Abbaye. He said to [the levir], "Perform *halitzah* with her and through doing so you may marry her."
- R. R. Pappa said to [Abbaye], "Does the master not accept the teaching of R. Yohanan [at D]?"
- S. Then what should I say to him?
- T. He said to him, "Perform *halitzah* and she will give you two hundred *zuz*."
- U. After he performed *halitzah*, [Abbaye] said to [the widow], "Go give him [the money]."
- V. [R. Pappa] said to [Abbaye], "This is a case of 'I was only kidding' [and she has no legal obligation to pay him]."

This sugya opens with a theoretical discussion regarding *halitzah* performed under a false assumption. We learn that *halitzah* is valid even when it is conditional upon payment to the levir by the widow and the payment is not made. There is no question here that the payment is a bribe; the levir would prefer to enter into a levirate marriage and the widow does not wish to marry him. The sages are willing to participate in a ruse whereby the levir agrees to *halitzah* believing that he will afterwards be able to marry his sister-in-law; while this ploy is

rejected for technical reasons, the tone of the decision indicates that the sages have no ethical problem with the idea.

The sugya then records several cases in which the sages employed a ruse to free a woman from an unwanted levirate marriage. In the first (F) and the third (P-V) incidents, the Babli reports that the levir was "unsuitable." There is no indication as to the nature of the unsuitability; perhaps the couple was unsuited for reasons of age or temperament, or perhaps the levir was an unsavory character. In the second incident, we are told that the levir's motives for entering into the marriage are financial; either the widow has money or perhaps the deceased left an impressive estate.²⁰ Hiyya bar Abba is approached by the levir, but when he summons the widow, she is reluctant. She says, "Say, 'Her sitting is her standing up,'" she asks him to understand her reluctance to approach the judge as an indication of her feelings about the proposed marriage. When Hiyya bar Abba asks if the widow has any information about the levir, presumably regarding his motives, she tells him that the levir simply wants her money and that she has no desire to marry him. Hiyya bar Abba tells the levir to perform *halitzah* and then to marry the woman. After the *halitzah*, the rabbi informs the levir that his brother's widow is now forbidden to him, and the levir performs a second *halitzah* "so that she will be eligible to remarry." These discussions and the incidents described suggest that men did indeed contemplate levirate marriage because of their desire for their brothers' wives or for monetary gain. It is not absolutely clear whether the rabbis induced these men to perform *halitzah* because they disapproved of their motives or because the women involved were reluctant to enter into marriage under these circumstances. Even upon learning that a levir was motivated by greed, Hiyya bar Abba inquires of the widow, "Is this not acceptable to you?" He tricks the levir into performing *halitzah* only after the widow indicates her unwillingness to marry the levir, suggesting that it is not the levir's motive but the widow's objections that prompt R. Hiyya to take the course of action described in the sugya.

The same sugya raises questions about the status of "compelled *halitzah*." *Halitzah* is invalid without the levir's consent, but consent may be obtained through intimidation or threats—"They press him until he says, 'I want [to perform *halitzah*].'" This discussion suggests that the rabbis were willing to force men to submit to *halitzah* against their will, either because their motives for entering into a levirate

²⁰ According to the Mishnah, a levir inherits his childless brother's entire estate when he marries his widow.

marriage were unacceptable to the rabbis or because the women involved wished to avoid levirate marriage.

This sugya provides evidence that the rabbis were sympathetic to women's concerns about levirate marriage. Biblical passages that involve levirate marriage focus primarily on men's unwillingness to enter into levirate marriage; women are portrayed as desirous of such marriages. In Deuteronomy, an unwilling levir is taken to court by his sister-in-law who declares, "My husband's brother refuses to establish a name in Israel for his brother; he will not perform the duty of a levir" (Deut. 25:7). The levir concurs, "I do not want to marry her" (Deut. 25:8). The very nature of the *halitzah* rite as described in Deuteronomy indicates that the woman is disgusted with her brother-in-law's refusal to marry her.²¹ There is no parallel discussion as to the procedure to be enacted if the widow refuses to marry the levir. Perhaps such refusal is unthinkable; women were not usually in the position to choose or reject potential mates. Similarly, it is Judah's son Onan and later Judah himself who impede the completion of Tamar's levirate marriage; she is portrayed as willing, even eager, to provide her deceased husband with an heir. Clearly, the right to assign Tamar in marriage is Judah's; she has no power to opt out of her obligation to Er.

The Mishnah also portrays the decision to enter into levirate marriage or to undergo *halitzah* as that of the levir. We learn that a levir can acquire his sister-in-law as his wife through forced sexual intercourse (M. Yeb. 6:1). While a woman's consent is required for *halitzah*, refusal to perform the ritual would adversely impact her far more than the levir; she would be unable to remarry, while his life would be unaffected. All of the incentives the Mishnah provides for levirate marriage are directed at the levir. He inherits the entirety of his brother's estate (M. Yeb. 4:7), he acquires a wife without being liable for her marriage settlement (M. Yeb. 4:4), and the children of the marriage are his. There is no indication that the sages saw any need to provide a woman with incentives to enter into levirate marriage. The choice between levirate marriage and *halitzah* was the levir's; the advice offered by the court was advice "appropriate for him" (M. Yeb. 12:6).

The Babli continues to assert that it is the levir who chooses to perform levirate marriage or *halitzah*. Even the language of *halitzah*

²¹ Presumably the rejected woman also serves as a representative for the entire community; through spitting at the levir, the widow expresses the community's contempt for a man who does not fulfill his responsibilities to his family.

reinforces the centrality of the levir's choice. Although the *halitzah* ritual itself is one in which the levir is passive and largely silent, while the widow both speaks and acts, the Babli describes the act of *halitzah* as if the levir were the primary actor. At Babli Yebamot 106a, we read "He said to [the levir], "Perform *halitzah* with her"—that is, "release her"—and "after he performed *halitzah*." The Babli portrays the levir as the active party in *halitzah*, presumably because the choice to do *halitzah* is his.

At the same time, the Babli, unlike the Bible or the Mishnah, is sensitive to the possibility that women may wish to avoid levirate marriage and responds to that possibility.²² The Babli's response goes beyond the Mishnah's willingness to "ask [the levir] to perform *halitzah*" as mandated by the Mishnah in some cases. We read of cases in which the sages intentionally misled levirs in order to get them to perform *halitzah*.

Conclusions

For the authors of the Babli, like those of the Mishnah, levirate marriage and *halitzah* are two equally valid responses to a levirate bond. While this idea can be derived from the Mishnah's rules regarding levirate marriage and *halitzah*, in the Babli it is expressed explicitly through the principle "any woman who is eligible for levirate marriage is eligible for *halitzah* and any woman who is ineligible for levirate marriage is ineligible for *halitzah*." The "obligation of levirate" can be resolved in one of two ways—levirate marriage or *halitzah*—and in most cases, either way is equally effective.

The Babli cannot be said to demonstrate a definitive preference for levirate marriage or *halitzah*. The sugyot of Babli Yebamot suggest differing opinions co-existed during the Amoraic period and the Babli makes no attempt to resolve the dispute. There were sages who preferred levirate marriage, others who preferred *halitzah*, and still others who insisted that the choice was that of the levir.

The Babli also indicates that individuals, both sages and lay people, had mixed feelings about levirate marriage. Some sages wished to restrict levirate marriage because they suspected people of entering

²² The Mishnah does discuss the woman who vows not to benefit from her brother-in-law and is clearly aware that this may indicate her desire to avoid levirate marriage. The Mishnah concedes that the levir can be asked to perform *halitzah* under such circumstances, but implies that should he refuse he could marry the woman.

into it for what they considered inappropriate reasons. While some men may sincerely have wished to preserve their brothers' memory through levirate marriage, others simply desired their sisters-in-law or their property. The sages appear to have been sympathetic to both men and women's reservations about levirate marriage and counseled *halitzah* rather than forcing individuals into undesired levirate unions.

The sugyot of the Babli affirm much of what I have argued about the changes in levirate marriage and, consequently, *halitzah*, legislated by the rabbis. Traditionally, levirate marriage is part of a marriage system that actively promotes a man's need for—and entitlement to—biological heirs. Such a marriage system usually allows polygyny and concubinage, institutions that maximize a man's chances of fathering children. Levirate marriage recognizes a wife's duty to provide her husband with children and extends that duty beyond the husband's life. It also recognizes the responsibility of other males in the husband's family to act as surrogate fathers and to preserve and extend their dead kinsman's line. The desire of a widow to marry outside her husband's family or the reluctance of a man to marry his brother's widow are not taken into consideration in most societies that practice levirate. The needs of the dead supersede all other considerations. A man may live with his brother's widow for years and sire multiple children for his brother; often, the woman will never be his legal wife nor will the children of the union bear his name.²³ While the Bible provides limited information about levirate marriage, we know that much of what was true about other societies that practice levirate was true of ancient Israel as well. Procreation was a central concern, polygyny and concubinage were acceptable and society was patrilineal. The child of levirate marriage was to carry on the line of the deceased.²⁴ One important difference is that in ancient Israel there was an escape mechanism for the unwilling levir. Although *halitzah* is clearly intended to humiliate the levir, it does allow him to avoid levirate marriage.

The Mishnah and the Babli record a shift in the focus of levirate marriage. While the institution still reflects concern for the continuation of the deceased's line, it also recognizes the economic and emo-

²³ Radcliffe-Brown and Forde, p. 64, I. Schapera, "Kinship and Marriage among the Tswana," in Radcliffe-Brown and Forde, p. 153, Gluckman, in Radcliffe-Brown and Forde, p. 183.

²⁴ It should be noted that Perez and Zerach, the sons of Tamar and Judah, are described in the Bible as Judah's sons, even though they are born through a levirate union. Similarly, Ruth's son is described in genealogies as the son of Boaz, not Mahlon.

tional needs of the living. The levir inherits his brother's property and the children of levirate marriage are legally those of the levir. Furthermore, *halitzah* becomes an acceptable option, allowing the desires of the living to take precedence over the claims of the dead.

The sugyot of Babli Yebamot also indicate a growing concern for the desires of women. While the choice between levirate marriage and *halitzah* is theoretically that of the levir, the sages take into consideration the wishes of the levirate widow. As the focus of levirate marriage shifts from the deceased to the living, it is reasonable that women's wishes be considered. If the levir can escape his obligations to his brother without incurring communal condemnation, why shouldn't the widow herself have the option of requesting or demanding *halitzah*?

Some sages express concern regarding the motives of the levir willing to perform levirate marriage. Ironically, it is the rules of the Mishnah that create the very problems these sages now bemoan. Levirate marriage traditionally carries little incentive for a levir beyond fraternal devotion. The innovations set forth in the Mishnah—the levir's inheritance of the deceased's property, the levir's legal rights over his new wife and the children she bears—make levirate marriage far more attractive, far more "normal." The Babli's discussions highlight the difficulty in reworking an older institution to make it more palatable to "modern" individuals while insisting that the reasons for embracing the institution must be "traditional" ones.

The willingness of the Babli to allow either levirate marriage or *halitzah*, depending on the circumstances and the inclination of the parties involved, suggests that multiple factors influenced the sages' understanding of these two phenomena. Levirate marriage was mandated in the Bible, and the sages were clearly unwilling to uproot the institution completely.²⁵ Some men—and presumably some women—found levirate marriage an attractive option, although not always for reasons endorsed by the sages.

Does the Babli's treatment of levirate marriage reflect in part the social and cultural milieu of the Jews of Babylonia? Some scholars argue that, under Greek and Roman rule, Jews were less inclined to practice levirate marriage, in part because they avoided polygyny.²⁶ The sages who produced the Mishnah lived in a Greco-Roman milieu that featured monogamy. While divorce and remarriage, as well as adoption, were acceptable solutions to childlessness, polygyny was

²⁵ Ahroni, p. 71.

²⁶ Ilan, p. 152-155.

not. While the Mishnah and the Talmuds contain laws that reflect polygynous Jewish communities, there is debate as to the extent to which Jews practiced polygyny.²⁷

While the Jews of the Roman Empire may have been less inclined to practice polygyny, a prerequisite for levirate marriage, there are indications that polygyny was acceptable among Babylonian Jews.²⁸ There is no indication in Babli Yebamot that an objection to polygyny influenced the choice to perform levirate marriage or *halitzah*.²⁹

The cultural milieu of Sasanian Babylonia featured many of the attitudes and institutions that correlate with the practice of levirate marriage. Zoroastrianism shared with Judaism many marriage practices and attitudes regarding the importance of biological heirs. Zoroastrian religious texts stress the centrality of marriage and procreation.³⁰ While Zoroastrian religious texts use language that suggests a preference for monogamy,³¹ polygyny was acceptable, particularly as a resolution to childlessness.³²

Levirate marriage was practiced in Babylonia, and Zoroastrian law retains aspects of levirate marriage that Judaism had already abandoned by the Parthian and Sasanian periods. The *Encyclopaedia Iranica* explains that

a widow... at the death of her "authorized" husband without issue was obliged to enter into a levirate marriage in order to provide him with male offspring.... In Zoroastrian family law, if the authorized husband passes away without leaving male issue, his successorship devolves upon

²⁷ See, for example, Ilan, 85-88, 226-227.

²⁸ Isaiah Gafni, "The Institution of Marriage in Rabbinic Times," in David Kraemer, ed., *The Jewish Family: Metaphor and Memory* (Oxford: 1989), p. 23 and Ze'ev Falk, *Jewish Matrimonial Law in the Middle Ages* (London:1966), pp. 7-10. No one argues that polygyny was widespread among Babylonian Jews; as Gafni notes, polygyny was probably restricted to the well-to-do because of the financial burden of supporting multiple wives and their children.

²⁹ Nowhere in the Babli is an objection to polygyny offered to justify *halitzah* over levirate marriage. Such objections—on the part of levirs, levirate widows and the wives of levirs—are recorded in responsa found in the Cairo Genizah. See Mordechai Friedman, *Ribui Nasim BeYisrael* (Jerusalem:1986), p. 129-131, 137, 144, and 146.

³⁰ See, for example, William W. Malandra's *An Introduction to Ancient Iranian Religion: Readings from the Avesta and the Achaemenid Inscriptions* (Minneapolis: 1983), p. 101 and 126.

³¹ George William Carter, *Zoroastrianism and Judaism* (Boston: 1918), p. 85. Jewish tradition also contains many texts that suggest that monogamy is the norm or the ideal.

³² Miles Menander Dawson, *The Ethical Religion of Zoroaster* (New York: 1969), p. 148-149.

his authorized wife, that is, it would be incumbent upon his widow to institute a levirate marriage in order that the begotten *cakariha* son might maintain his deceased father's image and name and administer his property.³³

There are several important distinctions between Zoroastrian and rabbinic law regarding levirate marriage. While both share the same goal, the continuation of the direct line of the deceased husband, rabbinic law acknowledges the offspring of a levirate union as the legal offspring of their biological father. In contrast, Zoroastrian law does not regard a levirate union as a true "marriage;" the offspring of the union were legally those of the deceased and many of the rights and responsibilities of marriage did not pertain to the levirate union.³⁴ While Mishnaic law awarded the property of the deceased to the brother who accepted the responsibility of levirate marriage (M. Yeb. 4:7), Zoroastrian law expected a man's relative to provide him with posthumous offspring without financial incentive; the property was held for the offspring of the union.³⁵

The scope of the levirate obligation was wider in Zoroastrian law. While rabbinic law acknowledged a levirate bond between the widow(s) and brother(s) of a deceased, childless man, Zoroastrian law expected the widow of a man who died without sons³⁶ to enter into a levirate union even if no agnate was available. Levirate marriage could be performed with a non-relative; a fee was paid to a man who would serve as a surrogate father for a non-relative.³⁷ Furthermore, a man without sons could, in order to acquire an heir, arrange a levirate union for his wife during his own life time. In Sasanian Babylonia, "women were... held to belong to their nearest male relatives."³⁸ Although a man normally transferred guardianship of his wife upon divorce, a man could divorce his wife without relinquishing guardianship. Thus "a man without male issue c[ould] make his wife to undertake a *cakariha* marriage in his own favor or to appoint her to assume a *sturih* marriage in order to provide a deceased co-religionist with a male progeny."³⁹

³³ Ehsan Yarshater, ed. *Encyclopaedia Iranica* (Costa Mesa, CA), vol. 4, fasc. 5-8, p. 647.

³⁴ Op. cit., p. 648.

³⁵ Yarshater, p. 648.

³⁶ Jewish law recognized a son or a daughter as a legal heir while Zoroastrian law required a male heir.

³⁷ Op. cit., p. 647.

³⁸ Mary Boyce, *Zoroastrians: Their Religious Beliefs and Practices*, (London:1984), p. 130.

³⁹ Ehsan Yarshater, ed. *Encyclopaedia Iranica* (Costa Mesa, CA), vol. 7, fasc. 4-6, p. 445.

If the Jews of Babylonia found themselves living among peoples who accepted polygyny and levirate marriage and valued continuity through biological heirs, why would they have considered *halitzah* an acceptable response to a levirate bond? Just as the sages of the Mishnah could not ignore the laws mandating levirate marriage in Deuteronomy, the sages of Babylonia could not ignore the teachings of the Mishnah, which insisted that *halitzah* was a legitimate, socially acceptable choice. Clearly, the Babli is comfortable with *halitzah* even though it means denying the deceased an heir. This correlates with a growing concern for the feelings of the levir and the levirate widow, and an increasing willingness to ignore the claim of the dead upon the living.

Furthermore, the sages, despite their insistence that reproduction was a religious obligation, clearly felt some tension between procreation and devotion to Torah.⁴⁰ One resolution to this tension was the promotion of the master-disciple relationship, a relationship that complements or even supplants the father-child relationship (M. B.M. 2:11, M. Ker. 6:9). Daniel Boyarin claims that rabbinic culture experienced an

extraordinary tension...between the desire on the one hand to pass on the mantle of Torah from father to son and the anxiety that, in a profound sense, *people do not reproduce each other, and reproduction is not the answer to death.*⁴¹

Levirate marriage assumes that a man achieves “immortality” by passing his name and possessions to his son, and that a man’s widow and family are responsible for ensuring that immortality in the event of the man’s death without offspring. While the Hebrew Bible reflects such attitudes, rabbinic Judaism, with its de-emphasis on material goods, its focus on Torah study, and its belief in the immortality of the soul and resurrection, may regard childlessness as a personal tragedy rather than a kind of death or uprooting. Furthermore, if Boyarin is correct, reproduction was seen as a less than certain way of transmitting one’s values; if so, reproducing for the deceased might seem less urgent. Levirate marriage continued, but focused less on the claims of the dead. *Halitzah* ceased to be a ceremony of shame and was seen as a way to fulfill the obligations set forth in Deuteronomy 25.

The sugyot of the Babli suggest that some sages preferred levirate marriage over *halitzah* and vice versa, but that overall both were

⁴⁰ See Daniel Boyarin, *Carnal Israel* (Berkeley:1993), pp. 134-166.

⁴¹ Boyarin, p. 208.

honorable institutions. Some situations required levirate marriage, others necessitated *halitzah*. When either was viable, the sages generally left the choice between levirate marriage and *halitzah* to the levir, although they would encourage or even insist on *halitzah* at the behest of women.⁴²

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⁴² There are with a doubt scholars who would see in this an increasing sensitivity to women's rights. I would suggest that at least it indicates a sensitivity on the part of the sages to the imbalance of power between the levir and the levirate widow. While the sages maintain the right of the levir to enter into levirate marriage, even against the woman's wishes, or to perform *halitzah*, they exhibit a willingness to exert pressure on the levir to produce an outcome satisfactory to the widow.

THE RELIGIOUS MEANING OF BODILY EXCRETIONS IN
RABBINIC JUDAISM: THE HALAKHAH ON LEVITICUS
CHAPTER FIFTEEN: ZABIM AND NIDDAH

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i. *Bodily Excretions*

In the halakhah of the Oral Torah we deal with semen or vaginal blood that cannot carry out the purpose that by nature the one or the other realizes, which is participation in the process of procreating life. Such non-productive semen, such vaginal flow outside of the normal cycle of procreation—these violate their own innate teleology. They do so on their own, not by man's or woman's intervention. Of such violations of the natural law and the purposive definition of the media of procreation, the Israelite householder has to take heed. Man or woman cannot generate by an act of deliberation an unclean body fluid, whether genital semen or genital blood, which is deemed unclean only if it flows naturally, nor can they form by an act of will a source of uncleanness represented by the corpse or the dead creeping thing. Were we to simplify matters and say, as to what contracts uncleanness, man disposes, but as to what imparts uncleanness, nature imposes, we should not be far off the mark.

Animate sources of uncleanness are specified at Lev. 12-15: vaginal flow of the woman after child birth (Lev. 12), who for a week for a male, two weeks for a female, offspring produces vaginal blood that is a source of uncleanness (and then, thirty-three days for a male, sixty-six for a female, the vaginal flux is deemed clean), the person afflicted with the skin-ailment (Lev. 13-14), the woman, called a Zabah who produces vaginal blood (classified as *zob*) not during her regular menstrual period (Lev. 15), and the man, called a Zab, who produces semen not via an erection (Lev. 15). Like the corpse, the Zab and Zabah and also the menstruating woman disseminate contamination in both the familiar way—through touching or being touched—and otherwise, e.g., intangible dissemination through positioning or overshadowing.

Of the animate sources of uncleanness, the person afflicted with the skin ailment is the only one for whom the sexual organs do not define the source and focus of uncleanness. But such a person proves

interstitial, since he or she is like the corpse but not wholly so. The exegetical fulcrum of the halakhah governing animate sources of uncleanness is indicated, then, by the comparison of the animate to the inanimate, persons who produce uncleanness to the corpse that produces uncleanness. The comparison of corpse-matter to flux, then, provides a governing analogy for our interpretation of the matter, and, as usual, the halakhah itself identifies the focus of analogical-contrastive thinking and spells out its result. But we have gotten ahead of our story.

The Zab or Zabah of Lev. 15 transmits uncleanness to that on which they sit or lie, even though they do not touch the chair or bed. So we shall wonder what is special about the bed and comparable objects that subjects those objects to a particular kind of uncleanness, transmitting in a quite distinctive way: using those objects for the purpose for which they are manufactured. That classification of uncleanness, called midras- or pressure-uncleanness, pertains only to objects that ordinarily are used to bear weight or pressure, that is, beds and chairs and things analogous to them. The halakhah of Kelim shows that objects not used for sitting or lying, e.g., pots and pans, are not susceptible to the midras- or pressure-uncleanness transmitted by a Zab or a Zabah. And that is a severe uncleanness, comparable to the corpse-uncleanness that affects receptacles and persons, requiring a period of seven days in which the source of uncleanness does not renew itself, on the one side, and a rite of purification in the Temple, on the other. Accordingly, in Zabim we deal with the animate form of uncleanness that falls into the classification of the counterpart inanimate form, that is, *zob* (flux) compares with corpse-matter, the Zab or the Zabah with the corpse. And, the logic of the halakhah requires, the media of dissemination will prove comparable as well.

The inanimate and the animate sources of uncleanness bear each its own distinctive traits as well. While the former, the corpse, constitutes a Father of fathers of uncleanness, turning what touches it into a Father of uncleanness, the latter is a mere Father of uncleanness, and what touches it is in the first remove of uncleanness. Then the process is simple. Once the mere pressure of the Zab or Zabah has sufficed to transmit uncleanness to something used for lying or sitting, and the chair or bed imparts uncleanness to one who touches it, it has rendered such a one unclean in the first remove, and then the clothing of such a person is unclean in the second remove. How further does an animate source of uncleanness affect others in a way in which a corpse or a dead creeping thing does not? The spit of such a person conveys uncleanness, as much as does his touch (contact), as much as

does his pressure or weight to the object or person bearing that weight.

The purification process for the person afflicted with flux-uncleanness takes seven days, just as does the purification process of a person who is a father of uncleanness by reason of contact with a corpse. Immersion now is required, and the uncleanness passes at sunset.

The halakhic givens of the matter to this point derive mainly from Scripture. The relevant verses of Scripture are, first, Lev. 12:1-8, for the woman after childbirth, then Lev. 15:1-33, encompassing in a single statement both the flux (*zob*) of the Zab and the Zabah, and semen and menstrual blood, that is, excretions of the sexual organs that do not, and that do, pertain to the cycle of procreation, the former breaking, the latter establishing, that cycle. At Lev. 12:1-8 we have vaginal blood that for seven or fourteen days is deemed unclean in the classification of menstrual blood and then for thirty-three or sixty-six days is deemed altogether clean. The important point to note is that vaginal blood is not always deemed a mark of uncleanness, but, in the case at hand, is deemed clean. But, we also notice, a rite of purification is required for the vaginal flow that is classified as unclean. So in that regard—the cultic purification-rite—the woman after childbirth is comparable to the Zabah and not to the woman who has menstruated, so Lev. 15:1-33. Scripture's point of emphasis throughout is on three matters: [1] the character of the discharge that signifies flux-uncleanness, [2] the effects of the status of uncleanness: objects that are subject to uncleanness, and [3] how the uncleanness is transmitted; and the mode of purification and attendant cultic rite signifying the regaining of the normal status of cleanness. The variable that will guide us is the question, Is a woman excluded from, or included within, the procreative cycle? If her vaginal flow does not remove her from acts of procreation (in fact or at least in theory), then no purification-rite is called for; if she is utterly excluded from the process, then it is. The Zabah, it is assumed, simply cannot become pregnant and will not engage in sexual relations; the Torah makes no provision for that possibility. The menstruating woman may find herself in a situation in which, inadvertently, she has sexual relations during her period, with the specified consequences for her mate: he enters her status as to uncleanness.

The contribution of the Oral Torah in the articulation of these facts proves not only formidable but intellectually fructifying, as sages explore the considerations of teleology that seem to me embedded in Scripture's own statement of the matter, as we shall now see. Whether sages have penetrated into the logic inherent in the Written Torah's halakhah, or whether they have brought to bear a set of

considerations all their own in re-framing the inherited Torah into the dense and subtle formation that they set forth, remains to be seen. It suffices to say at the outset that here, as everywhere, the halakhah shows itself to constitute a tight and extremely cogent system, everywhere cognizant of its own pervasive rationality.

ii. *The Halakhah of Zabim*

What classification of animate beings produces *zob*, that is, contaminating flux from the genitals? What is that *zob*? And how is such *zob* produced? These are the critical questions that the halakhah of the Oral Torah undertakes to answer.

The first question is answered through the intersection of the Mishnah's and Tosefta's rule. The entire system of differentiated sources and effects of uncleanness that envelops the household and classifies its food, clothing, utensils and furniture as clean and cult-worthy or unclean and not pertains only to Israel and forms a vast system that realizes in the details of the here and now the sanctification of Israel. The Tosefta makes that statement in its own laconic language: All are susceptible to uncleanness through flux, even converts, even slaves, whether freed or not freed, a deaf-mute, imbecile, or minor, a eunuch by castration and a eunuch by nature. Gentiles and the convert and the resident alien are not susceptible to uncleanness through flux. That is because the gentiles form a vast undifferentiated world, unclean with corpse-uncleanness by nature, a realm of death, gentiles' uncleanness is inherent. So when it comes to the halakhah of the uncleanness of the Zabim and the Zabim, we deal only with Israelites. And, given the nature of *zob*—a genital excretion—we deal with Israelites in the household in particular, in their normal, licit marital relationships.

And the second question, What is that *zob*? It is, in the case of a male, semen emitted by a flaccid penis, and, in the case of a female, blood emitted by the genitals not during the established menstrual period. So, as usual, the system of sanctification and uncleanness forms a vast exercise in classification: semen and blood, like food and drink and clothing and furniture, may fall into one or another taxon, as circumstances defined by nature dictate.

And what differentiates semen classified as unclean in a minor way from the semen deemed to fall into the category of *zob*? The answer is made explicit—again by the Tosefta—as follows: And what is the difference between flux and semen? Flux comes from a limp penis, and semen from an erection. Flux is like the white of a crushed egg,

and semen is congealed like the white of an egg which is not crushed. Red semen is clean, and the woman attributes red flow to it. The uncleanness that results from a healthy ejaculation, meaning, one that at least potentially can accomplish its purpose, procreation, is routine and minor, as Scripture states explicitly, and as M. 5:11 recapitulates: One who has had a seminal emission is like one who has touched a dead creeping thing. Purification then requires mere immersion and sunset, nothing more. By contrast, one confirmed as a Zab or Zabah undergoes a purification rite comparable to that required after corpse-uncleanness, a seven-day period, immersion, then an offering on the eighth day—a considerable difference. The key is the imputation of a seven-day process of purification, guaranteeing that the victim has fully recovered from his affliction. When *zob* can realize, conform to its teleologically-dictated purpose, then it is unclean in a minor way. But when *zob* violates that teleology, it is unclean in the league of a corpse.

Who or what differentiates between the teleologically-valid semen (that capable of impregnating a woman) and semen deemed invalid *zob*? The third question is answered with equal clarity: *zob* of either male (semen) or female (blood) comes about solely by nature; it cannot derive from an extrinsic cause of the flow of semen, let alone from his own engagement. If a man ejaculated after eating or drinking or jumping or fantasizing, this is not unclean semen in the category of *zob*. Physical causes, e.g., food, activity, or psychological causes, e.g., fantasizing—these may produce a flow of semen, but that semen does not qualify as *zob*. So in Zabim we deal with Israelites who produce genital flux through no activity of their own. It is nature's own flawed semen, semen that violates its own teleology. Man cannot bring it about by an act of will, any more than by an act of will he turns himself into a source of corpse-uncleanness, releasing his soul to contaminate until contained.

The halakhah of the Oral Torah contributes fundamental considerations to the definition of uncleanness deriving from the sexual parts. Scripture speaks of a man's discharge; the halakhah wants such a discharge to take place on three successive days or in three ample, distinct flows even on one day. When it comes to flux of a woman, the halakhah likewise concerns itself with three such appearances on three successive days; only then is the matter confirmed. The consequent, abundant possibilities of doubt preoccupy sages. Much of the law concerns itself with interstitial cases of one kind or another.

THE WOMAN: A flow of vaginal blood may bear diverse significations; it may be menstrual blood, it may be zibah-blood, and it may be natural blood. Blood that flows during a regularly-established pe-

riod is classified as menstrual. Blood that flows in the eleven days between periods—called zibah-days—is classified as *zob*, hence zibah-days' blood. Now if blood appears on one of the eleven zibah-days, what is the consequence? The woman immerses in the evening. Then she has to wait out the next day to make sure that there is no further flow of blood. If there is none, she is clean and permitted to have regular sexual relations with her husband. If there are appearances of blood on the three successive days during the period of the zibah-days, the woman is classified as a Zabah. In both cases—differentiated menstrual- or zibah-blood—the consequence, uncleanness, is the same.

Much of the halakhah pursues the question of ambiguous data on the matter. That is the way of the halakhah in general. What is at stake here in particular is the woman's status as to procreation. If she is established as unclean for her period, then after the period, for the next eleven days, she is permitted to have sexual relations, until the advent of the next regular period. If the blood flows during the zibah-days, however, then an irregular flow, from day to day, prevents her from participating in the procreative process, and that exclusion from normal sexual relations, by reason of the intermittent, irregular flow, may continue for a long time. So the distinction between menstrual- and *zob*-blood makes a great difference. By the latter the woman is marked as not a fit vehicle for procreation.

THE MAN: A flow of semen from the flaccid penis forms the counterpart to the vaginal flux of the woman. He who sees semen does not become susceptible to uncleanness by flux for twenty-four hours. One such flow does not establish uncleanness, three on successive days do. The issues must be separate and distinct from one another but need not appear on different days. Problems therefore arise when "clean days," that is, days on which no flux makes an appearance, intervene between days of flux. But the Torah also treats as unclean the flow of semen from the erect penis. But it is uncleanness in a different classification, as the Written Torah makes clear. The former uncleanness persists; it yields contamination through pressure, not only contact; only when the discharge stops for a week is the man clean, and then a rite of purification is required. But contrast, an emission of semen in the normal manner produces uncleanness removed through immersion and sunset. So we need to differentiate the relationship of semen to flux, as at M. Zab. 1:2. Then we face the sequence of interstitial cases—not clean, but not confirmed as unclean—that the details of the law address. Here again, a man who produces semen not in the normal framework of the reproductive life is excluded by nature from the procreative process. The Zab and the Zabah belong to holy Is-

rael, but nature removes them from the natural processes by which the sanctity of Israel is propagated, namely, in bed.

THE MEDIA FOR TRANSMITTING UNCLEANNES: The special medium, pressure, that transmits the uncleanness of the sexual organs matches the way by which those organs realize their teleology. As sexual activity takes place through not only making contact or touching but also exerting pressure—the penis upon the vagina bringing about procreative ejaculation—so uncleanness is transmitted through not only contact but also pressure, specifically, to objects bearing the weight of a person afflicted with the uncleanness of flux. Since sexual activity commonly takes place where people lie, objects used for lying (and, concomitantly, for sitting) are susceptible to the pressure-uncleanness of the sexually-based sources of uncleanness. So a fully-realized teleological logic governs throughout.

But how to sort out the diverse media that take effect for the dissemination of diverse, differentiated sources of uncleanness? As usual, the halakhah forms the ideal instrument for acute, systematic differentiation, through analogical-contrastive logic, between and among things that are both alike and not alike. And, as usual, the framers of the authoritative statement of the halakhah, the Mishnah, provide a systematic statement of the matter. That brings us to the exquisite exposition of the halakhah that is provided by Zabim Chapter Five. There we deal with the means for transferring uncleanness, direct contact, pressure, carrying, shifting, and overshadowing. Of these modes, it is the last item that is of special interest, because it is the point at which the comparison of *zob*- and corpse-uncleanness becomes necessary, and, with that comparison we reach the exegetical key for understanding the halakhah of the Oral Torah of Zabim.

Let us begin with the summary that Tosefta—true to its character as the source of generalizations of the Mishnah's exemplary cases—provides (at T. Zab. 3:3): More strict is the rule applying to the Zab than to one unclean by corpse-uncleanness, and more strict is the rule applying to the one unclean by corpse-uncleanness than to the Zab: For the Zab makes a bed and chair under him render man unclean and render garments unclean and imparts to what is above him *maddaf*-uncleanness the uncleanness affecting objects not used for sitting or lying that are located above a Zab in relationship to a Zab and makes food and drink unclean—forms of uncleanness which the corpse does not impart. His flux and his spit and his urine impart stringent uncleanness. And he imparts uncleanness by means of contact to a utensil which is subject to purification by rinsing, and by means of shifting to a clay utensil. And he is liable for a sacrifice and is required to enter running water for his purification, which is not

the case for the one who is unclean by reason of corpse-uncleanness. More strict is the rule applying to one unclean by corpse-uncleanness: For the one suffering corpse-uncleanness requires sprinkling with purification-water on the third and seventh day, which is not the case for the Zab. The work of hierarchical classification is never more beautifully accomplished than by a passage such as this elegant statement.

How does the Mishnah frame matters? The Mishnah's key rule is at M. Zab. 5:2: Whatever is carried above the Zab is unclean. And whatever the Zab is carried upon is clean, except for something which is suitable for sitting and lying, and except for man. Here we find a striking paradox. If something is used for lying or sitting and the Zab is carried thereon, the object is unclean; but if it is food or drink that bears his weight, the food or drink is unaffected by him. And then, a mirror-image is taken: whatever is carried above the Zab, not bearing his weight, is unclean, inclusive of food and drink. So the Zab possesses no power of transmitting uncleanness by overshadowing, but he transmits uncleanness to what overshadows him (thus: maddaf-uncleanness). First comes the teleological definition of what is subject to his pressure, which is, what can be used for lying and the like, then comes the antithesis; first comes the location, what is beneath, then comes the antithesis, what is above. It is an amazingly logical system that is set forth, each point then generating its consequence within the same simple logical structure.

So *zob*-uncleanness is transmitted through direct contact, carrying (pressure), shifting, and overshadowing, while corpse-uncleanness is transmitted through direct contact and overshadowing. In both cases, we meet our old friend as we distinguish removes of uncleanness, of course, that is to say, we make a distinction between the situation that prevails when one is in actual contact with the source of uncleanness from that which prevails after one lets go. We further distinguish modes of transmission of uncleanness to the various sorts of objects that receive the uncleanness—a critical point for corpse-uncleanness, when it comes to receptacles, and for *zob* and other pressure-uncleanness when it comes to the matter at hand. We then identify the bed and the chair, things used for lying and sitting, other objects not used for sitting and lying (maddaf-objects) and food and drink. The Zab imparts uncleanness to objects that bear his weight and what are not shifted by him, which, absent contact or overshadowing, corpse-matter cannot do.

That is the point of T. Zab. 5:1: the Torah has imposed a more stringent rule upon food and drink and maddaf an object not used for sitting and lying which are above the Zab, than upon food and drink

and maddaf which are under the Zab; upon bed and chair which are under the Zab, than upon bed and chair which are above the Zab and upon maddaf an object not used for lying and sitting which is above the Zab, than upon bed and chair which are above the Zab; upon man, whether above the Zab or below the Zab, than upon bed and chair which are above the Zab.

THE EFFECTS OF *ZOB*-UNCLEANNES, SUCH AS IS TRANSMITTED BY PRESSURE (MIDRAS): What are the consequences of *zob*-uncleanness for the Israelite household? An object appropriate to receive uncleanness from the Zab or Zabah—the bed and analogous objects—becomes unclean when the Zab or Zabah has stood, sat, lain, leaned, upon, or been suspended from said object. Then the object imparts uncleanness to another person who stands, sits, lies, upon, or is suspended from, the object itself; the bed or analogous object likewise imparts uncleanness to one who carries its weight or to one who touches it (“contact”). It does not convey uncleanness to one who overshadows it, or to one whom it overshadows; it does not function as does corpse-uncleanness. The uncleanness of Zabim bears its own message, aligned alongside, but distinct from, the message of the uncleanness of Ohalot. This is stated at M. Nid. 6:3 as follows: Whatever is susceptible to midras uncleanness is susceptible to corpse uncleanness, but there is that which is susceptible to corpse uncleanness and is not susceptible to midras uncleanness. The Talmud to the same passage proceeds:

III.1

- A. Whatever is susceptible to midras uncleanness is susceptible to corpse uncleanness, but there is that which is susceptible to corpse uncleanness and is not susceptible to midras uncleanness:
- B. Whatever is suitable to contract midras-uncleanness contracts corpse-uncleanness, but there are things that are suitable to contract corpse-uncleanness but not midras-uncleanness.
- C. What is encompassed by that statement? What is encompassed is a seah-measure and a tarqab-measure, for it has been taught on Tannaite authority:
- D. “And he who sits on any thing” (Lev. 15:6)—might one suppose that if one turned over a seah-measure and sat down on it, or a tarqab-measure and sat down upon it, it will be unclean?
- E. Scripture states, “On which he who has an issue has sat” (Lev. 15:6), meaning, that which is designated as an object for sitting, which then excludes something concerning which people may say, “Get up and let us do our work with that object.”

So while the two sources of uncleanness—the corpse, *Zob*—produce a single consequence, uncleanness, each functions in its own way, and that must be each for its own reasons, as we shall see. That is made explicit at T. Zab. 3:3.

But before proceeding to the religious commentary on the halakhah of Zabim, we have now to incorporate into our account of the halakhah the other form of vaginal blood that serves as a source of uncleanness, the blood that appears in the seven days of the menstrual cycle. Only when we encompass blood of all three classifications—blood that is not a source of uncleanness at all, blood that signifies the menstrual period, and blood that signifies status as a Zabah—shall we find possible the identification and systemic interpretation of the religious statement made through the halakhic discourse on vaginal excretions.

iii. *The Halakhah of Niddah*

Life is to be created in conditions of cultic cleanness such as the Written Torah defines. Ordinary sexual activities, as much as ordinary meals, raise issues of cultic cleanness. But in the case of sexuality the cult does not define the point at which such issues make an impact upon everyday life, ordinary sexual relations do. This is the one area of the halakhah of cultic cleanness and uncleanness laid out at Leviticus 11-15 that Scripture itself declares in so many words to pertain to the household, not only the cult. In concrete terms, Scripture is explicit that sexual relations may not take place during the menstrual period: “And if a man lies with her, her impurity is communicated to him; he shall be unclean seven days, and any bedding on which he lies shall become unclean.” Whether or not the governing consideration pertains to entry into the tabernacle is not specified; the halakhah of the Oral Torah takes for granted that sexual relations may not take place in the woman’s menstrual period, and considerations of cleanness, made explicit in Scripture, then pertain to preserving cultic cleanness at home, not only in connection with entry into the Temple. The upshot is, sexual relations, like eating, involve considerations of cleanness and invoke avoidance of some of those very same sources of uncleanness that close off the Temple to the person affected by them.

For the halakhah of the Oral Torah, when it comes to menstrual uncleanness the main problem comes at the start of the period. In the clean or Zibah-days (when any blood that is excreted is classified as *Zob*), the woman may have sexual relations without scruple; as soon

as the menstrual cycle commences, a single drop of blood marks the change in her status to that of a menstruant. Then how do we deal with cases of unclarity as to the exact point at which the period has begun, with special reference to the status of the man who is engaged in sexual relations with the woman at that moment? It is that interstitial period that defines the topic of the halakhah of Niddah—a topic that the halakhah of Zabim need not treat, the Zabah generating no cases of uncertainty.

Tractate Niddah sets forth halakhah on the uncleanness of certain vaginal flows and on cases of doubt in connection with that same matter. These fluids are menstrual blood, the abortion, and the like; the women are classified as Israelite, Samaritan, Sadducean, and so on. The animate source of uncleanness—here, the woman—has to take precautions to ascertain her status, and the net effect of the halakhah is to require the woman to pay close attention to the condition of her vagina. The woman who has a fixed period still has to examine herself in the morning, at twilight, and before having sexual relations. That imposes considerations of cultic cleanness on a variety of homely situations. A man concerned with seminal emission, by contrast, is discouraged from doing the same, but if his motive is to look out for flux, he is praised as well. While considerations of eating priestly rations in the state of cultic cleanness register, the premise of the halakhah throughout places us in the home of an ordinary caste-Israelite. Then, if a drop of blood is found on the man's cloth, the man is assumed to have had sexual relations with a menstruating woman; so too, if it is found on hers at the time of intercourse. But if it is found on hers later on, the matter is not certain. The upshot is, sexual relations are subject to considerations of cultic cleanness, even when the prevailing assumption is that both parties are cultically clean for the act.

Here again, considerations of uncleanness require that we sort out the sources of an uncleanness that is, physically, undifferentiated—what class of woman with an affiliation in Israel has produced the blood? But it goes without saying, it is in the setting of holy Israel that the entire matter is worked out. Gentile women are unclean by definition, and considerations of Niddah- or Zibah-blood do not pertain. Scripture speaks of Israel, not gentiles. But the spit and urine of the gentile are unclean, for the gentile is classified as a Zab, and the blood of the gentile woman is unclean just as are the urine and spit of the Zab (when wet, not when dry). But Samaritan and Sadducean women are Israelites and the pertinent distinctions among types of blood do apply. Because they continue unclean for any sort of blood not differentiating unclean from clean, Samaritan women miscalcu-

late, not differentiating one type of blood from another, and hence impart uncleanness to everything on which they sit or lie. In their power to differentiate among types of blood, knowing the difference between menstrual and other classifications of vaginal excretions, sages thus distinguish (their) Israel from all others claiming to form part of Israel.

Since the menstruating woman takes her position in-between the two poles—wholly participating in the procreative process, wholly excluded from it—we must find entirely predictable that a principal problematic of the law concerns cases of doubt. That is to say, since, in the sequence from the menstrual period to the clean days and back to the menstrual period, a woman participates in the cycle of procreation, what we need to know is how to deal with uncertainty as to her particular status at a given moment. How do we deal with the status of objects that the woman has touched in the interval between the moment at which she knew for certain she was clean and the one at which he discovered she was menstruating? The Niddah's procreative interstitiality—she can procreate, as a Zabah cannot, and for that reason is deemed at some moments clean, at some, unclean, in a way in which a Zabah is never deemed clean—then accounts for what is at stake in the halakhah of the Oral Torah. What is involved is retrospective, and thus retroactive contamination, that is to say, how do we classify persons or objects that have had contact with the woman at the time at which her status is uncertain?

The solution of the halakhah is to mediate between two points of certainty. The woman is assumed to remain perpetually alert as to her status, inspecting her sexual organs for spots of blood. So if we look backward from the moment of discovery of blood, we come to a point at which the woman has last inspected herself and found herself clean. Then all objects she has touched from that last inspection to the point of discovery of the blood may be deemed unclean. Or we may impose an arbitrary standard of twenty-four hours, in the assumption that, inspection of no, the woman is unlikely to have missed a vaginal flow for longer than that span of time. The halakhah takes the view that each span of time—the period from the last inspection, the arbitrary period of twenty-four hours—lessens the other, so that the longest interval of uncertainty is twenty-four hours. But if a woman has a fixed period, that establishes the presumptive fact and decides the issue. She then assumes that at no time prior to the advent of her regular period has she produced vaginal blood, inspection or no. Once the period is established, we have ample evidence on how to resolve situations subject to doubt. Thus if a woman habitually saw blood at the beginning of [symptoms of] periods, all

things requiring cleanness which she prepared while the symptoms of periods are in progress are unclean. If she usually saw blood at the end of symptoms of periods, all the things requiring cleanness which she prepared while the symptoms of the periods lasted are deemed clean. Rules of this kind present no surprises, working out commonsense distinctions as they do.

Sages claim to accomplish the differentiation among types of vaginal blood: (1) the room, (2) the front hall, and (3) the room upstairs. Blood from "the room" is deemed unclean, so too from the "front hall," which is also uterine. What is from "the room upstairs" is clean. Blood may derive from the bladder, and blood mixed with urine therefore is clean. Red spots may be dye, not blood at all. So too if blood is found on a woman's garments, a matter of doubt is resolved as clean; if it is on her flesh, a matter of doubt is resolved as unclean. Sages moreover differentiate by the color of the blood, so Tosefta makes matters explicit: Black as ink sediment—[if] it is deeper than this, it is unclean [if] it is lighter than this, even like stibium, it is clean, and so throughout.

They further distinguish between blood produced by an abortion, determining whether or not the vaginal blood derives from childbirth or from the menstrual period. Thus, if the fetus bears human form, it is deemed to have been a birth and the rules of Lev. 12 apply; if not, the woman is clean, or, if the event takes place during her menstrual period, is regarded as nothing more than a menstruant. But then the sex of the fetus has to be determined, and sages supply rules for doing so. So too if a woman excretes blood during labor not in her menstrual period, then the blood is attributed to labor and the woman is not deemed a menstruant.

Because they fall into the classification of substances that impart uncleanness, the blood of the menstruating woman, the flux and blood of the Zab, the dead creeping thing, carrion, and semen all have to be compared and contrasted as well. The point of differentiation concerns the power to contaminate whether wet or dry. The blood of the menstruating woman and the flesh of a corpse impart uncleanness when they are wet, and impart uncleanness when they are dry. But the Zab's flux, phlegm, spit, and the dead creeping thing, carrion, and semen impart uncleanness when they are wet, and do not impart uncleanness when they are dry. If they can be soaked and return to their former condition, they impart uncleanness when they are wet, and they impart uncleanness when they are dry. So the difference is not absolute but relative. If the substances that do not impart uncleanness when dry can in fact be restored through soaking, they revert to their original virulence.

The real question then pertains to what menstrual blood and corpse-matter bear in common, and once we ask that question, we find ourselves with a possible, if only tentative answer, already supplied in the halakhah of *Ohalot*: the interplay of soul and body must come into consideration. Menstrual blood now is treated as equivalent to corpse-matter, meaning, both contain remnants of the soul, the one having been permeated by the soul, which is now the principal source of uncleanness, the other (so it appears) deriving from the cache of potential souls; but that is only a guess as to what accounts for the position of the halakhah at *M. Nid.* 7:1. In any event *T. Zab.* 5:1 has already prepared us for systematic comparisons and contrasts of this kind.

What happens when death overtakes one of the animate sources of uncleanness under consideration here? If a *Zab* or *Zabah*, a menstruating woman or a woman unclean after childbirth or a person suffering the skin ailment dies, how does the uncleanness emanating from them disseminate? It is through carriage, even without contact; the same is so for a gentile. That is so until the flesh rots. In this aspect, then, the named animate sources of uncleanness differ from the corpse. The upshot is, the particular kind of uncleanness affecting the named classes of persons continues to classify the persons at hand, and they are not now deemed mere corpses along with all other corpses. The uncleanness that has enveloped them defines the working of the uncleanness that exudes from them, even after death; only when the flesh rots do they enter the taxon of ordinary corpses.

Except at the specified times, cultic cleanness defines the natural condition of the Israelite. Thus all the eleven days that follow the seven days of menstruation a woman is in the assumption of being clean. If she sat down and did not examine herself accidentally, under constraint, or if willfully she did not examine herself, she is clean. Once the time of her period has come and she has not examined herself, she is deemed unclean. The upshot is, a woman is assumed to be cultically clean until evidence to the contrary presents itself. On that basis, if a virgin who has not yet menstruated is married, she is assumed to be cultically clean through the honeymoon, the blood deriving as it does from the hymen: A girl whose time for seeing [blood] [age of menstruation] had not yet come and who was married—they give her [that is, she is assumed to be clean and not producing menstrual blood] until the wound will heal. If her time for seeing blood came and she was married—they give her the first night until the end of the Sabbath day, [which is to say,] four nights. If she saw blood before marriage, having had a period, and still was in her father's house when married—all the night is hers. So too if a woman

has completed her period and examined herself and found that she was clean, but did not immerse at twilight at the end of her seventh day, and later on found she was unclean, she is assumed to have been clean to that point. As to the corresponding situation of the Zabah and Zab, we have a dispute (M. Nid. 10:3):

- A. The Zab and the Zabah who examined themselves on the first day and found themselves to be clean,
- B. [and who examined themselves] on the seventh day and found themselves to be clean,
- C. and on the remaining, intervening days did not examine themselves—
- D. R. Eliezer says, "Lo, they are in the assumption of being clean."
- E. R. Joshua says, "They have only the first day and the seventh day alone [as clean days]."
- F. R. Aqiba says, "They have only the seventh day alone [as a clean day]."

B. Nid. 10:3 I.1/68B

I.1

- A. It has been taught on Tannaite authority:
- B. Said R. Eliezer to R. Joshua, "How can you say that the first day and the seventh day are clean, but the intervening days are unclean? In your opinion, you are counting clean days even though they are interrupted by unclean days, but the Torah has said, 'After that she shall be clean' (Lev. 15:28), meaning, after all of them, meaning, uncleanness may not intervene among the clean days."
- C. R. Joshua said to him, "Do you not also concur that one counts with interruptions [of intervening days] in the case of the Nazirite who sits underneath overhanging branches [under which corpse matter is also located], or in the case of a Zab who produces a flux during the days of his counting—these too count clean days even though the clean days are interrupted with unclean days, though the Torah has said, 'But the former days shall be void' (Num. 6:12)" [T. Nid. 9:13A-B].
- D. A Tannaite statement: R. Yose and R. Simeon say, "The opinion of R. Eliezer seems to us better than the opinion of R. Joshua, but the opinion of R. Aqiba is better than the opinions of both of them; but the law follows R. Eliezer" [T. Nid. 9:13C-D].

Eliezer treats cleanness as the prevailing assumption, the condition that reflects the natural situation, and Aqiba takes the opposite position: what is established as fact is all that we take into account. The halakhah of the Oral Torah then explicitly deems the cleanness of Israel to define its natural condition, the norm violated by uncleanness. Now we must ask, why should that be the case? What is it that Israel represents, or that is embodied in Israel, that makes cleanness, the way station to sanctification, the norm?

iv. *The religious principles of Zabim and Niddah*

At issue is the character of a woman's vaginal secretions or blood: when does it appear, how is it classified? The distinction between menstrual or Niddah-blood and Zibah-blood, the former part of the procreative cycle, the latter not, yields very little difference in actuality, except at the point of purification. The one is vaginal blood that flows during the woman's established menstrual cycle. The other is vaginal blood that flows during the eleven clean days between one cycle and another; these are called Zibah-days, in that blood that flows during the eleven days between menstrual cycles is deemed *Zob*, as we have already established in the halakhah of Zabim. In some ways—those that have to do with actualities—the two types of vaginal flow are comparable, in others, they contrast.

If we compare Scripture's presentation of the two forms of animate female-sources of uncleanness, we see how they relate, starting with the menstruating woman. The first thing we notice is that while the menstrual period is limited, the uncleanness attaching to the Zabah is indeterminate. The woman who menstruates may before and afterward engage in sexual relations and become pregnant. The Zabah may not engage in sexual relations and so may not become pregnant. She is removed from the entire procreative process so long as her excretions continue. The second thing we see is that while the Niddah accomplishes purification through immersion and sunset, the Zabah undergoes an elaborate cultic rite, comparable to the rite of purification after contracting corpse-uncleanness. So while the signification of the uncleanness—vaginal flux—is the same, the circumstances as to timing and longevity vastly distinguish the one from the other, and, as I shall suggest presently, the distinction makes a massive difference in our reading of what is at stake. Here is the Written Torah's presentation of the pertinent halakhah:

MENSTRUAL UNCLEANNESS: "When a woman has a discharge, her

discharge being blood from her body, *she shall remain in her impurity seven days;*

1. whoever touches her shall be unclean until evening.
2. Anything that she lies on during her impurity shall be unclean; and anything that she sits on shall be unclean.
3. Anyone who touches her bedding shall wash his clothes, bathe in water, and remain unclean until evening; and anyone who touches any object on which she has sat shall wash his clothes, bathe in water, and remain unclean until evening. Be it the bedding or be it the object on which she has sat, on touching it he shall be unclean until evening.
4. And if a man lies with her, her impurity is communicated to him; he shall be unclean seven days, and any bedding on which he lies shall become unclean.

The Zabah is presented as follows:

When a woman has had a discharge of blood for many days, not at the time of her impurity, or when she has a discharge beyond her period of impurity, *she shall be unclean as though at the time of her impurity, as long as her discharge lasts.*

2. Any bedding on which she lies while her discharge lasts shall be for her like bedding during her impurity; and any object on which she sits shall become unclean as it does during her impurity;
3. whoever touches them shall be unclean; he shall wash his clothes, bathe in water, and remain unclean until evening.
4. When she becomes clean of her discharge, she shall count off seven days, and after that she shall be clean. On the eighth day she shall take two turtledoves or two pigeons and bring them to the priest at the entrance of the tent of meeting. The priest shall offer the one as a sin-offering and the other as a burnt-offering; and the priest shall make expiation on her behalf, for her unclean discharge, before the Lord.

You shall put the Israelites on guard against their uncleanness, lest they die through their uncleanness by defiling my tabernacle which is among them.

The menstruating woman and the Zabah convey uncleanness through touch, and both serve as Fathers of uncleanness, setting into the first remove of uncleanness whatever they touch. One who touches what they have lain upon or sat upon immerses, awaits sunset, and is then clean. As to sexual relations, the menstruating woman

imparts her own status to the one with whom she has sexual relations, and he imparts pressure-uncleanness by sitting and lying as well. As to the Zabah, touching produces the same result; no provision is made for sexual relations. A cultic purification-rite is provided for her, but not for the menstruating woman, who, at the end of her period, simply immerses and waits for sunset. She is then in the first remove, her period having concluded.

So while the concrete effects of the respective sources of vaginal uncleanness coincide, the purification-rite contrasts sharply. The Zabah purifies herself in a blood-rite at the tabernacle. The purification-rite, not required for the menstruating woman, marks the woman as suitable to reenter the procreative cycle; the flux has removed her from that cycle, the cessation signifies her suitability once more. We have, therefore, to distinguish Niddah- from Zibah-blood (*Zob*). The facts at hand suffice to show that Zibah-blood signifies an aberration in the procreative cycle, Niddah-blood proves integral to that cycle. The one is irregular and disrupts normal sexual relations, marking the woman as one who, at that point, may not reproduce life (any more than, from sages' view, the semen emitted by a flaccid penis can reproduce life). The other is regular, integral to the normal sexual cycle, and marks the woman as one wholly integrated to the cycle of reproduction. Then the entire sequence—eleven Zibah-days, seven Niddah-days—forms an account of the woman's relationship to the procreative cycle, which involves three possibilities: she wholly participates, having sexual relations, receiving semen and not emitting blood; she is wholly excluded, not having sexual relations at all, and she is temporarily excluded but remains sexually accessible, which is why the Torah makes provision for the status of one who, in her period, does have sexual relations with her.

Viewed together, the halakhah of Zabim and that of Niddah together make a single coherent statement, just as Moses arranged matters at Lev. 15. The contrast between blood in the Niddah-days and blood in the Zibah-days frames the issue at hand. We cannot understand the halakhah of Niddah outside of the framework of the halakhah of Zabim, and, in the nature of things, the contrary is also the case. The points of intersection—the consequences of uncleanness imparted by vaginal blood—and the points of differentiation—sexuality and the purification rite, respectively—leave no choice but to consider Niddah and Zabim as a single statement within the halakhah, of which Zabim forms the main lines of thought, Niddah the subordinated and secondary results thereof.

The character of *Zob* and of its flow guides us to the center of the religious world-view at hand. It is genital discharge that by its nature

cannot accomplish that for which it is created, its purpose or teleology. In a word, the physical world portrayed here finds its definitive traits in the teleology of things, which yields the meetings and the matchings that produce the halakhah of Zabim. The uncleanness generated by sexual fluids that do not realize their teleology passes via pressure, analogous to that of the sexual relation, to objects that serve for sexuality. When the teleological physics of sexual fluids accomplish their goal, they bring about life. Then, consequently, a minor uncleanness is brought about by semen properly ejaculated, and so too with vaginal blood of an episodic character outside the regular period.

When the teleology—the procreation of life—of the sexual parts, encompassing further the objects used for sexual intercourse, and extending even to the activities and exertions characteristic thereof—when that teleology is not realized, then severe uncleanness results. That uncleanness then overspreads each of the components of procreation that has not realized its purpose:

- [1] the fluid itself, now source of uncleanness analogous to corpse-uncleanness;
- [2] the activity, exerting pressure, now medium for disseminating not life but uncleanness, and
- [3] the bed and analogous objects, now the focus of not procreative activity but contamination.

Now, not realizing their tasks within the teleological physics at hand:

- [1] the fluid is unclean,
- [2] the bed and analogous objects become the unique foci of the uncleanness of said fluid, and
- [3] the activity—pressure—serves as the medium not of life but of anti-life, such as, we now realize, cultic uncleanness disseminated through midras-uncleanness in particular represents.

How are we to compare and contrast the uncleanness of the soul, the seven-day uncleanness of the corpse and corpse-matter, with the uncleanness of *Zob*? When we examine, the uncleanness exuding from the Zab or Zabah, encompassing not only the flux itself, whether semen or blood, but the body-fluids, e.g., the spit, the urine, of a person so afflicted, we find an interesting fact. *Zob* does not constitute a Father of Fathers of Uncleanness as the corpse does. The Zabah or Zab is a Father of uncleanness, contaminating the garments and utensils of someone who touches her or him, also those things that

bear her or his weight. These are made unclean in the first remove. So the virulence of the escaping soul vastly exceeds that of the genital excretions that do not realize their purpose.

Different in degree, they form a common genus. The character of *Zob*-fluid and the uncleanness of the soul that we examined in the context of corpse-uncleanness share the common quality that, when touched, both sorts of fluid impart uncleanness. If there is an object suitable to serve as a bed or chair or saddle that lies underneath a stone, and a *Zab* or *Zabah* bears down on the stone, e.g., stands, sits, lies or leans on it or hangs from it, because he is supported by the stone, the bed or chair that bears the weight of the intervening stone is itself contaminated. But corpse-uncleanness—e.g., a receptacle containing a bone—not touched but nonetheless the weight of which is carried produces no effect, e.g., through an intervening layer of disconnected material, while *Zob*-uncleanness that is not contacted but the weight of which is carried does produce its uncleanness. So corpse-uncleanness possesses a tangibility, a tactility, that *Zob*-uncleanness lacks, and *Zob*-uncleanness responds to forces that affect corpse-uncleanness little or not at all. What is the difference?

Using our imagination of the workings of the physics of liquids in this odd context, we may differentiate the uncleanness of the corpse from the uncleanness of flux. The one, while thick, diffuses into the air of a contained space. It is therefore comparable to a gaseous substance; but, as we noted, it flows like a viscous fluid, along fairly firm lines, within a sizable space, a squared handbreadth. So while comparable to a gaseous substance, it remains, if invisible, thick and tactile. *Zob*, by contrast, does not diffuse in the air. It permeates the objects that are congruent to its effects ("susceptible to *Zob*-uncleanness, which is to say, objects used for lying and sitting, encompassing also carpets and benches and the like). Then, if a clean person bears down, the *Zob* under pressure is excreted upward onto the clean person, even through intervening, disconnected layers of material; the transmission takes place by reason of pressure, not contact.

That conception comes to expression in many cases, e.g. the following: the *Zab* and the clean person who sat in a ship or on a raft, or who rode together on a beast, even though their clothes do not touch, these are unclean with midras uncleanness. If they sat on a plank, or on a bench, or on a bed frame, and on the beam, when they are infirm—if they climbed up on a tree which was shaky, on a branch which was shaky on a firm tree—if they climbed up on an Egyptian ladder when it is not fastened with a nail, on the bridge, and on the beam, and on the door, when they are not fastened with clay, they are unclean.

Now how are we to differentiate the gaseous corpse-uncleanness, which does not respond to pressure, from comparable *Zob*-uncleanness, which does? A difference in (imagined) viscosity ought to explain matters. Corpse-uncleanness flows within a guiding framework (under pressure, spurts upward and downward, we recall). But it does not permeate and pass through intervening fabric ("tent") or other materials. *Zob*-uncleanness under pressure is not guided along the lines of that which conveys the pressure—the tent for example—but flows right into, and through, the fabric or other material that contains it. Hence seen in physical terms, the former is dense, glutinous and semi-fluid, the latter attenuated, spare and light.

But those physical traits on their own do not suffice to explain the difference as to the modes of movement between the uncleanness exuding from the corpse and that emitted by the sexual organs, male or female. Specifically, why should the latter classification of uncleanness flow so as to pass through the stone on which the *Zab* exerts pressure through direct contact, as well as weight, to the bed beneath, on which the *Zab* exerts pressure not through contact but only through weight? Why should a receptacle contain corpse-uncleanness but not the uncleanness of *Zob*, that is, why should a receptacle be unaffected by midras- or pressure uncleanness of a *Zab* or *Zabah*? Asked in that way, the question bears its own answer. We deal in *Zob* with a kind of uncleanness that matches, that responds to, its own origin, assignment, and character: origin in sexual organs, assignment, procreation, and character defined by a dysfunction in those organs. Sexually-generated fluid that, by (sages') definition cannot accomplish the purpose that, by nature, sexually-generated fluid is supposed to achieve—procreation of life—affects, as we noted in another context, those sorts of objects that serve sexually, ones used for lying and the like, but not those sorts of objects that under normal circumstances do not serve sexually, receptacles, for example.

As with the corpse and as we see again in connection with the uncleanness of the person afflicted with the skin ailment described at Lev. 13—the uncleanness is transmitted through spatial relationships not involving direct, physical contact: overshadowing the corpse or being overshadowed by it, so too the *Zab* or *Zabah* in relationship to a bed or chair, so too the person afflicted with the skin ailment within a contained space. In all three instances, location within a demarcated spatial relationship with the source of uncleanness, not only actual contact, direct or through pressure (as the case requires), serves as cause of dissemination of uncleanness from the source to the focus thereof. Let us address the particular rule of spatial relationship in the transmission of uncleanness of a *Zab* or *Zabah*, because there we

shall see the inexorable operation of the principle of realized or unrealized teleology as the key to all else, affecting both the source and the subject of contamination.

That brings us to the paradoxical fact of the halakhah that overshadowing serves corpse-uncleanness and *Zob*-uncleanness, but with powerful distinctions, and each in its own way. What overshadows a corpse contracts corpse-uncleanness, and what a corpse overshadows is contaminated by corpse-uncleanness. That is without regard to the character of the objects. We do not, furthermore, differentiate between the two locations of the corpse relative to the object in relationship thereto. So locative relationship and substantive character play no role in the transmission of corpse-uncleanness through overshadowing. The corpse that overshadows or is overshadowed produces its effects without regard to what is affected. But that is not how matters are with *Zob*-uncleanness. Here we do differentiate, in the situation of overshadowing, between the character of classes of objects. And, concomitantly, we also differentiate locatively, between the two locations that said classes of objects take up: above, below the Zab. So we have two variables as to the character of objects, and two variables as to their location, and, further, these variables produce opposite results, the locative for the substantive, as the case requires.

Here are some of the exemplary facts. If a Zab overshadows food and drink, unlike the corpse he has no affect upon them. But if food or drink are located above the Zab, they are made unclean. Why the mirror-relationships? What is located where the Zab lies or sits but cannot serve for lying or sitting is unaffected by him; what is located where the Zab cannot lie or sit and cannot serve for lying or sitting—thus what in relationship to the Zab is in its natural location, not in its unnatural location—is affected by him. So he functions as does a corpse in conveying uncleanness, the medium is the same; but he does not impart uncleanness as does a corpse. What does not conform in relationship to the Zab to its natural location is affected by him; what conforms is not.

Here again, a teleological logic comes into play through analogical-contrastive dialectics, then, with the things that enjoy their natural relationship to the Zab subject to his effect, those not, not; and then the opposite comes into force: what the Zab cannot use for lying that is located where the Zab cannot lie down is affected by the Zab! So considerations of fulfilling the physical purpose for which the thing is shaped take over, even here. To state matters simply: teleological physics dictates the course of contamination by *Zob* and the results, for things affected by that contamination, as well. And it is a simple teleology, which we identified at the very outset: what serves for pro-

creation is distinguished, in respect to *Zob*-uncleanness, from what does not. And the rest follows.

What we confront, therefore, is a physics permeated by teleology: the flow of fluids in response to the condition or purpose of that to which, or from which, they flow, and not in response only to their own character, e.g., to the density of the atoms that comprise the fluid and define its viscosity. That which matches the character of an object or its purpose flows to that object or its purpose, and the invisible flow itself conforms to the character of the activity conducted with said object. The bed, used for lying or sitting, then is affected by pressure, carried on in acts of lying or sitting; the particular uncleanness at hand, sexual excretions in a non-procreative framework, affects those objects that by their nature serve, through those actions that by their nature produce, procreation.

When sexual activity bearing the potential of procreation takes place, a transient uncleanness results—that of healthy semen, which passes upon immersion and sunset, as Scripture says. When sexual excretions lacking that potential take place, a virulent uncleanness takes over, life replaced by anti-life, by a form of death nearly as virulent as the death that takes over the life of a man and causes the excretion of the soul. The soul of the fully-realized man or woman is thick, the unrealized, proto-soul of *Zob*, thin. But the former can be contained in physical limits, as it was in the body, while the latter flows teleologically, its character and therefore its purpose overriding the substantive, physical traits, or physical traits responding to teleological matches (whichever formulation better serves).

In this same context, moreover, the difference in the rite of purification of the Niddah and the Zabah emerges as entirely rational within the system. The Niddah's purification-rite is analogous to the purification-rite of the man who has emitted semen in the normal course of procreation, and for the same reason: the Niddah has passed through a natural stage in the procreative cycle. When menstrual uncleanness ends and she reverts to the condition of cleanness required for propagation of life in conditions of sanctification, she immerses and awaits sunset. She need not undergo a cultic rite of purification because she has never been removed from the cycle of life. Niddah-blood then bears no analogy to the blood of a corpse, but Zabah-blood does. That is because, within the teleological physiology as much as the teleological physics of the system, Niddah-blood fulfils its teleology, *Zob*-flux (Zabah-blood) does not.

The goal of nature, its telos in procreation, pertains to Israel and the propagation of the holy people. Sages make that point explicitly, because their perfect mastery of the Written Torah so instructed

them. Let me explain. With a system so permeated by the conviction that things bear a natural purpose and accomplish a goal that is set for them by their very nature, we must identify the central and generative focus of the teleology realized in uncleanness or sanctification. So we ask ourselves, Who matters, who makes a difference? The answer, repeated in one sector of the halakhah after another, is, only the Israelite. It is his or her life-force that comes under scrutiny. It is that life-force, that blood, that accomplishing its teleology procreates life and yields a minor form of uncleanness, but, not accomplishing its teleology, is deemed analogous to the departing soul. What does it take to constitute an animate source of uncleanness, affecting the Israelite household, when it comes to the sexual organs? The first and most important consideration is, only Israelites produce flux capable of effecting contamination under the laws of Zabim.

Gentiles do not. The halakhah of Niddah makes that point explicit. Their body fluids contaminate under other rubrics of uncleanness, but in general they contaminate like corpses and not like animate beings. They, their persons, their body-fluids, their land—all represent a realm of undifferentiated death, contrasting with the highly differentiated life attaching to holy Israel. In the articulation of the halakhah of animate sources of uncleanness, therefore, we see the consequence of the basic problem, the generative tension of the Oral Torah, with its conviction about the sanctification and sanctity of the Israelite household in the model of the holy Temple. Once issues of sanctification encompass not only the family and genealogy, but also the bed and the table, procreation and sustenance of life, then those who keep the entire Torah, oral and written, have to work out those governing patterns of behavior that will guide toward the realization of sanctification and the preservation of sanctity. Such patterns then order and regularize relationships between the cultically-clean and the cultically unclean, specifying the causes and consequences of contamination.

Having focused upon what we do find, we ought not miss what we do not find. Intentionality plays no role in the capacity to transmit uncleanness imputed to the animate beings; the corpse transmits uncleanness *ex opere operato*, from the moment of death, about which the deceased was not consulted, and so too the menstruating woman, man afflicted with flux, or the Zab, and the woman or the Zabah afflicted with flux outside of her regular period, effect uncleanness willy-nilly. The woman's period does not depend upon her intentionality. And equally probatively, the Oral Torah lays great stress that the flux of the Zab and the Zabah that bears the power to contaminate—semen from the one, blood from the other—make its appear-

ance on its own. The blood or semen must come about without the connivance of the afflicted party. The teleological principle that permeates the whole underscores the exclusion of man's or woman's will.

And that leads us at the very heart of the halakhah of Zabim: the analogy to death. Why does the halakhah defining sources of uncleanness exclude all consideration of the attitude or intentionality of the animate being, the man or woman, who becomes a source of uncleanness? Because of the governing analogy, death: we die willy-nilly, neither by intention nor by plan, and to death our attitude is null. What by its nature compares with death also contaminates like death, which comes whether or not it is wanted. Then the details of the law flow from the natural teleology that governs: excretions of the sexual organs that by their nature cannot procreate life, affect objects used in that process, and that is accomplished by means of activities analogous to the sexual act or integral thereto: *Zob* or semen from a flaccid penis affect beds and like objects through pressure.

The systemic goal is for life to be created and maintained as if it were lived in the holy Temple, protected from the sources of contamination that pollute the Temple. Perhaps, embodying the perfection of the natural world, the Temple as if here and now stands for Eden then and there. For the paramount aspiration of the halakhah is to restore humanity to Eden, Israel to the Land of Israel. That conclusion is hardly far-fetched within the analogical-contrastive mode of thought of the halakhah. For if, as is blatant, uncleanness closes off access to the Temple and its surrogates and counterparts in the households of Israel: their tables and their beds, then cleanness—counterpart and opposite—must open the way to sanctification. Uncleanness attended to, cleanness attained, all media of restoration of cleanness, Israel's natural condition, set the household of Israel en route to sanctification, localized in the Temple down below, matched by Heaven up above, realized by the household here and now of bed and table, Eden then and there. And these terms invoke no ineffable abstractions, but, we must constantly recall, the concrete activities that routinely take place in bed and at table: the labor of Adam and Eve in making and maintaining life.

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MEDIEVAL AND MODERN JUDAISM

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JEWES, CONVERSOS, AND NATIVE AMERICANS: THE IBERIAN EXPERIENCE

José Faur
(Bar-Ilan University and Netanya College)

Sir: I am Jewish, and profess the Law of Moses, and by it I shall live and die. And if I would have to swear, I shall swear by the living God, who made heaven and earth and is the God of Israel.

Francisco Maldonado de Silva. Martyr, 1627: First Argentine Martyr in the battle against Spanish Oppression.¹

The Spaniards in Mexico and Peru used to baptize Indian infants and then immediately dash their brains out: by this mean they secured that these infants went to Heaven.

Bertrand Russell²

Having been born and raised in Buenos Aires and completed my studies in Spain, I came to believe that the fate of Jews, *Conversos* (Christians with even partial Jewish background), and native Americans is closely knitted: they all three were victims of Spanish persecution. As a Jew, the story of the *Converso* is not—it cannot—be closed. Our tradition maintains that something special in their manners and outlook has endured. As a child, when meeting people who bore *converso* names or manners, good bearing and *prudence* did not permit me to insinuate the subject. The situation has changed. Throughout the Americas, in places like Brazil, Mexico, Peru, and Colombia, and throughout the Southwest of the U.S.A., in New Mexico, Texas, and Arizona, there are groups of people actively investigating their family roots. Some of them visit Israel. Others try to establish a rapport with the local Jewish communities. We should open our hearts and our ears to them. It is high time for the Jewish communities to enter into a dialogue with the native American communities. There is much that can be learned from each other's experiences. We are both

¹ There is a novel on his life and ideas, by Marcos Aguinis, *La Gesta del Marrano* (Buenos Aires: Planeta, 1993). Unless otherwise stipulated, all translations in the following are mine.

² Bertrand Russell, *Why I Am Not a Christian* (New York: Simon and Schuster, 1957), p. 35.

survivors of the same type of horrendous holocaust, ignited by greed, malice, and intolerance. In this sense, one may ascertain that they, too, are brothers from the Ten Lost Tribes of Israel (see below, section 6).

The underlying theory of this study is that the Visigothic military ideology (dominating European aristocracy until modern days) was the principal factor in the persecution and extermination of Jewish life in Spain. This ideology has nothing to do with religion—either Jewish or Christian. Rather, it pertains to the dark side of mankind: the manipulation of religion (or other ideologies) for cynical purposes. In the Iberian case, it consisted in the transformation of the *cristiano viejo* (Iberian Christian)—best represented by Don Quixote's faithful companion, Sancho Panzas, a good natured and productive individual, into a *Conquistador*: a superior being encrusted in iron, mercilessly destroying the "other:" first Jews, then *Conversos*, and later native Americans. The victims were not only the persecuted but also the semi-educated and unsophisticated *Conquistadores*. The expulsion of Jews from Spain unfolded into the *Expulsion of Spain from the rest of Europe*. Under the pretext of orthodoxy, the Spanish Crown, in particular with Philip II on, isolated Spain, cutting the cultural and spiritual links from the rest of Europe. Spain is the only nation in Western Europe that did not have a Renaissance. In the last account, what divided the *cristiano viejo* from the Jew was, precisely, what divided the *cristiano viejo* from other Europeans.

Historians on behalf of Spanish inhumanity tell us that the racist persecutions were "necessary" in order to attain national unity. It is a lie, backed up by neither reasoned argument nor palpable evidence. The whole notion of "national unity" was—and to a large measure still is—alien to the Spanish mind. The Spanish language does not even have a word for "Spaniard:" *Español* is a Provençal term.³ More to the point, other European countries attained national unity *without* pursuing any of the Spanish policies. Finally, whatever measure of unity prevailed in Spain was the result of a strong central government, not of a "national conscience." The Spanish Civil War (1936-1939) and its brutal effects illustrate our point. Even today, post-Franco Spain continues to be the most divided country in Europe: linguistically, socially, culturally, politically, and religiously. Indeed, many of the regions outside Castile feel more like subjugated territories than parts of "the Spanish Nation."

³ See Américo Castro, *La Realidad Histórica de España* (Mexico: Editorial Porrúa, 1982), p. 18.

The main argument of this study is that the same people that persecuted Jews and *Conversos* committed the greatest genocide in human history: the almost total extermination of the native population of Latin America. Whatever "reasons" concocted by historians to "explain" Spanish policies against Jews and *Conversos* cannot possibly apply to Spanish treatment of native Americans. Apologists for Spanish inhumanity argue that many native Americans were devastated by plagues. The argument is essentially racist. It uncritically assumes that the native's immunity system was biologically *inferior* and unable to cope with the white's man *superior* viruses and bacteria. There is no evidence for such a view. It is also specious. Somehow, we are expected to believe that the natives' immunity system failed only when in contact with Spaniards, but it could work fine when confronting non-Iberians, such as the Dutch, the English, or Iberians with a Jewish background, the *Conversos*. Or that these viruses and bacteria failed to do their macabre work in places that were not rich in gold and silver, like Argentina. Strangely, no plagues attacked the native women living with Spaniards, who became the mothers of the enormous *mestizo* population. Finally, we are expected to believe that Spanish viruses and bacteria were sensitive to cost and productivity and therefore inactive with the black slaves imported as substitutes for native American. It is by examining Spanish policies in Spain *and* in the New World as a single phenomenon—rather than as two disconnected events—that the monstrous nature of Spanish persecutions can be gauged. Hence the title of this paper.

A few words about the methodology of this study. Invariably, Western historiography espouses the perspective of the persecutor. The objective of the historian is to simultaneously express the view of the persecutor and discredit the historical memory of the persecuted. Even when expressing empathy for the plight of the victims, the events are examined according to the criteria and perspective of the victor. The cardinal view of this author is that Jewish historiography comes to—and must—express the perspective of the persecuted.⁴ As such, the major objective here is to project the events from the perspective of the victims: the Jews, the *Conversos*, and native Americans.

⁴ See my *In the Shadow of History* (New York: SUNY, 1992), pp. 189-193.

1. *The Conceptual Bases of Greed*

Greed is a concept peculiar to Visigothic military ideology that was further implanted in the *cristiano viejo*.⁵ It includes two elements: coveting of wealth and contempt for labor. Reflecting the military-aristocratic ideal that might is right, the *cristiano viejo* came to believe that wealth is to be acquired by plundering somebody else's toil. Labor is demeaning: it contradicts the ideal of *honor* (honor) and *honra* (dignity). In this essential point, the *cristiano viejo* differed from the *cristiano nuevo*. The new Christian—exhibiting one of the many contemptible traits that he dragged from his Jewish past—believed in the sanctity of labor. He also espoused the hideous notion that wealth is to be acquired by diligence and industry. These were subversive ideas. They denied the hierarchical structure of society, whereby the inferior owes unconditional obedience to the superior—in our case, represented by the military (and, later on, the ecclesiastical) aristocracy—precisely, because the latter was *superior* and the former was *inferior*.⁶ The idea that an individual could climb up above a particular group, as proposed by the *Converso*, stood in flagrant contradiction to the corporational view of humanity, borrowed by Christianity from Roman *corporatio* (corporation). As with the old tribal ideology, the corporational ideal demands that people be viewed as part of a group, never as individuals.⁷ The ideal of individuality proposed by the *cristiano nuevo* threatened the very foundation of Spanish society.

The preceding is essential to understand the system of castes (*castas*) upon which Spanish society rested. Américo Castro (1885-1972) was the first scholar to note that Spanish society is structured on the basis of “[c]astes, rather than [c]lasses.”⁸ Class is radically different than cast:

The social class bases its rank on what it does; the rank of the caste depends on the mere existence of the person: in the last analysis, all the Hispano-Christians ended up feeling themselves a superior caste by virtue of the fact that they were Christians and not Moors or Jews.⁹

It is a thoroughly racist term. Originally, *castas* applied to the races of animals.¹⁰ Thus, the lowliest *cristiano viejo* felt superior to a *cristiano*

⁵ Particularly Castile, incarnating Visigothic ideology to the present, but not necessarily those of Catalonia and Andalusia.

⁶ See *In the Shadow of History*, pp. 32-33.

⁷ See *ibid.*, pp. 28-29.

⁸ Américo Castro, *The Structure of Spanish History*, trans. Edmund L. King (Princeton: Princeton University Press, 1954), p. 607.

⁹ *Ibid.*, p. 609.

¹⁰ See *La Realidad Histórica de España*, p. 25.

nuevo simply because he belonged to a higher cast: a superior race.¹¹

Historians struggle to explain the "two Spains" phenomena: one enlightened and progressive, the other reactionary and brutal; one concerned with life and living, the other, obsessed with mortality—what Unamuno (1864-1936) refers to as the "cult of death."¹² In fact, these "Spains" are the effect of two mutually exclusive ideologies, one of the *cristiano nuevo* and the other of the *cristiano viejo*. The slaughtering of Jewish and *conversos* communities throughout Spain, the establishment of the Inquisition, and the Expulsion in 1492 represent the attempt of one Spain to strangulate the other. Invariably, the strategy of the *cristiano viejo* consisted in eliminating, rather than confronting, divergence. In the final account, whereas Jews and *conversos* created the "golden age" of Spanish letters and sciences,¹³ *cristianos viejos*—giving full rein to the ideology of greed—created "the age of gold:" a civilization dominated by rapacity. This constituted the sole basis of Spanish policy in the Americas.

2. The Policy of Greed

The key to unraveling Iberian policy in the Americas is greed. Because work offended Spanish *honra*, the *conquistador* was not interested in developing the territories coming under his domain. The sole purpose for his coming to the New World was to acquire *honra*, that is, wealth *without* labor. Referring to the early founders of Buenos Aires, Américo Castro writes:

The Spanish ancestors of the founders of Buenos Aires came to such a remote country in order to "maintain *honra*."... Given the option of "maintaining *honra*" and cultivating science, the Hispanic-Christians of Christian ancestry chose for the former.¹⁴

By "maintaining *honra*," the acquisition of wealth *without* labor was meant. Even the most basic forms of labor, such as cultivating the land or drawing water, was repulsive for the *cristiano viejo*. In 1590, the early settlers of Buenos Aires addressed a complaint to Philip II (1527-1598) protesting that since the natives refused to work, they "had to plow and dig with our own hands.... Spanish women, because of their great poverty had to carry the water on their back."¹⁵

¹¹ See *The Structure of Spanish History*, pp. 611, 612. Cf., below, ns. 78-79.

¹² Miguel de Unamuno, *Sobre la europeización* (Paris: Lettres Modernes, 1966), p. 26.

¹³ See *In the Shadow of History*, pp. 29-32, and chaps. 4-6.

¹⁴ Américo Castro, *La peculiaridad lingüística rioplatense* (Madrid: Taurus, 1961), p. 15.

For the Spaniards, America represented, literally, a "golden opportunity:" the possibility of accumulating the maximum amount of precious metals *without* toil. Hence, "the utopian ideology," the search for *el Dorado*, and other similar reveries characterizing the *conquistador's* mind.¹⁶ Unlike the English and Dutch, who worked and developed the land, the *conquistador* did not view the territories as a new home, to settle and advance, but as a place containing fabulous mines to be extracted and transported *away* to the Iberian Peninsula, *as soon as possible*. This attitude prohibited striking roots in the new land. A defining characteristic of the *conquistador* was his casual, temporal connection to the land. As a conqueror—and this is the precise sense in which the term *conquistador* ought to be understood—the right of the Spaniard rested on the facts created on the ground by virtue of his sword. Therefore he felt no responsibility either to the land or to its original inhabitants. Since his sole objective was to vacate the wealth of America and transport it to the Iberian Peninsula, those places that were not rich in precious metals were of no interest to the Crown. Américo Castro had shown that only "in those areas endowed with fabulous riches, with precious metals," did the machinery of the state work. "In the countries without rich metals, or far from their routes, or outside their zone of influence," the government was practically non-existent.¹⁷ A point in case is Argentina, poor in precious metals but fabulously wealthy in land for agriculture and grazing. Significantly, there is no record of even a single Spaniard with title of nobility settling in that country. During the colonial period, there was practically no government. Diego de Góngora (d. 1623), who was appointed the first Governor of Buenos Aires (1618), was a professional smuggler, with no respect for the law:

The Spaniard moved into the region of the Plata in the sixteenth century just as in the tenth and eleventh he had spread down over the south of the Iberian Peninsula, with the object of gaining honor and maintaining seigniorship for himself. Since there were neither Moors nor Jews to do the work in Buenos Aires, and since the Indians quickly fled out into the pampa, what was eventually to become the Argentina we know today remained in a rather wretched condition until about a century ago. Houses in Buenos Aires were straw-covered adobe huts, for this was the only kind of masonry the *conquistador* knew how to obtain without his wealth and his vassals to carry out his orders.¹⁸

¹⁵ Cited in *ibid.*, p. 57. Cf., Fernand Braudel, *Capitalism and Material Life 1400-1800*, trans. Miriam Kochan (New York: Harper Colophon Books, 1973), p. 407.

¹⁶ See *La peculiaridad lingüística rioplatense*, pp. 45, 47.

¹⁷ *Ibid.*, p. 47.

¹⁸ *The Structure of Spanish History*, p. 632.

Disappointed at not finding rich minerals, Spain neglected the land. According to a report from 1770, the streets of Buenos Aires were impassable during the rain, the wagons "would make such ditches that even horses would get stuck."¹⁹ As late as 1852, the city that will be known as the "Paris of Latin America" was a pest-ridden village. The following remark illustrates the deplorable state of Buenos Aires in those days:

The skeletons of oxen and horses lay about in the mud in the middle of the street; even in front of the doors of some of the houses you could see the putrefied remains of animals.²⁰

The apathy of the Spanish Crown is evident in the "linguistic anarchy" prevalent in Argentina. The Spanish of Borges and other distinguished Argentine writers is not the language used by most Argentines. In Argentina, one finds not only the archaic "vos" (in contradistinction to the "tú" of Mexico and Peru, lands rich in precious metals), but in general "the language of Buenos Aires," has been described as "a hodgepodge similar to that of Rome around the year 600."²¹

One need to compare the lamentable state of the countries that had enjoyed the full interest of the Spanish Crown, with Argentine, to realize that Spanish neglect was a blessing in disguise. The enormous economic and intellectual progress made by Argentina was possible, *precisely* because it had been neglected by the Spanish Crown.

The consequences of the Spanish policy on the economic and political history of both Europe and the Americas, will be examined next.

3. *The Devil is Always the Other*

The ethical basis of greed is to be found in the Western idea of the "other." The "other" is not *an*-other—someone representing a different human modality and value-system—but an alien bereft of the most basic rights. To the Indo-European mind—and this was exploited by the Visigoths to the tilt—"the dogs which followed the

¹⁹ Cited in Martha B. Etchart, *Documentos de Historia Americana* (Buenos Aires: Cesarini Hnos., 1971), p. 41.

²⁰ *The Structure of Spanish History*, p. 632.

²¹ *La peculiaridad lingüística rioplatense*, p. 102. On the use of *vos*, see *ibid.*, chap. II; on the linguistic anarchy characteristic of Argentines, see *ibid.*, chap. I; on the language used by the general population, see *ibid.*, chap. V; on the mispronunciations peculiar to Argentines, see *ibid.*, chap. VI.

camp had more in common with it than the tribesmen of an alien and unrelated tribe."²² Linguistically and psychologically, the alien was identified with "the enemy."²³ Since people belonging to oppressive societies and organizations cannot express criticism of the system, feelings of frustration are projected against the "other"—selected segments of society targeted for this purpose.²⁴ During the Middle Ages, Europe witnessed the emergence of persecuting societies, containing a distinct group—women, lepers, Jews, heretics, etc.—marked for persecution.²⁵ For the *cristiano viejo* it was axiomatic that morality did not apply to the "other." The theological basis for such a view becomes obvious upon considering that, in the eyes of the Church, "love" does not apply to members of other religions. Christianity was the first religious system (followed by Islam) to introduce the idea of religious enemy (in contradistinction to the political enemy, which is a Jewish concept) whereby all non-Christians are regarded as sub-humans and bereft of rights.²⁶ According to Christian doctrine, Jews had the legal status of "slaves:" the Synagogue is represented by Hagar, the maid, while the Church is represented by Sarah, the mistress. Since Jews must be regarded as "slaves" the institution of ownership does not apply to them. Consequently, there could not be a moral objection to plunder and despoil them from their property. This doctrine was enunciated with candor and precision by Thomas Aquinas (ca. 1225-1274), one of the most brilliant and ethical minds to grace the face of Christendom. Briefly and to the point he wrote: "Since Jews are the slaves of the Church, the Church may take disposition of their property."²⁷ One may argue that this doctrine could only justify the plundering of the Jew by Church officials but not by the laymen. *Cristianos viejos*, however, had little concern with this type of niceties, more in tune with the narrow mind of the Pharisees than with true Christians.

²² Sir Henry Sumner Maine, *The Early History of Institutions* (Port Washington: Kennikat Press, 1966), p. 65.

²³ See *In the Shadow of History*, pp. 4-8.

²⁴ The psychological mechanism of the persecuting mind is implied in the Rabbinic dictum, B. Qid. 70a: "Whenever someone is faulting another, he is faulting with his own blemish."

²⁵ See R.I. Moore, *The Formation of the Persecuting Society* (Oxford: Basil Blackwell, 1987); and *In the Shadow of History*, pp. 1-2.

²⁶ See *In the Shadow of History*, p. 198.

²⁷ *Summa Theologica* II, 2, 10, 10. Cited in *The Structure of Spanish History*, p. 471, n. 10, in the name of Rosa Lida. Since the original could prove a bit unsettling, the English version in ed. Timothy McDermot, *Summa Theologicae* (London: Eyre and Spottiswoode, 1989), p. 341, was rendered: "The church has the right to dispose of the Jew's property since he is the subject of the church."

Spanish historians insist that Spanish persecution was neither racist nor antisemitic but simply a matter of national unity, to be accomplished through religion. A distinguished scholar, Dr. Manuel Ballestrós Gaibrois, gives an impassioned defense of his country's policies:

Thus, Spain was not "racist" in the dramatic sense that this term has today, neither it was antisemitic—and therefore—, neither discriminatory, but it defended a unifying point of view, as legitimate as any other. But this point of view hurt the expansionist aspirations of the Hebrew race.²⁸

It takes a certain level of mental turpitude not to realize that the slaughtering of new Christians, the promulgation of the infamous edicts of *pureza de sangre*, barring Christians with even partial Jewish ancestry from occupying a civil or ecclesiastical office, the hatred and contempt that *cristianos viejos* projected toward their new co-religionists, had nothing to do with "religion," Christian or otherwise. Rather, as noted by Israel Salvador Revah (1917-1973), it was a matter of racism, pure and simple. Referring to the distinction between *cristiano viejo* and *nuevo*, he wrote: "in the midst of the Spanish Catholic Community a distinction was established that must be qualified as racist."²⁹ Thus, Spain inaugurated a series of racial persecutions to be paralleled only several centuries later by the infamous Nuremberg legislation.³⁰

"Christian religion" was an excuse to justify "Spanish rapacity." Reflecting on the carnage of 1391, when most of the ancient *Juderías* were wiped out by the mob in the name of Christianity, Don Pero López de Ayala (1332-1407) wrote: "And all this was a thirst for robbery, it seemed, more than devotion."³¹ This strategy became the basis of the official policy of the Spanish Crown. No lesser a political analyst than Machiavelli (1469-1527) concluded that "religion" was but a subterfuge for rapacity. Concerning the policies of King Ferdinand, he observed:

[A]nd always under the pretext of religion, he had recourse to a pious cruelty, driving out the Moors from his kingdom and despoiling them. No more miserable or unusual example may be found.³²

²⁸ In his prologue to Lucía García Proodian, *Los Judíos en América* (Madrid: Instituto Arias Montano, 1966), p. x.

²⁹ Israel Salvador Revah, "Les Marranes," in *Revue des Études Juives* 118 (1959-60), pp. 32-33; cf., *ibid.*, pp. 38-39, 50, 55-56.

³⁰ See *In the Shadow of History*, p. 232, n. 12. Cf., *ibid.*, pp. 233-234, n. 41.

³¹ *Crónicas*, (ed. Llaguna), vol. 2, p. 391, cited in *The Structure of Spanish History*, p. 508, n. 83.

³² *The Prince*, trans. Luigi Ricci (New York: Mentor Books, 1952), p. 120.

The same applies all the more to his policy toward Jews and *Conversos*.

In light of the foregoing, the verdict pronounced by Samuel de Usque (sixteenth century) acquires depth and power: "And Spain, hypocritical, cruel and lupine, ravenous and raging wolves have been devouring my wooly flock within you."³³

Historians have labored assiduously to explain Spanish treatment of Jews and *conversos* on the basis of religious, political, or economic considerations. One of them, with a firm grasp on the role of the Jewish merchant in the development of the Mediterranean economy,³⁴ begs us for an "Understanding [of] Spain." In brilliant Gaelic fashion, he reasoned:

[A]ll civilizations move towards their destiny, whether willingly or unwillingly. If the train in which I am sitting moves off, the passenger in a train alongside has the sensation of moving in opposite direction.... Spain was moving towards a political unity, which could not be conceived, in the sixteenth century, as anything other than religious unity. Israel meanwhile was being carried towards the destiny of the *diaspora*.... Even as lucid an observer as Francisco Quevedo saw it possessing diabolical features. The devil is always the Other.³⁵

The explanation is an irresponsible justification of every atrocity performed by a civilization on her path towards her "destiny"—including the Nazi (as well as the French participation in) "the final solution." It is also spurious. It will be seen that it was malice—pure and unadulterated—that moved Spain in the direction it went.

The same Spaniards who persecuted Jews and *Conversos* hounded native Americans savagely, although none of the alleged reasons applied. Lucía García de Proodian, a student of Ballestros Gaibrois, justifies the racist legislation prohibiting Christians with even partial Jewish ancestry to immigrate to America, because of the following instruction issued to Columbus:

That it should be attempted to convert the Indians to the [Catholic] faith: to aid this is going Fray Buil with other priests, who could gain assistance from the Indians who know our language. In order that the Indians should love our religion, they should be treated lovingly, and should be given some merchandise and gifts of ours.

³³ Samuel Usque, trans. Martin A. Cohen, *Consolation for the Tribulations of Israel* (Philadelphia: Jewish Publication Society, 1977), p. 44.

³⁴ See Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II*, trans. Silan Reynolds (New York: Harper & Row, 1972), vol. 2, pp. 820-823.

³⁵ *Ibid.*, p. 825; cf., *ibid.*, pp. 823-826.

According to García de Proodian, the presence of Christians with even partial Jewish blood would have interfered with the labor of love and kindness that only *cristianos viejos* could properly perform. Therefore, their presence had to be barred from the New World.³⁶

It is instructive to see how this labor of love was carried on. An Italian, Pedro Mártir (1459-1525), author of the first chronicle of the Americas, wrote:

In the midst of such an abundant plenty, there is something that gives me no small anguish. These men, so simple and naked, were used to work little; now many perish as a result of the great exhaustion in the mines, and they are desperate to the point that many kill themselves and do not care to raise children. They tell that the pregnant mothers take medicine to abort, seeing that they would give birth to slaves for the Christians. Although a royal decree had declared that they are free, nonetheless, there are forced to serve more than what would please a free man. The number of these wretched had diminished immensely; many say that once was made a census of one million two hundred thousand, how many there are today, it causes me horror to say. Let us change the subject.³⁷

Not a single soul of the native population of Jamaica, Bermuda, St. Thomas, Puerto Rico, Panama, Cuba, etc., survived. Todorov had shown that in the course of only fifty years, the Iberian conquerors managed to reduce the population of native Americans from eighty million to ten million. By the year 1600, the original population of Mexico was reduced from twenty five million to one million. This is the greatest genocide in recorded history, both in absolute and relative terms.³⁸ None of the "explanations" justifying Spanish persecution of Jews could possibly apply to native Americans. In terms of religion, they were totally submissive and willing fully to accept the teachings of the Church. Nor did they pose a political or economic threat that could possibly compromise Spanish "national unity." On the contrary, they were politically stable and constituted an invaluable economic asset to the Crown (see below, section 5, at end). And yet, even the darkest periods of history witnessed nothing comparing the Spanish atrocities against native Americans.

Consider, in the name of sanity, the common practice of snatching children from their mother's arms and throwing them to be devoured

³⁶ *Los Judíos en América*, p. 22.

³⁷ Pedro Mártir de Anglería, *Libros de las Décadas del Nuevo Mundo* (Buenos Aires: Editorial Bajel, 1944), Dec. III, Lib. VIII, chap. I, p. 273.

³⁸ Tzevetan Todorov, *La conquete de l'Amérique* (Paris: Editions du Soleil, 1982), pp. 138-139.

alive by dogs, or smashing them against the rocks and throwing them to die in the mountains. The usual way to kill native leaders was in groups of thirteen, in honor of Jesus and the twelve apostles! To prolong their agony, they would burn them in a slow fire. Occasionally, the executioner would insert sticks in their mouth to prevent their screams from disturbing the *siesta* of a captain. Their sexual mores deserve special attention. It was a common practice to tie the hands and feet of the husband *under* the bed, while having sex with the wife *in* bed. When a young native American wife explained to a Spanish captain that she could not have sex with him because she had promised her husband to be faithful, the captain unleashed the dogs and had them devour her alive.³⁹ Miguel de Monsalve (sixteenth century) reported that it was common for the Spaniards to

take not only the properties of these wretched [native Americans], but also their daughters, taking them by force and rape them; if they do not give consent of their own will, they tie them, and torture them, lash them and punish them with great cruelty.... Their [native American] women if they would find out that someone had had relations with her [native Americans] husband, they burn them, mistreat and torture them, lash them and bring them before their eyes in irons, stripped, exposed, abused, dog-bitten and very hurt.⁴⁰

On June 4, 1559, Fernando de Santillán (sixteenth century) reported how the Spaniards in Chile “unleashed their dogs against some [native Americans], burnt others, in addition to mutilating them, cutting their noses, arms, or breasts, and invented a thousand other ways to tear them into pieces.”⁴¹ It was customary that for reasons of work distribution, a few Spaniards would parcel a native family among themselves. Thus, one would take the wife, another the husband, and a third the children, “in the same manner as if they would have been pigs.”⁴² In addition to those dying of sickness, exhaustion, ill treatment, and abuse, we must consider those who simply “were buried alive in the mines.”⁴³

So much for acts of loving kindness.

The crimes perpetuated by the Spaniards against Jews and *conversos* came from the same source that contrived the crimes against native Americans: they were crimes against humanity. To “explain” those

³⁹ See *In the Shadow of History*, pp. 4-5.

⁴⁰ Quoted in Henry Méchoulan, *El Honor de Dios* (Barcelona: Editorial Argos Vergara, 1981), p. 49.

⁴¹ Quoted in *ibid.*, p. 41.

⁴² Quoted in *ibid.*, p. 51.

⁴³ Quoted in *ibid.*, p. 53.

crimes is to excuse evil and renounce morality. With their convoluted "reasons," modern historians join the persecutors. In a final act of infamy they further stab the victims one more time: their explanations constitute an insult to both human dignity and human intelligence. Theirs is historiography of the persecutor whereby the Devil is always the Other.

4. *The Victims of Greed*

The parallels between the fate of Jews and *conversos* and native Americans go further. In both cases the official pretext for persecution was a bull issued by what historians properly designate "political popes." In the case of the Jews it was a bull issued in 1478 by Sixtus IV (1471-1484)—a pope who, as a good Spaniard from Valencia, was known for his insatiable greed and nepotism. This bull was the basis for the establishment of the Inquisition in 1481. In the case of native Americans, it was Alexander VI (1492-1503)—the scandalous Rodrigo Borgia—who issued the bull *Inter caetera*, on May 3, 1493, awarding the Spanish Crown the exclusive right to bring Christianity to the New World. In both cases, the bulls served as an excuse to simultaneously despoil and demonize the victim under the pretext of "religion." In the case of native Americans, it was debated whether they were indeed humans or beasts. Pope Paul III (1534-1549), the first of the "reform popes," in 1537 issued a decision ascertaining that native Americans do indeed have a "soul." The decision served two purposes. First and foremost, it absolved the Spaniards from reproach. Otherwise, their sexual behavior would have to be condemned as the sin of bestiality—a most serious transgression in the eyes of the Church. Second, it legitimized their oppressive behavior, as it required bringing native Americans into the fold.

Christianity, it has been noted, has produced not only the largest number of saints but also the largest number of fanatics. "Even saints are not always psychologically healthy," observed William Nicholls, "and their ardent devotion can mask severe unconscious problems."⁴⁴ This was particularly true of the Spanish priesthood. Under the excuse of "religion" Spanish priests committed some of the most heinous atrocities. Their behavior was captured in a Sephardic proverb, *Pecado de padre* (a priest's sin), to indicate "a heinous and abominable

⁴⁴ "Saints and Fanatics: The Problematic Connection between Religion and Spirituality," in *Judaism* 44 (1996), p. 452.

crime committed with impunity." In the Americas, too, Spanish missionaries justified their sadistic impulses in the name of "religion." On the basis of the inerrant doctrine that "whoever loves you well will make you cry" (*quien bien te quiere te hace llorar*), Christian priests unleashed their brutal force against native Americans. All what the natives need, the spiritual guides maintained, "is bread and whipping." "Without the whip," we are told by one of the more enlightened priest, the natives "are lost like children." Priests had their own jails, with pillories and other instruments of torture, to torment the natives and bring them close to the religion of love. Their abuses were scandalous even by Spanish standards. King Philip II had to issue an order on August 12, 1570, forbidding the priests to tie the natives on pillories, lash them, shave their heads, and inflict other such punishment.⁴⁵ A report from June 1756, recounts

how the Father priest orders that the Indians lie on the floor and without being tied except for the respect that they have for him they get twenty five lashes and right away they stand up and go to give thanks to him [the priest] and kiss his hands.⁴⁶

Spanish rapacity was not the exclusive patrimony of the laity. Priests used their position to increase their *honra* by further despoiling the natives. They also were known for their promiscuity. Their behavior became so outrageous that the Church was forced to investigate the matter.⁴⁷

Slander is the method used by persecuting societies to justify their treatment of the "other." In Spain there circulated a whole series of libels—ranging all the way from the ritual murder of children to treason and the poisoning of rivers and wells. They were designed to dehumanize the Jew and justify anti-Jewish atrocities. "There isn't an evil so atrocious or a cruelty so vile," wrote Isaac Cardoso (1604-1681), "that they have not imputed it to them."⁴⁸ These accusations are psychological projections, whereby the persecutor projects onto the victim precisely those impulses that he must suppress. As Cardoso showed, each calumny was designed to conceal a particular virtue peculiar to the Jew that made the old Spaniard feel inadequate.⁴⁹ Native Americans, too, were slandered with the same purpose: to rend them infra-human and justify Spanish atrocities against them.

⁴⁵ See *El honor de Dios*, p. 43.

⁴⁶ *Documentos de Historia Americana*, p. 70.

⁴⁷ See *El honor de Dios*, pp. 44-45.

⁴⁸ *Las Excelencias de los Hebreos* (Amsterdam, 1679), p. 408.

⁴⁹ See *In the Shadow of History*, pp. 209-210.

Gonzalo Fernández de Oviedo (1478-1557), although recognizing the greed of the Spaniards nonetheless favored that they should take the gold from the natives, "since is better that it should be in the hands of men and not [in the hands] of beasts."⁵⁰ The natives "are filthy, liars, and cowards." They are so evil that they "commit suicide just to impoverish the Spaniards with their death." They deserved to be exterminated as a divine punishment for their many vices. These were the standard view of Spaniards, and not only those of Oviedo.⁵¹

The accusations represent psychological rather than moral concern. Consider the charge that the natives were guilty of idolatry. The worship of images is an issue that had divided Christianity throughout the ages. It emerged again, in the fifteenth century as a result of the ingression of *conversos* in the Church. By the sixteenth century it was voiced by enlightened Christians, moved by the new spirit of humanism and reform, and not only by Jews and *conversos*. The principal point was that there are no objective grounds by which "the worship of idols" can be distinguished from "the adoration of images." (Thus, whatever theological argument could justify the worship or adoration of images in the Christian Church could justify the worship or adoration of images among native Americans).⁵² Only when analyzed on psychological grounds, as a typical case of repression and projection, does the charge of "idolatry" make sense: by projecting the guilt onto the victim, the persecutor absolves himself of sin.

The same applies to the accusation that natives practiced human sacrifices. The accusation is based on fact. Pedro Mártir reported with horror the practice of human sacrifice.⁵³ But Spaniards, as Sephardim had pointed out, were guilty of the same crime. What is the incineration of old and young, men and women, but *Autos de Fé*—"acts of faith"—but human sacrifices on behalf of Christianity? And what about the incessant slaughtering of native Americans? Wasn't this perhaps a form of psychological substitute and thus a veritable form of human sacrifices? Is there any other way to classify the killing of native American leaders in groups of thirteen, in honor of Jesus

⁵⁰ Cited in Alberto M. Salas, *Tres cronistas de Indias* (Mexico: Fondo de Cultura Económica, 1959), p. 119.

⁵¹ *Ibid.*, p. 120.

⁵² On the worship of images in Christianity, see Edwyn Bevan, *Holy Images* (London, 1940). On the input of the *conversos* in this debate, see *In the Shadow of History*, p. 40. For the *converso* charge against *cristianos viejos* of the crime of idolatry, see *Los Judíos en América*, p. 148.

⁵³ See *Tres cronistas de Indias*, p. 48.

and the twelve apostles? In fact, King Charles V (1500-1558) regarded his brutal persecution of Moors in Valencia (1525-1526) "as a sacrificial thank-offering for his miraculous preservation."⁵⁴ The same psychological mechanism underlies the Spanish condemnation of natives' sexual mores. It is worth noting that the early Spanish chronicles saw nothing offensive in the sexual life of the natives. On the contrary, their life style and mores were described in paradisiacal terms. It is only *after* they committed sexual crimes against the natives that the Spaniards accuse them of sexually offensive crimes. Knowing the *cristiano viejo's* obsession with *honra* and his contempt for work, it is not difficult to discern the same psychological pattern in the accusation that the natives were lazy and unproductive. The same applies to other accusations, such as the natives' personal hygiene, their honesty, etc.

Nicholls had shown a link between the instinctual renunciation demanded by Christianity and antisemitism. Since the anger could not be directed against the religious authority, it is projected in paranoid hostility against members of other religion.⁵⁵ The same psychological mechanism effected Spanish behavior in the Americas.

5. *Imperial Economy*

There is a further parallel worth considering. Traditionally, Visigothic economy depends on the exploitation of a minority: first Jews, then *Conversos* (and Moors), and finally native Americans. Without these elements, Spain would have collapsed.⁵⁶ During the period of the *Reconquista* (middle eleventh century-end of fifteenth century),

⁵⁴ "Charles V," in *Encyclopaedia Britannica*, 14th edition, vol. 5, p. 269.

⁵⁵ See William Nicholls, *Christian Antisemitism: A history of hate* (Northvale: Jason Aronson, 1993), pp. 249-259.

⁵⁶ Moorish conquest and subsequent domination of the Iberian Peninsula was possible because Visigothic Spain lacked an effective economic structure. As Américo Castro had shown, even after the *Reconquista* the working class in Spain were the Moors (they were the ones who actually cultivated the land, a people "who would not let a single space of land go to waste"), and the merchants were the Jews. The policy of the Spanish central government was to exploit its productive minorities. In modern times, when there no longer were Jews, Moors, or native Americans to be exploited, Spanish policy had been to exploit the Catalonian population. This had been the most productive (and hence the least antisemitic segment of Spain). Their love and capacity for industry and labor had been captured in a Sephardic proverb, "*Los Catalanes—de las piedras sacan panes*" ("The Catalonians can extract bread from stones"). Hence the tension characterizing the relations between the central government of Spain and Catalonians (and other productive minorities).

Spanish economy depended on the services provided by the Jews, as tax-farmers, businessmen, artisans, scientists, and diplomats. The very day that the *Reconquista* finished, with the fall of Granada (January 2, 1492), the Catholic Monarchs announced the Expulsion of Jews. It was signed on March 31. By August 3, every professing Jew had to leave Spain. Henceforth, Spanish economy would depend on two segments of the population, *Conversos* and Moors. (At this stage, the celebrated "religious unity" that according to historians had moved the Catholic Monarchs to expel the Jews was not yet affected by the presence of Moors.) Shortly thereafter, with the full realization of the economic significance of America, Spain developed what must be described as an "imperial economy." It is a dimension of Visigothic greed. Hard cash, in the mind of the *cristiano viejo*, parallels the sword. As such, it is the basis of all rights. Hard currency enables its possessor to acquire wealth with *honra*, that is, without labor. (Hence, the conceptual root of modern capitalism, see below.) The system was organized along the lines of metallic economies, with one fundamental difference. Since the new territories awarded Spain unlimited access to precious metals and the minting of money, there no longer was a need for financial planning and management. Accordingly, there was another aspect to this policy: *Conversos* (for business and financial organization) and Moors (for basic labor, agriculture, and industry) were now expendable. Charles V's savage persecution of Moors (1525-1526) and *Conversos* underlines the structural relationship between the imperial economy and the racist policies. On the September 15, 1522, he issued the infamous order prohibiting Christians with even partial Jewish or Moorish ancestry from entering America. It was reissued a few years later, on the September 3, 1539.⁵⁷ These orders signaled that Spain was now sure that it could implement its imperial economy. Just as the sword had rendered the *cristiano viejo* invincible in the battle field, precious metals will render him invincible in the field of political economy and financial administration.

Imperial economy, or the (miss-)management of enormous monetary wealth, became the cornerstone of Philip II's administration. He had been properly described as "a merciless bigot," known for his promiscuity. He ruled Spain from 1556 to 1598. Unlike his father, he never succeeded to be crowned emperor. To compensate, he devoted his life to implementing his father's policy. It was the biggest economic fiasco in the annals of history. In addition of physical and

⁵⁷ *Los Judíos en América*, p. 20.

cultural genocide to millions and millions of innocent women and children, old and young, this policy was responsible for squandering the largest amount of gold and silver known to man. It reduced Spain to spiritual and economic desolation. It also proved conclusively Spain's utter incompetence and its parasitic structure. Left "on its own," Spanish policy produced the biggest squandering of money known in human history.

Jews had been a major factor in the industry, commerce, and banking of the country. Their expulsion in 1492 and the subsequent persecution of *cristianos nuevos* produced an economic vacuum that needed urgently to be filled. Since all forms of industry and commerce deeply offended the *honra* (Spanish does not even have a word for "tailor"), the vacuum was filled by importing even the most basic goods. Foreign artisans, merchants and bankers, were now replacing the Jew. Bereft of its own industrial and financial organizations, goods were being imported at exorbitant prices. The new Spanish administrators were not only inexperienced but also corrupt. In a short time, the entire economy was controlled by foreign interest, Genoese bankers in particular. Spanish wealth was drained out. The imperial economy of Spain consisted in paying for all its need with coins made with precious metals extracted from the New World. The very survival of Spain depended on the gold and silver extracted from America with forced labor. Without these metals Spain would have collapsed: it could not have paid even for its most basic necessities. Soon, Spain discovered what every novice businessman knows, that payment of debts in hard cash is not a simple matter. Pirates and bandits made the transportation of cash and precious metals a very costly task, fraught with danger and uncertainty.⁵⁸ One by one, Spanish investments in Europe crumble. On the January 1, 1556, King Philip II was forced to declare bankruptcy. A series of economic crises followed, including a general recession after 1595. The Spanish Crown declared bankruptcy in 1557, 1560, 1575, 1596, 1607, and 1627.⁵⁹ The last bankruptcy took place during the reign of Philip IV (1605-1665). Since by then there were neither Jew nor *Converso* to plunder, public funds were plundered.⁶⁰ There was a last ditch effort to revamp the economy, made by the *Conde-Duque* de Olivares (1587-

⁵⁸ On the problems connected with the transference and payment of hard currency, see *The Mediterranean and the Mediterranean World in the Age of Philip II*, vol. 1, pp. 476-508.

⁵⁹ See *ibid.*, vol. 1, pp. 505-517; vol. 2, pp. 897, 960-966.

⁶⁰ See *ibid.*, pp. 506-517; 897-900.

1645), who served as prime minister from 1621 to 1643. With this purpose in mind, he sought the help of Portuguese *Conversos*. He was censured for these efforts. The antisemitic historian Braudel echoed the racist slurs of a work attributed to Quevedo (1580-1645),⁶¹ accusing the *Conde-Duque* de Olivares for counting in his entourage bankers who "under a disguise" concealed their "circumcision." The people of Israel, in Braudel view, are one "possessing diabolical features." Thus he concurred with Spanish antisemites, who insisted that Christians with partial Jewish ancestry should be barred from financial activities.⁶² The *Conde-Duque* de Olivares was the author of *El Nicandro*, a work addressed to the king, in which he chastised "*los grandes*" (the grandees), that is, the *cristiano viejo* establishment, for their disastrous policies.⁶³ He was henceforth dismissed by the king. Taking advantage of the situation, his enemies denounced him to the Inquisition. There is no doubt that were it not for the fact that he soon died, this august figure would have ended in the Inquisition's cell.⁶⁴ Thus, the economic downfall of Spain was finally sealed. The *cristiano viejo* would rather be ruined than helped by someone with (even partial) Jewish ancestry.⁶⁵

Eventually, all the wealth of Spain ended up in the purses of foreign nations. "Spain," we are told, became "a mere channel" for silver from its colonies, as Portugal was for gold.⁶⁶ As it were, Spain was just a secondary detail in the passing of the treasures from America to Europe:

[T]he new continent had acted of its own accord and given old Europe its fabulous metals as a gift, or as if Europe had won them at a lottery or free of charge through the inhuman exploitation of the Indians and Black slaves.⁶⁷

Thus, in a supreme act of justice—that of the Hebrew Bible—the wealth that it had been plundered from Jews, *Conversos*, and native Americans, was in turn plundered from the Spaniards by foreign merchants and bankers, as well as by pirates and bandits. It is an ironic fact of history that the precious metals that they took away

⁶¹ On Quevedo, see *In the Shadow of History*, p. 57.

⁶² *The Mediterranean and the Mediterranean World in the Age of Philip II*, vol. 2, p. 825.

⁶³ On the nature and character of the "*grandes*" and other members of the nobility, see *ibid.*, pp. 709-718.

⁶⁴ For a general view of his life and accomplishments, see Gregorio Marañón, *El Conde-Duque de Olivares* (Madrid: Espasa-Calpe, 1962).

⁶⁵ See *El Honor de Dios*, pp. 142-148.

⁶⁶ *Capitalism and Material Life 1400-1800*, p. 345.

⁶⁷ *Ibid.*, p. 351.

from America ended in the vaults of Venice, Genoa, Milan, Antwerp, and other European capitals—not in Toledo, Seville, and Madrid.

In addition to fiscal chaos, market instability, and inflation, there were many lasting consequences to the “imperial economy”—too numerous and complex to be adequately treated here. For the sake of illustration, it would suffice to note that originally, gold and silver functioned as *currency*, performing a *dynamic* role, without which no business transaction could be possible. As a result of Spain’s colossal mismanagement, the great banking firms of Europe were able to hoard huge amounts of silver and gold bullion. These fortunes could no longer circulate and be used in ordinary transactions. Henceforth, they became *capital*, performing an essentially *static* role, regulating the growth of world economies. Thus, the rise of modern capitalism with all its economic, social, and political implications.

Jews, *Conversos*, and native Americans were the victims of the same diabolical forces. Their destruction was justified, among others, with theological reasons. The following forms part of an argument explaining how in their destruction the natives are serving the white race so that their existence acquires meaning. The natives may now die happily, knowing that their destruction serves a higher purpose: the sustenance of the superior race (without labor!—we may add). The argument acquires unfailing logic when assuming the hierarchical view of humanity peculiar to Christianity and its corresponding Spanish *castas*. It reads as follows:

The white race and the Indian race are like two sisters that their father wanted to marry off. The first one is very beautiful and intelligent; her marriage presents no difficulties, since she does not lack suitors. But the other is very ugly, lazy, stupid, and dumb. In order to get married she would need a valuable dowry, a rich trousseau, and also something else. The dowry of the ugly daughter are the precious metals in the American soil.⁶⁸

6. *The Spanish Exception to the Conquistador*

The Spanish exception to the *Conquistador* mentality were the Jew and the *Converso*. What divided these men was not religion but attitude. A determining factor in the Jewish attitude towards native Americans is the Jewish view of the “other.” In Hebrew tradition, the “other” is not a “deformed” or “abnormal” being but only a different expres-

⁶⁸ Quoted in *El Honor de Dios*, p. 39.

sion of the same "image of God," common to the children of Adam, the father of *all* humanity. The Hebrew term *kamokha*, "as yourself," connotes a horizontal perspective. The biblical commandment to "love the other as yourself (*kamokha*)" (Lev. 19:18) is grounded on the absolute parallel *I-you*. It excludes a vertical perception of the "other," with all the monstrous consequences that the narcissistic interpretation of this commandment had in Christian tradition.⁶⁹ The effect of this perspective is evident in the first encounter between Jews and a native Americans. When Jews first met native Americans, they viewed them not as inferior beings but as members of the Ten Lost Tribes. Although historically incorrect, their view expressed the basic semantic orientation peculiar to Hebrew humanistic tradition: those who are different are not "deformed freaks of nature" but brothers of an ancient Jewish tribe.⁷⁰

Apologists for Spanish inhumanity point to the few voices raised in indignation against the atrocities committed by the Spaniards. The most prominent among them was that of Bartolomé de las Casas (1474-1566), the great champion of native American rights. But these apologists conveniently omit the fact that he was not a *cristiano viejo*. Bartolomé de las Casas was indeed a *Converso*. For defending the rights of native Americans he was branded "the enemy of Spain."⁷¹ A libel campaign intended to discredit him went into effect. The governor of Nicaragua declared that he

is a very quick-tempered and prejudicial, and most of the sermons that he preaches come after some argument or passion that he manifests from the pulpit, very far from Evangelical doctrine, and [resulting] in scandal and hostility of the audience.⁷²

When Las Casas ordered the members of the order of the Hieronymites to free the natives, they simply refused to obey him. When he denounced them for actively participating with the official authorities in the extermination of the entire population of Lucayas, the life of Las Casas was in danger.⁷³ The Hieronymites—those

⁶⁹ See *In the Shadow of History*, pp. 6-7, and p. 220, n. 19. Semantically, the Hebrew *re'akha*, usually translated "friend," actually means "Other."

⁷⁰ See *ibid.*, p. 7.

⁷¹ See Américo Castro, "Fray Bartolomé de las Casas o Casaus," in *Cervantes y los casticismos españoles* (Madrid: Alianza Editorial, 1974), pp. 73-74; and the monograph by Marcel Bataillon and André Saint-Lu *Las Casas et la Défense des Indiens* (Paris: Julliard, 1971).

⁷² Cited in *Tres Cronistas de Indias*, p. 184.

⁷³ See Fray Antonio de Remesal, *Historia general de las Indias Occidentales* (Guatemala, 1932), vol. 1, p. 177.

saintly hermits for whom Philip II had built *El Escorial*—⁷⁴ joined efforts with the *Conquistadores* to have Las Casas expelled. They succeeded. Las Casas had to flee America and return to Spain. In 1550, Philip II assigned his position to another bishop.⁷⁵ Antonio de Guevara, the brilliant writer who used his literary skills to bring to light the plight of native Americans, also came from a *converso* background.⁷⁶ The same was the case with Montesinos (fifteenth and sixteenth centuries), the first clergyman to denounce Spanish atrocities in the New World, and Juan de Silva (seventeenth century).

Jews and *Conversos* were the only people from the Iberian peninsula who came to the New World for the purpose of developing the land, not to exploit it, take the money and run back home. These people no longer could regard Spain and Portugal as their motherland. They were now looking for a new land where to strike roots and build a home. As Rabbi Saul Levy Mortera (ca. 1596-1660) wrote:

You should know that the cause is that in Spain and Portugal there is such a cruel and unjust beast, tyrannical and without pity, that had transformed that which we call motherland into a stepmother, and accordingly foreign lands are a benevolent mother, and that [beast] is that which we call Inquisition, an inhuman and rigid iron, and unjust judgment, and she is the cause of all these errors which you have seen and heard, since she is continuously robbing some, and inuring and killing others, taking properties, life, honor, and nature, and making them search for new worlds, where they could live and have liberty.⁷⁷

There is another difference between the attitude of the *Conquistador* and that of the Jew and *Converso*. Américo Castro had shown that the *cristiano viejo* “lacked the tradition and habit of work, of being socially productive.”⁷⁸ The reason that Spain refused to participate in the intellectual and scientific progress taking place in the rest of Europe was because in Spain almost all the philosophical and scientific works had been produced by Jews and *Conversos*. Since the *cristianos viejos* viewed the other in purely racist terms, they “regarded intellectual activities as proper to Jews alone.”⁷⁹ To engage in *their* type of activi-

⁷⁴ Now we understand why.

⁷⁵ The best overview of Las Casas' views and activities, from which many of the references of this work proceed, is *Tres Cronistas de Indias*, pp. 161-301.

⁷⁶ On his family background, see Stephen Gilman, “The Sequel to *El Villano del Danubio*,” in *Revista Hispánica Moderna*, 51 (1965), pp. 177-185. On his life and accomplishment, see Agustín Redondo, *Antonio de Guevara et l'Espagne de son temps, 1480-1545* (Geneva: Druze, 1978).

⁷⁷ Quoted in *In the Shadow of History*, pp. 42-43.

⁷⁸ *De la edad conflictiva*, p.91.

⁷⁹ *La Realidad Histórica de España*, p. xxiv.

ties was an affront to their own racial status. Therefore, they could not participate in any scientific or productive enterprise, for "the terror of being taken for a Jew. This and this alone was the reason for the cultural backwardness of the Spaniards."⁸⁰

The new Christians and Jews arriving at the New World did not come to accumulate the maximum amount of precious metals and run back to the Iberian peninsula, leaving the land empty and barren. Rather, like the British and the Dutch, their main objective was to *develop* the land and make it their permanent home. And this they did. They were the first ones to introduced sugar cane into the New World, in the North of Brazil and the Antilles—still the staple good in the economy of the region.⁸¹ They established and ran sugar mills. They cultivated tobacco, indigo, lemons, and oranges. A sample of the commercial activities of the Jews, and their contributions to the general welfare of the country, are the Dutch communities in the Antilles, where they were permitted to settle freely. The Jews of Curaçao introduced the cultivation of the cantaloupe, watermelon, eggplant, and okra. They contributed to the development of trade and transportation in the Americas and between the Americas and Europe. They participated in the Civil Guard. They were active in marine insurance and navigation. There were many Jewish captains who owned their own boats. Some of these boats bore obvious Jewish names, such as "Rebecca," "Rachel," "Sarah," "Ribca," "King David," "Rey David," "Reyna Esther," and my favorite: "Ester Linda." Jews and Christians lived together in the same street and occasionally in the same building and rented their houses to one another.⁸²

The bigoted policies of Philip II were intended to prevent such people from settling in the Americas. The purpose was to go on exploiting the people and the land. The persecutions intensified. Law IX, promulgated during the reign of Philip III (1578-1665), issued the following order to the American colonies:

That they should try to clean the land of Foreigners and people who are suspect in matters of Faith.

A decree issued on the October 17, 1602, reads:

⁸⁰ *De la edad conflictiva*, p. 118.

⁸¹ See *La peculiaridad lingüística rioplatense*, p. 48, n. 1.

⁸² For a detailed description of their economic, political, and cultural histories, see the superb work of Isaac S. and Suzanne A. Emmanuel, *History of the Jews of the Netherlands Antilles* (Cincinnati: American Jewish Archives, 1970), 2 vols.

We order that the Viceroy, Audiences, and governors, and charge the Archbishops and Bishops, that they should communicate with each other, assist and try to clean the land from that people, and make them to be expelled from the Indias, and ship them [out to Spain] in the first opportunity at their own expense, and be extremely diligent to inform us.⁸³

Because of its more liberal policies, particularly under the Dutch, many Jews and *Conversos* had settled in Brazil. With the fall of the Dutch government in 1654, they scattered all over the Americas, from New Amsterdam in the North, to Buenos Aires in the South. Some formed separate communities, a few of which survive to our days. Others, like those who settled in Argentina, became the founders of the most distinguished families of the country.⁸⁴ Like their brothers in North America, these men fought on the side of the people for freedom. This was particularly true in Latin America, where Iberian inhumanity and exploitation reached its worst. There is a curious notice—a last ditch efforts on the part of Spanish authorities to arrest the Argentine revolution began at the May 25, 1810. It was published in the *Gazeta de Buenos Aires*, on June 9, 1810. In it the Spanish authorities acknowledged their greed, oppressive rules, and indifference, promising reform. Part of it reads as follows:

Spanish Americans [!]: From this moment on, you see yourself elevated to the dignity of free men: you no longer are the same as before bent under a very harsh yoke as you were, distant from the center of power, looked at with indifference, abused by the greed, and destroyed by ignorance.⁸⁵

Spanish credibility was nil. The plea was ignored. The Argentine people continued with their revolution. Soon it spread to the rest of Latin America. The battle for independence began with the great Argentine hero, Don José de San Martín (1778-1850). Simón Bolívar (1783-1830) carried it to other parts of the Continent. Jews and members of distinguished *Converso* families fought on the side of the people. Bolívar was particularly helped by the Jewish community. After his defeat in Otrabanda, he took refuge in the house of a Jew. The following is a letter of the great liberator, thanking Mordechai

⁸³ *Documentos de Historia Americana*, p. 70.

⁸⁴ See Mario Javier Sabán, *Judíos Conversos: Los Antepasados Judíos de las familias tradicionales Argentinas* (Buenos Aires: Distal, 1990). For some interesting details in the lives of these early settlers, see Matilde Gini de Barnatán, "Los Criptos Judíos del Río de la Plata en el siglo XVI," in Abraham Haim, ed., *Society and Community* (Jerusalem: Misgav Yerushalayim, 1991), pp. 103-118.

⁸⁵ *Documentos de Historia Americana*, p. 87.

Ricardo (1771-1842) for his assistance in those dire moments. It reads as follows:

Kingston, November 7, 1815

My Esteemed and Old Friend:

Through different channels I have had the satisfaction of addressing several letters to you which, I understand, you have not received, such having, doubtless, been lost with my other letters which have, perhaps, been intercepted by my Spanish friends.

At present, I repeat the thanks that I have given previously for the kindness with which you have treated my unfortunate sisters, and for the memory that you have (made) [kept] of me even when fate did not favor me [until now]. Incontrovertible proof of the generosity of your sentiments and the nobility that characterizes you.

Friend, I shall receive with great pleasure your communications that flatter me so much, and I hope that you will honor me with an answer to this letter.

I beg of you give my regards to Madam your wife and that she accept the sentiment of pure friendship and the consideration with which I am

Your most devoted, certain servant
who kisses your hands,
Simon Bolivar⁸⁶

The Latin America Revolution constituted a repudiation of Spanish racism and a fulfillment of Jewish and *Converso* humanism. Spanish bigotry lingered among obscuranist groups. It was swiftly repudiated by one of the great leaders to grace the continent: Don Pedro Santana (1801-1864). Even after one hundred and fifty years, one only can ponder in amazement the spirit of liberty and compassion kindled within this remarkable man. He had been at the head of the military forces that wrested the Dominican territory from the claws of the Spaniards in 1844 and was the first President of the Dominican Republic (1844-1848). He was reelected several times (1853-1856, 1859-1862). In 1846, a petition was addressed to him requesting that measures be taken against four or five Jews who were buying gold and other produce at higher prices, interfering with the cartel organized by local merchants. The petition was signed by distinguished members of the political establishment. President Santana confronted this outrage. The points contained in his reply are in fact both a manifesto against Spanish racist policies and a defense of Jewish and *Converso* humanism. To begin with, the President noted, the true authors of the petition were not the signatories. They were only a front

⁸⁶ Published in *History of the Jews of the Netherlands Antilles*, vol. 1, p. 298.

for the greedy monopolists who were “exploiting the wretched peasants whom they sacrifice.” These unscrupulous merchants did not want Jewish tradesmen to pay a fair market price to the natives. Instead of trying to expel the Jews, they should emulate their industry and productivity. Here there are some excerpts of his response:

It is not the Jews who increase the price of gold ounces, but the lack of proportion between import and export. The cure for this difficulty consists in combating laziness and increasing agriculture. The prosperity of other countries is rooted in their love of work; accordingly, when some diligent and industrious foreigner comes to our land and produces in one day what natives do not produce in one month, because they don't want to move, instead of persecuting them, as the hidden authors of the petition to the Government are doing, the Government, as well as all good Dominicans who are interested in the country's welfare, ought to protect and encourage [them] in order that our own [people] should follow their example and learn that wealth is the result of work and economy.

The use of religious prejudice to rob innocent people of their basic rights is an affront to religion:

[To] persecute a peaceful man and prevent him from buying tobacco under the pretext of religion, is an outrageous abuse of Christian doctrine.

Jews are genuine patriots. They are an asset to the nation and deserve praise and admiration. In fact, they were the first to contribute to the freedom of the country. It would be a travesty of justice if people like them would be denied the basic rights that the Constitution guarantees to all.

The conduct of these Dominicans would have been different if instead of harking to shouts of passion they would have hearkened to the voice of justice and gratitude. These four Jews that they are persecuting there, and others residing here, were the first ones to impart of their funds to subsidize the expenses of war [against Spain], in the very moment in which some Dominicans not only would not do it, or would lend [of their money], but they would discourage with their bad example the good patriots who had expressed their resolution to defend the freedom of the Republic. If a soldier had many times a cracker to sustain himself in the borders, he should thank those very people whom selfishness and interest, alien to the common well, want to throw out with ignominy from a country whose political Constitution insures foreigners protection of their person and property.

Jews are also an asset to society. Far from being a threat to other religions, they are a benefit even to religious institutions not their own. Jews seek freedom from religious subjection and the right to practice their own religion without outside interference. That is why

not only that they do not impose their religion on others or try to gain proselytes but they respect other religions and help with their alms.

The Jews neither preach their commandments nor conquer anybody in order that they join their religion, because nobody could make himself Jewish if does not belong to the race of Israel, so that in this aspect they present no problem to the nations in which they reside. In this capital [Santo Domingo]...there are more Jews than in any other spot in the Island, and far from having experienced the least difficulty, they go to Church, they assist in all our ceremonies, and they even contribute with their alms to the maintenance of the cult.⁸⁷

To Jews and *Conversos* these words sound with special resonance: they are a fulfillment of their long struggle for freedom. It is as if President Santana, z"l, stretched out a consoling hand: redeeming with grace and compassion the tears of those who endured so much pain and ignominy for their vision of freedom.

⁸⁷ Enrique Ucko, *La Fusión de los Sefardies con los Dominicanos* (Ciudad de Trujillo: Imprenta 'La Opinión,' 1944), pp. 18-20.

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“SECULAR STUDIES ARE THE SUPPLEMENT OF
TORAH STUDIES”
KOL BEN LEVI—THE HOMILIES OF RABBI YEHEL
MECHEL HALEVI EPSTEIN—THE FIRST SERMON

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The development of Orthodox Judaism in Eastern Europe in the nineteenth century was marked by significant tension with respect to those Jews who had abandoned the Orthodox tradition, either wholly or in part. While scholars have begun to examine the ramifications of this phenomenon, much work remains before we can say that we have a good grasp of this important issue.

In this paper, I propose to contribute to the discussion of this issue through a translation and analysis of a sermon on this subject written by one of the most prominent Lithuanian rabbis of this era, Yeheil Michel ha-Levi Epstein (1829-1908). Though best known as the author of the *Arukh Hashulchan*,¹ a halakhic code in nine volumes, Rabbi Epstein also wrote a book of sermons² titled *Kol Ben Levi*, prepared probably between the 1890s and his death in 1908 but only recently published.

There is insufficient evidence to determine the exact date that these sermons were compiled or edited for publication. However, an examination of Rabbi Epstein's works would indicate that they were likely redacted near the time of his death in 1908. In his discussion of the “Second Passover” in homily 7, he refers specifically to his work *Arukh Hashulchan Leatid*, which concerns the sacrificial service, published in 1907. He also concludes the introduction to his legal codes with his name and date, August 28, 1907 (11 Elul 5667). Moreover, in his first sermon, he refers to his brother-in-law, Rabbi Naphtali Zvi

¹ See Simcha Fishbane, *Arukh Hashulchan, Volume 9* (Hoboken, 1991), where volume 9 of the *Arukh Hashulchan* was published with the homilies. The introduction includes a biography of Rabbi Epstein.

² These sermons reflect Rabbi Epstein's world view, which exhibits an understanding of and concern for the plight of the ordinary Jews of his community. As Marc Saperstein, *Jewish Preaching, 1200-1800—An Anthology* (New Haven and London, 1988), correctly indicates, Rabbinical sermons reflect the society in which they are delivered. We add that sermons, possibly even more than other types of Rabbinic literature, reveal the world view of the authors. This is because sermons often address the specific plight, troubles, and behavior patterns of the preacher's audience.

Yehudah Berlin, who died in the summer of 1893, with the notation "tzl," "his memory be blessed."

The manuscript appears to be a document that Rabbi Epstein had prepared for publication. The collection contains twenty-six edited homilies. Each is numbered with proper references to rabbinical sources as well as cross-references to his own works. The literary style is well organized and consistent almost throughout the monograph. Although never published, the text of the handwritten manuscript was without corrections and would appear to have been prepared for publication. Furthermore, as will be discussed below, the first sermon parallels in style the introduction to *Arukh Hashulhan*, again suggesting a completed monograph, ready for publication. No suggestion is offered why this work was not published. One could only surmise that lack of funds, the priority of publishing his legal works, or the fact that he died shortly after the completion were the obstacles.

The fact that the sermons are presented as having been delivered to the community on Shabbat Hagadol (the Sabbath prior to Passover) and Shabbat Shuva (the Sabbath between the Jewish New Year and Yom Kippur) does not necessarily mean they actually were delivered in this form. An examination of the genre of *drashot* testifies to the phenomenon that published sermons were not necessarily presented in their entirety. In this case, the homilies for the most part open and conclude with issues of concern to the community. These topics include such problems as livelihood, education, and the religious behavior of the individual and community. Commencing with a popular passage either from the Psalms or the Haftara, the rabbi propounded his thoughts. This aspect of Rabbi Epstein's presentations does not necessarily differ from that of other sermons orally delivered by preachers. The middle portions of Rabbi Epstein's sermons, however, do not conform to other known oral sermons. They feature a lengthy in-depth discussion of a Talmudic or halakhic issue, analyzing Rabbinic texts on topics related to the season, Passover or the High Holidays. It would require scholarly expertise to understand these discussions.

This theory is developed by Saperstein,³ who in his discussion of preachers and sermons from the fifteenth century Spain writes: "Since the audience ordinarily includes Jews of different educational backgrounds and intellectual levels and since listeners had various ways of expressing displeasure at what they were hearing, the sermon had to be pitched at a level that would not exclude most of the

³ "Your Voice like a Ram's Horn:" *Themes and Texts in Traditional Jewish Preaching* (Cincinnati, 1996), p. 76.

congregants." There would seem to be little difference in the listeners of the fifteenth and nineteenth century: both would demand an interesting speech. While the topic of the Rabbinic analysis might have been briefly discussed during the oral delivery, it was presented in elaborate detail in its written form.

In other words, these sermons fall into Saperstein's category of "texts in which material originally part of a sermon is incorporated within another genre." Thus Saperstein points out that,⁴ "A preacher preparing a selection of his sermons for publication might eliminate passages that were once of immediate concern to his congregants, but in retrospect seem dated and unlikely to be valued by a wider reading public; he might expand theoretical points insufficiently developed in this oral presentation." The text orally delivered is thus only partially employed when written. In addition, the sermons were most probably not delivered in the Hebrew language but rather in Yiddish, the dominant spoken language of the Jews in Eastern Europe. Thus, while being prepared for publication and undergoing a linguistic transformation from a vernacular original (interspersed with quotations and phrases from the traditional Hebrew literature) to a complete Hebrew text, the sermon cannot be considered true to its original oral form. Saperstein addresses this issue in a discussion of fifteenth century preachers but his formulation may also be appropriate to our discussion:⁵

Consequently, certain literary investigations will be fraught with problems. For example, the diction or level of language in the original sermon will often be impossible to ascertain. The Hebrew text that has come down to us might be richly embellished with allusions to the classics of Hebrew literature, but what this tells us about the level of language in the vernacular original is anything but clear. The richness of the Hebrew diction may reflect an attempt to match a similar richness in the oral vernacular. But it is also possible that someone publishing a book of Hebrew sermons was expected to embellish the language no matter how simply he had spoken.

Editing and Publication of the First Sermon

The first sermon, unfortunately, was partially destroyed; thus we have available only a portion of its content. The extant segment, however, is sufficient to demonstrate the similarity between it and the opening section of the *Arukh Hashulhan* entitled *Kvod Hamelekh*,⁶ thus identifying

⁴ *Ibid.*, p. 107.

⁵ *Ibid.*, p. 108.

⁶ See Fishbane, *op. cit.*, for an analysis of "*Kvod Hamelekh*."

Rabbi Epstein's literary style in his writings. I will discuss his literary style at length in my examination of the first *derashah* (sermon). The extant portion of the first sermon differs from the other homilies of *Kol Ben Levi* in its literary style and content. In its entirety it addresses issues that relate to the concerns of the community. Intertwined with and based upon Biblical passages, Rabbi Epstein's argument is developed to stimulate the mind and emotions of his listeners. The content and literary style might appear to indicate an orally delivered sermon. However, two matters can be noted that would suggest the first sermon was written and not spoken.⁷ First, it has no relationship to either Shabbat Shuva or Shabbat Hagadol, the theme of all the other sermons and the days on which, Rabbi Epstein states explicitly in his *Arukh Hashulhan*,⁸ a rabbi is expected to preach to his congregants. Second, the style of the first homily parallels Rabbi Epstein's introduction to the *Arukh Hashulhan*. Both documents discuss a similar issue—the disposition of the Jewish community towards the Tsar.⁹ A declaration of loyalty to the Tsar (irrespective of the author's personal view) was felt necessary in order for a Jew to publish a manuscript in Russia during the Tsarist period, thus suggesting that the first sermon was written as an introduction to a book of *drashot* rather than delivered orally.

In a milieu of great economic poverty as well as political uncertainty, concern, and fear of the gentile population and government, Rabbi Epstein served as a rabbi and wrote and delivered his sermons.¹⁰ Although not a professional preacher, his topics of discussion

⁷ As stated, the *drashot* were most probably prepared and delivered twice a year as was customary in Eastern Europe at the end of the nineteenth century. The content testifies to themes related to Shabbat Shuva and Shabbat Hagadol. This concurs with his statement in his *Arukh Hashulhan*: "Today it is the custom for the rabbi to deliver a sermon on Shabbat Hagadol and Shabbat Shuva. He should speak on a topic connected with the holiday" (Orach Chaim 429:6). Meir Berlin, *Me Volozin ad Yerushalaim* (Tel Aviv, 1939), p. 227, asserts that Rabbi Epstein fulfills this law and relates that although very involved in study and community issues, he was careful to deliver his sermons every Shabbat Hagadol and Shabbat Shuva. (See also Saperstein, *Jewish Preaching*, p. 13, where the categories of sermons are discussed.

⁸ See n. 6.

¹⁰ For a discussion of the economic and social positions of the nineteenth century Lithuanian Jew, see Salo Baron, *The Russian Jew under the Tsars and Soviets* (New York, 1964), Berlin, op. cit., S.M. Dubnov, *History of the Jews in Russia and Poland* (Philadelphia, 1918), Schneier Levenberg, *The Enigma of Soviet Jewry* (England, 1991), Isaac Levitas, *The Jewish Community in Russia 1772-1844* (New York, 1943), Ezra Mendelsohn, *Class Struggle in the Pale: The Formative Years of the Jewish Worker's Movement in Czarist Russia* (Cambridge, 1970), Jonathan Porath, *Jews in Russia, The Last Four Centuries* (New York, 1973), and Mordecai Zalkin, "The Cultural Legacy of Lithuanian Jewry," in *Gesher*, Winter, 1997.

included issues of concern for his community and people.¹¹ Throughout the homilies, the plight of the Jews of Rabbi Epstein's community was addressed. Issues such as their economic status and relationship with the "secular" world of the Haskalah were of principal concern.

The Opening Sermon

Unfortunately, in the manuscript, the first section of the introductory sermon is missing. Nonetheless, sufficient material remains to understand Rabbi Epstein's message. The sermon deals with two primary issues: Rabbi Epstein's attitude towards secular studies and the attitude of the Jews towards the Tsar. Both topics are intertwined with passages from the Bible and Rabbinic texts, which serve as proof texts for Rabbi Epstein's arguments. A passage might be quoted and then, section by section, employed to develop the sermon's thesis.

*Text of Sermon*¹²

(In this initial extant section, the author is concerned with the negative effect of the lack of Torah study on the proper conduct of the Jew. The wrong conduct is manifested through involvement in secular studies.)

Accordingly we can attribute this (degraded state) to the fact that our holiness has been constantly decreasing for decades on account of our sins. This is a result of our (primary sin): neglect of Torah study. This is the meaning of what we say during the "*al hanissim*" prayer (on Hanukkah), "The Greeks came to make them neglect your Torah; namely, to make them transgress the laws of your divine will." In short, neglect of Torah study invariably leads to transgressing the laws of the divine will. What is happening is an inevitable consequence of our preoccupation with secular studies which the secularists make us think is the essential factor of life, although in reality the opposite is the case. So we now see the effects of these secularists who deprive their children in their early years of all sacred study or even of those who give their children a smattering, which of course is of little value. In my opinion this is the very thing Isaiah the prophet warned us about. "To whom shall he teach

¹¹ See Saperstein, *Jewish Preaching* and "*Your Voice like a Ram's Horn*" for a discussion of the preacher, his role and direction in the content of sermons.

¹² I want to thank Professor H. Basser, Toronto, Canada, for his assistance in translating this sermon as well as his valuable input and insightful contribution into the analysis of the text.

instruction and to whom shall he explain knowledge? To those who are weaned from milk? To those removed from the breast? ... For *tsav to tsav*, *tsav to tsav*, *qav to qav*, *qav to qav*; a smattering here, a smattering there in order for them to proceed, and they stumble backwards and are broken..." (Is. 28:9-13).

(Rabbi Epstein continues with an analysis of the passage from Isaiah.)

These verses are so difficult to comprehend they have baffled the commentators. In my opinion the interpretation is as follows: In every country there is an official book of statutes. Which is called in our country "swad-sakan." From time to time, additions are recorded to these laws in the bottom margin as an addendum, while the main body of text is marked by a line (Heb: *qav*) to indicate that at this point there is an addendum to see. In our country the asterisk is called "totska." These additions are brief and occasional. Naturally the main text is the essential part of the book while the additions are only secondary and minor in comparison with the main body of the book. Anyone who would make the additions to the essence and the main text but not to the minor part would be totally mad. We can now proceed with the explanation of the verse. The prophet is complaining about those who would educate their young primarily with secular studies in their youth and give it primary importance. They make sacred study secondary. Now "To whom shall he teach instruction?"—i.e., halakhah; "and to whom shall he explain knowledge?"—i.e., the dialectics of Torah study—"To those who are weaned from milk? To those removed from the breast?" Which is to say that now as they begin to study Torah and grow a little they are (weaned away) and loaded with secular studies. The result is that Torah study remains at the level of those who are sucklings while the others are quickly weaned away from it.

(While not negating secular studies Rabbi Epstein emphasizes it is only secondary to Torah studies.)

The prophet clarifies the process: *tsav to tsav*—the essential is the imperative (*tsav*) of the Torah, the secondary is the imperative (*tsav*) of secular study which are additions to Torah study as occasioned by some necessity for it. So "*tsav to tsav*, *tsav to tsav*." The imperative of secular study is of minor import to the imperative of Torah study; and this (*tsav to tsav*) is repeated to indicate these (secular imperatives) are a few trivial additions (to the essential body). In this manner we explain "*tsav*."

And now we explain the phrase "*qav to qav*, *qav to qav*." A line (Heb., *qav*) indicates an addition to what is essential and this *qav to qav* is repeated to indicate that occasionally one will be forced to pause on occasion from sacred study to engage in secular study; but "a smattering here, a smattering there"—i.e., very, very little and very rarely. But "What have they done?," protests the prophet—"And the Word of the Lord became *tsav to tsav*; *qav to qav*, *qav to qav*; a smattering here, a smattering there. This means they made the mandatory matter secular studies. "And the Word of the Lord became to them *tsav to tsav*, *tsav to*

tsav, etc.” This means the Torah of the Lord became to them as an addendum and the essential program became secular studies. Now with secular studies they marked “*qav* to *qav*, *qav* to *qav*,” that is, (like the readers of an asterisk marking a break in the text for an added note) they made some provision to interrupt their secular studies, out of necessity, for some paltry amount of sacred study and occasionally “a smattering here, a smattering there.” Indeed, a very tiny amount. Since they persisted in going in this direction the prophet warned them: “in order for them to proceed, and they stumble backwards and are broken.” Which is what we see with our eyes now that they have abandoned the study of the Torah and the deeds of the commandments. May God rescue us!

(The author now offers the argument that secular studies cause and instigate Jews to rebel against the government of their land and therefore desecrate God’s name. In his case, although he chooses not to be explicit, he is referring to the Tsar.)

Therefore, it is no wonder that after they rebelled against the divine decrees they would of course rebel against earthly ones. Woe and alas for we have sinned! How very great is the desecration of God’s name in what we have done. I should think this is the meaning of the prophet Ezekiel. “Son of man, when the house of Israel dwelt on their land and they contaminated it with their ways and deeds. Like the impurity of the menstruant woman was their way before me. And I poured out my wrath upon them, etc..., they were scattered amongst the nations etc... And they came to the nations—wherever they have come they desecrated my holy name in that people said about them: these are the nation of God and they had to depart from His land” (Ezek. 36:17-20).

(With a colorful illustration Rabbi Epstein explains the above passage in Ezekiel.)

And its meaning is that God complains to the prophet that it has not benefited God at all that he exiled Israel. Quite the contrary. The parable is that if a woman goes to the market and someone asks if that woman is a menstruant or in a pure state, anyone will answer that there is no way of knowing. The husband might be approached because he is the only one who would know.

Now we are in a position to appreciate the meaning of Ezekiel’s message from God. “Son of man, when the house of Israel dwelt on their land and they contaminated it.” I.e., there was a time when Israel dwelt in their land and there was no other nation but Israel there. When they polluted the land it was unknown to any other nation for of course they knew nothing of their sins. Only I the Lord did. Now this is the sense of “Like the impurity of the menstruant woman was their way before me.” Now just as no one knows the state of purity of a menstruant woman except her husband so the nations knew nothing of Israel’s impurity; only God did. Throughout all of *Tanakh* the image of Israel as bride and God as groom is commonplace. It follows that there was no desecration of God’s name.

“And I poured out my wrath upon them etc... And they came to the nations—wherever they have come they desecrated my holy name.” I.e., for in the exile the nations certainly became aware of their impurity. This led further to desecrating God’s name.” The prophet emphasizes this as he continues to attribute the desecration of God’s name to nations “saying to them—these are the nation of God and they left from his land.” Now this means that when the Jews sinned against God and his holy Torah the nations said sarcastically, “These are the nation of God.” But once God had taken pride in them as Scripture says, “Israel, in you I have taken pride” (Is. 49:3). And the gentiles also say, “Are they not now worse than any people or nation on earth?” And moreover the gentiles say, “and they had to depart from his land,” which means that when the Jews sin and transgress against earthly rulers the nations are appalled at how brazen are these people of Israel for did they not leave from their land. I.e., the Jews are not in their land and they sojourn amongst us and how dare they do such deeds which are in no way ever to be done.

(Rabbi Epstein again accentuates his view against those Jews who are not loyal to their government. He argues that when Jews are loyal it is these governments that protect the Jews during their exile.)

Moreover, somehow it should be explained to these mad fools that in no wise should they harbor evil thoughts against the king and his ministers. Everyone is well aware that were it not for the king and his royal ministers who protect the scattered flock of Israel, the gentile throngs would already have planned to make an end of us. Never have the plans of hatred of the gentile throng managed to come to fruition against Israel in most countries.

In all countries there are anti-Semitic societies who are out to wipe us out and we are suffering pogroms in recent years. Were it not for the heads of state and their ministers they would have already finished us off, God forbid. Now you might ask why has the biblical curse befallen us in our time: “And the Lord shall scatter you among the nations from one end of the earth to the other and there you will worship foreign gods, etc. And among those nations you shall have no calm nor shall you be able to rest your feet, etc. And your life will be insecure” (Deut. 28:64-66). All this has indeed happened in recent days. For now that we are “scattered from one end of the earth to the other” the Torah has warned us not to worship foreign gods. The point is that when you worship foreign gods you cannot help but cast the holy Torah behind and end up serving that which was not yours to serve in the first place. The term “foreign gods” includes all that which is at odds with the path of Torah. Then we are told to take note that if we do deviate from Torah then “among those nations you shall have no calm.” That is to say, you shall have no rest because night and day you will be terrified. “And your life will be insecure.” For the unruly mobs of the gentiles in every nation shall persecute you and you shall have no confidence that you will live or earn a living. And this is true now that all persecute us. And some of our Jewish

brethren are straying from the path of common sense in imagining that if they assimilate among the gentiles by casting off our sacred religion their lot will improve. Actually the opposite is the case. This is how the prophet Ezekiel summed up the situation for us when the Israelites assimilated into Assyria to adopt their customs: "And she doted on her lovers, the Assyrians, warriors wearing royal garments, governors and the deputies etc.... And she brought her whoredom to them etc.... Thus have I given her into the hands of her lovers, into the hands of the Assyrians upon whom she doted, etc." (Ezek. 23:5-9). And the end result is noted: "And they shall hold you in contempt and take away all the fruits of your labor and leave you naked and desolate, etc." (Ezek. 23:29).

(Rabbi Epstein continues to employ Biblical passages to emphasize the Jewish-gentile tensions. He now refers to the pogroms, their causes and results, and the need to be separate from the non-Jewish population.)

Now we can also understand the sense of the *Vayishlach* unit in which Esau approaches Jacob and says, "Let us travel together and let us proceed and I will go before you. But Jacob replied to him, My lord knows that the children are tender and the sheep and the cattle giving suck are a care to me; and if they are over driven for a day all the sheep could die. So let my lord pass in front of his servant and I will proceed '*le'iti*,' etc." (Gen. 33:12-14).

And the midrash says: And I will proceed "*le'iti*": I.e., with a squashed face for a similar word means "squashed or folded" in 1 Sam. 21:9: "squashed ('*tuta*') into a cloth" (Gen. Rabbah 78:14).

The sense of the midrash is obscure as are the biblical words "and if they are over driven for a day all the sheep could die." Why should he care about the sheep more than the children? God forbid that anyone think Jacob was worried more about sheep than about children. According to my opinion, this is the explanation: In times gone by, all one's wealth was dependent on sheep and cattle. Now it so happens when the gentiles carry out pogroms they claim that Jewish wealth is the product of theft and trickery. So this is the sense of what Jacob said to Esau: "You want us to travel together, my children with your children so that there will be some togetherness between us." But in fact Esau knows full well that the children are weak-minded so that "if my children assimilate with your children, the net result will be deathly hatred. And your children will invent libels and calumnies against my children. This is inevitable since my children do not have enough common sense to subdue themselves beneath your children. On the contrary, they lord themselves over your children so that your children invent accusations that all the wealth from our sheep and cattle belongs to them. But really, you, Esau, should know that the sheep and the cattle came to me through hard work, which is to say that I toiled to get any wealth that I have. If we assimilate together, the final end will be that your children will get so angry at my children, that they will kill off all the sheep and totally demolish all our wealth."

Scripture tells us: "Therefore it is best that my master pass in front of his servant." That is, "that my children will not go together with your children. Only I would be able to go together with you. Because I would go slowly in submission when I walk before you. I could bend before you so that I would never be angry at you. That is not the case with my offspring and your offspring."

For this reason, Joseph specified that Jacob and his children were to live in the land of Goshen so that they would not intermingle with the Egyptians or have any connection to them. This is how my brother-in-law, the pious scholar from Volozhin, may he rest in peace, once explained: "The Torah tells us that 'Israel will dwell securely alone in the eyesight of Jacob'" (Deut. 33:28). He explained this to mean: when is it that Israel will dwell securely?—When she is segregated and not intermingled with the nations; and this was the "eyesight of Jacob." Or in other words, this was the "insight" of Jacob in Egypt to keep the people from assimilating so they would not have much contact with the Egyptians.

(Rabbi Epstein returns to the question of loyalty to one's head of state. He maintains that the decisions of kings are initiated by God.)

So let us plead with our voices for divine mercy and let us pray for our brothers, the children of Abraham, Isaac, and Jacob and for our sisters the daughters of Sarah, Rebecca, Rachel, Leah. May they learn to emulate our holy ancestors. Our forefathers were bound with ties of strong love to God and at the same time they were subservient to earthly kings. All the kings loved them and gave them respect. For example, Ephron referred to Abraham as "my master," and Abimelech went to see Isaac, and Pharaoh honored Jacob and vice versa. We note the honor that Jacob showed to Pharaoh when he stood before him when he might have sat, as the Torah indicates, since his son Joseph was the principal governor in Egypt. All of us should also note that the Holy One (blessed be he) is commonly referred to as the "King of kings, the Holy One (blessed be he)." This presumes that an earthly king does not rule of his own accord but the Holy One (blessed be he) crowns him. A liturgical poet phrased this as: God is "The one who crowns kings and the kingdom is his." Which is to say that kings rule not by the choice of human beings but by the choice of the Holy One (blessed be he).

And likewise all the decisions of the king are really from the Holy One (blessed be he). It is written in Proverbs, "Like river streams is the heart of the king in the hand of God; He turns it wherever he desires: Every path of a person seems right in his own eyes but the substance of his heart is of God" (Prov. 21:1). The verse tells us that just as when you look at river streams, they divide off into several tributaries yet all of them originate from a single source. So it is that all deeds of the king, be they this way or that way, all derive from a single source. So the verse tells us that it is from the hand of God, that everything he wants, the Holy One (blessed be he) has turned his heart to that direction. Furthermore, when the verse tells us that "every path of a person seems right in his eyes," it

means if you think that the king was wrong to make some decision then you should know that you are a total idiot for, of course, it is human nature to make oneself upright in his own eyes. And whatever one reckons should be a certain way, someone else will reckon that it should be totally different. And as many people there are, so there are as many opinions. And it follows that they cannot all be right; for whatever one person thinks another thinks the opposite. But the fact is "and the substance of the heart is of God," which is to say that God is the one who knows how things should be. And he brings his divine will to reality through the heart of the king.

(Therefore, reasons the author, it is the responsibility of parents appropriately to teach their young children not only in the fear of God but also to be loyal to the king.)

From all of this it follows that a sacred responsibility is placed on every father and mother to instill in the hearts of their sons and daughters while they are still in their infancy both fear of God and respect for the king. They should educate them along these lines and never waver at all from it. This is as it is written: "Educate a child according to his nature for then as he grows old he will not stray from it" (Prov. 22:6). Upon us, the children of Israel, is placed this obligation more than upon anyone else. Has not the Holy One (blessed be he) chosen us among all of the nations! Therefore it is incumbent upon us to stand sublimely in respect to God and earthly kings.

(Rabbi Epstein concludes with the assurance that Israel and the land of Israel are God's preferred choice, and they will not be abandoned or destroyed.)

We can now understand the verses which are recited in the morning liturgical prayer which begins: "May God's glory endure..." (Ps. 104:31); "For God has chosen Zion, he desired it for his habitation" (Ps. 132:13); "For God has chosen Jacob" (Ps. 135:4); "For God will not abandon his people (94:14)." They are based upon the idea that in every country there are hundreds of cities and when people see that the king has chosen a certain city to be the capital, people of that city will naturally think they are better than people in all the other cities. But they might be mistaken. For it might be that the people are not so great in the eyes of the king but rather that the place is most suitable in the eyes of the king. If we see that the king first chose this city to be his capital and then later chased out all of the original inhabitants and then introduced others who were not the original inhabitants then it becomes clear and obvious that the new inhabitants are deemed more worthy in the eyes of the king than anyone else.

With this in mind we interpret these verses in the Psalms to mean: See the love of God for Israel. For at the beginning it says, "God chose Zion to be his capital," and then it says that "God chose Jacob, Israel to be his treasured one." Indeed, he chased the Hittites and the Canaanites out of

Zion, and he chose the nation of Israel and placed them in Zion. This is irrefutable proof that Israel is his preferred nation and therefore we are assured that God's love for us is very strong and we are assured that God will not abandon his people forever. And our inheritance shall not be lost forever. (And the above prayer concludes with the idea that) even though we do sin, "He in his mercy forgives sin and will not destroy us" (Ps. 78:38). Amen, may such be his will.¹³

It would appear that the first section addressing education, though it could stand alone, is actually the preamble to the second part—the Jewish attitude towards the tsar. The sermon states that secular education not only shattered the Jew's fear of God but was a cradle for anti-tsarist activities. This follows the same pattern presented by Rabbi Epstein in his preface to *Aruch Hashulchan* titled "*Kvod Hamelekh*," which called for loyalty and offered gratitude to the Tsar of Russia.¹⁴

The remaining pages of the first homily are concerned with the issue of secular education. Two areas considered were the issue of studying secular subjects, according to the Rabbinical view of the period and geographical location, and the driving force that motivated Rabbi Epstein to address the issue in his sermon.

The rabbis had struggled with the topic of teaching Jewish students non-religious subjects since early Rabbinic times.¹⁵ Rabbinical opinions on this subject range from regarding these studies as heresy to deeming them indispensable within the proper framework. Rabbi A. Bloch,¹⁶ who lived in Lithuania in the first half of the twentieth century and served as the head of the Rabbinical academy of Telz in Lithuania, summarized the halakhic quandary with respect to secular studies:

In these matters it is extremely difficult to provide a clear halakhic response, because the issues involved are, to a large extent, based upon ideological viewpoints and opinions. These are connected with Aggadic sections of the Gemara which operate under the unique guidelines of Aggada, which has its own definitions of positive and negative commandments. It is, therefore, difficult to establish clear-cut principles and reach

¹³ Excerpted from: Rabbi Yechiel Michel Halevi Epstein, *Derashot Kol ben Levi*, Simcha Fishbane ed., in *Aruch HaShulchan Yoreh Deah* (Hoboken, 1992), vol. 3, pp. 1-4.

¹⁴ See Fishbane, *Aruch Hashulchan*.

¹⁵ An extensive survey of the Rabbinic view of secular studies can be found in Leo Levi, *Shaarei Talmud Torah* (Israel, 1981).

¹⁶ *Hamayan*, 1971. For a description of Telz and Rabbi Bloch's participation, see M. Gifter, "Yeshivas Telz," in S. Mirsky, *Jewish Institutions of Higher Learning in Europe—Their Development and Destruction* (New York, 1956), pp. 169-189.

absolute halakhic decisions as is done in the halakhic sections of the Oral Law. As a result of this, the individual, as well as the conditions that exist in a particular place at a particular time [are relevant].¹⁷

In other words, the issue of secular studies is a result of the religious socio-political-economic reality of the Jewish community. In the milieu in which Rabbi Epstein lived, the leaders of the Volozhin Yeshiva served as prime examples of the Orthodox view toward the issue of studying non-Talmudic materials. This Lithuanian Yeshiva, where Rabbi Epstein had briefly studied and which was headed by Rabbi N.Z. Berlin (popularly referred to as the "Netziv," Rabbi Epstein's relative),¹⁸ fought the inclusion of any type of formal secular studies in its curriculum.¹⁹ This does not mean that the Netziv or other Rosh Hayeshivot of the Volozhin Yeshiva were not tolerant of extra-talmudic studies outside the official Yeshiva curriculum.²⁰ Nonetheless, historians argue that the refusal to allow such studies in the Yeshiva proper finally caused its forced closing.²¹ While the Lithuanian rabbis understood the need to know the Russian language and other non-Talmudic topics, where did Rabbi Epstein, who dealt with the non-Yeshiva community, draw the line between the study of Talmud and other topics? The author of the *Arukh Hashulhan*, as a leading Rabbinical adjudicator, based his ruling upon the reality of his community. He could not allow himself the luxury of the Rosh Hayeshiva, in the ivory tower of the Rabbinical academy. He had to be concerned with economic suffering of the Jews in his community. If a secular education would not compromise Judaism or Jewish studies, yet would alleviate financial hardships, then there had to be place for it in the orthodox community.²²

Interestingly, in the *Arukh Hashulhan*, Rabbi Epstein briefly discusses one aspect of secular studies. In the laws of Shabbat (section

¹⁷ Translation is from Moshe Weinberger, "On Studying Secular Subjects," in *Journal of Halakha and Contemporary Society*, XI, 1986.

¹⁸ See Fishbane, *Arukh Hashulchan*, for the biographical relationships of the Epstein and Berlin families.

¹⁹ For a further discussion on this issue see Berlin, op. cit., and Shaul Shtemper, *Three Lithuanian Yeshivot in the 19th Century*, unpublished Ph.D. thesis, Hebrew University, 1981 (recently published in Hebrew under the name *Hayeshiva Halitait Bhitavutah*, Jerusalem, 1986).

²⁰ For description and in depth discussion see J.J. Schacter, "Haskalah, Secular Studies and the Close of the Yeshiva in Volozhen in 1892," in *The Torah U-Maada Journal*, vol. II (New York, 1990).

²¹ See Schacter for a detailed analysis of the closing of the Volozin Yeshiva.

²² This could mean, for example, studying the Russian language, in which most Russian Jews then were not literate.

307, paragraph 9) dealing with what is permitted and forbidden to read on Shabbat and in general, he writes:

It seems to me that periodicals [newspapers and journals] are not included in this [prohibition] and are permitted during the week [not on Shabbat], for they inform what is actually occurring. This knowledge is essential for many individuals for they inform us of what is actually occurring relating to business and things in general. But for issues that have passed, what relevance are they for us, why are we required to know them? Also, included [in the prohibition] are nonsensical writings that include foolishness and light-headedness....

From this passage one could discern that Rabbi Epstein was against the study of history. I suggest this may not be so, because it does not jibe with his realistic approach to Jewish law and adjudication nor to his approach in his homilies discussed below. Rather, it would seem in line with the view represented by Rabbi Jacob Emden:²³

One should only study these subjects during the week. Most of the material is found in the history books of the gentile kings who have died and is totally unnecessary. It is, therefore, forbidden to read such books on a regular basis, but rather one may look at them when he is taking a trip, when his "heart is weak" from deep concentration in the study of Gemara, or in order to learn from them clear and precise language....²⁴

While the study of history is not appreciated by the rabbis, when it does serve a need, it is permitted. This attitude toward "need" is expressed in the first sermon of Kol Ben Levi as will be discussed below.²⁵

As stated above, the primary issue in the sermon is that of secular education. An examination of the history of the period (briefly discussed in the opening paragraphs of this essay) testifies to attempts both by the Russian government and by movements within the Jewish community to further secular education among the Jews.²⁶ This was part of the Russian government's plan for the "Russification" of the Jews. The government of Alexander II, writes Dubnov,²⁷ sought

²³ Other such views can be found in Levi, op. cit., who also summarizes the topic.

²⁴ Quoted in Weinberger, op. cit., p. 99, n. 23

²⁵ This is less stringent than the view of Netziv, who, even though he favored the pursuit of secular knowledge, only did so when it did not involve taking time from Torah study. Otherwise it was totally and utterly rejected. See Schacter, op. cit., p. 103.

²⁶ Rabbi Epstein's concern for non-religious education is clearly expressed in his *Aruch Hashulchan* Yore Deah section 246, paragraph 16. Quoting Maimonides, he writes: "It is permitted to study sparingly other (non-Talmudic) knowledge as long as it does not include the literature of heathens."

²⁷ Dubnov, op. cit., p. 174.

the civil and cultural fusion of the Jews with the general population. In the 1840s,²⁸ the Jewish community of Russia was greatly affected by its government's determined resolution to reform the existing Jewish system of education by enlisting the help of progressive elements. Although this reform was not accepted by the Jewish masses, it had its effect. Previously, the government had permitted Jews to enter its schools as well as to open their own. Vilna, in Lithuania, was one of the few cities that succeeded at that time in establishing a Jewish school providing a secular education.

In June, 1841, a decree was issued establishing state supervision of all Jewish educational institutions and providing for the convocation of a special commission on Jewish education. The Jews, and especially the Orthodox community, quickly understood the intent of the government's educational program: Jewish assimilation into the Russian society including their conversion. The year 1848 saw the opening of two Rabbinical schools in Vilna and Zhitomir. This was followed by the founding of a number of elementary "crown schools" for Jewish children that opened in various cities throughout the Pale.²⁹ In 1857, the Minister of Public Instruction, Norov, submitted a document to the Jews in which he stated that "religious fanaticism and prejudice among the Jews" could only be exterminated by inducing the youth to enter general educational establishments, "which could only be obtained by enlarging their civil rights and by offering them material advantages."³⁰ Dubnov describes the further desire for the "Russification" of the Jews in 1862, the beginning years of Rabbi Epstein's Rabbinical career.³¹

The most efficient factor of cultural regeneration was the secular school, both the general Russian and Jewish Crown school. A flood of young men, lured by the rosy prospects of a free human existence in the midst of a free Russian people rushed from the farthest nooks and corners of the Pale into the gymnasias and universities whose doors were kept wide open for the Jews. Many children of the ghetto rapidly enlisted under the banner of Russian youth, and became intoxicated with the luxuriant growth of Russian literature which carried to them the intellectual gifts of the contemporary European writers.... The heads which had

²⁸ See Levitas, *op. cit.*, p. 69.

²⁹ See Dubnov, *op. cit.*, pp. 174-175, who also points out that "Only an insignificant percentage of Jewish children went to the Crown schools and even those children did so only after having received their training at the Heder and Yeshiva." Furthermore, the majority of those who did enroll were from the low economic strata of the Jewish society.

³⁰ *Ibid.*, p. 163.

³¹ *Ibid.*, p. 209.

but recently been bending over the Talmud folios in the stuffy atmosphere of the heder and yeshivahs were now crammed with the ideas of...

In 1873, the Jewish Crown schools were finally closed, but governmental encouragement of non-Talmudic education continued.

A greater danger came from within the Jewish community, in the form of the Haskalah. Russian Haskalah (in contrast to that of Western Europe)³² aimed at expanding the intellectual and social awareness of Russian Jewry from within. Dedicated to modernization and expansion of the intellect, the exponents of this movement utilized Jewish media, such as Hebrew and Yiddish language periodicals and literature, to reach the Jewish masses. Vilna served as the most active center for this movement. In reaction, Orthodox Jewry emphatically opposed secular studies. Basing themselves on Jewish law, Orthodox leaders claimed it was bound to lead to heresy and even conversion.

By the 1890s there was a less formal threat from government-required secular education, but damage had been done and the secular movements had made their inroads into the Jewish society of the country. Rabbi Epstein was concerned with the inroads made by the secularists. He viewed secular education as dangerous for the Jewish people and attributed its rise to the sins of his nation. In his opening sermon, Rabbi Epstein described a vicious circle. Those who engage in secular studies spend less time in Torah study and this leads to sin, which in turn leads to an even greater interest in secular studies. A synthesis of secular (or non-Torah) education and Torah studies was unacceptable to Rabbi Epstein, for then Torah becomes secondary and other studies become the primary emphasis of the student. However, if Torah retains a clear primacy then there would indeed be reason to permit non-Talmudic or non-Torah studies. Rabbi Epstein, who was deeply committed to the financial well being of the Jewish community, recognized that secular education would help alleviate its plight. While Rabbi Epstein understood the dangers of a non-Talmudic education, he chose to permit such studies but only if placed in the proper learning context with Torah as the principle course of study.

There is no clear evidence as to what motivated this particular issue and when (and if) this sermon was delivered or written.³³ Situated in a Jewish society of great poverty, Rabbi Epstein's concern in

³² See Porath, *op. cit.*, p. 50.

³³ The evidence discussed above refers to the editing of the sermon but not necessarily when and if it was delivered. It might have been prepared solely as an introduction to the book of sermons.

his homily was with the youth, just out of *heder*, seeking the possibility of a better economic life. His hope was "that they study Torah, since, as soon as they become slightly older, secular studies are loaded upon them." In addition, his anxiety was for the physical well being of the Jews. This required, he felt, the loyalty of his people to the Tsar.

We must ask the question: Was Rabbi Epstein sincerely concerned with tolerating secular studies or was he placating the Russian government and their censor?

His introduction to the *Arukh Hashulhan* serves as a guide to the comprehension of the opening sermon. Both introductions, while apologetic and attempting to politically ensure the safety of the writer and his book, were explicitly concerned with the Jewish issues of his time and place. Both were clearly concerned with the presence of the censor. The introductions praise the Tsar and ascribe to him the role of protector of the Jewish people. Perhaps Rabbi Epstein really believed in absolute allegiance to the Tsar. He lived in Lithuania, an area not directly affected by the tragic events in Russia of 1881-82. Thus it may have been easier for him to take a positive view of the Tsar than it would have been for a rabbi elsewhere in the Pale.

Rabbi Epstein, in the first sermon, also takes a strong pro-tsarist position. He went so far as to state, "Besides, it should be explained to the fools and insane how could they have the audacity to think evil about the Tsar...." The Tsar and his ministers, wrote the Rabbi, are those who protect Jews against anti-Semites and their pogroms. Rabbi Epstein even argued that it is the sacred duty of parents not only to educate their children to fear God but also to fear royalty, which in his case meant the Tsar. If children learn to revere the Tsar, Rabbi Epstein argued, Jewish security would be improved and conflict avoided. This is an apparent allusion to Jewish university students' involvement in the anti-Tsarist movement, a controversial issue in his day.

Rabbi Epstein's fear of Jewish students' participating in revolutionary and anti-Tsar movements is supported by Dubnov, who opens his discussion of "The Jews and the Revolutionary Movement:"³⁴

The Russian school and literature pushed the Jewish college student head over heels into the intellectual currents of progressive Russian society. Naturally, enough of a portion of the Jewish youth was also drawn into the revolutionary movement of the seventies, a movement which, in spite of the theoretic "materialism" of its adepts, was of an essentially idealistic tendency. In joining the ranks of the revolutionaries, the young Jews were

³⁴ Op. cit., p. 221.

less actuated by resentment against the continued, though somewhat mitigated rightlessness of their own people, than by discontent with the general political reaction in Russia, that discontent which found expression in the movement of "Populism" [a democratic movement in favor of the down-trodden masses, particularly the Russian peasantry] of "Going to the People" and similar currents, then in vogue. Jewish students, attending the rabbinical and teachers institutes of the Government, or autodidactic from among former heder and yeshiva pupils, also began to "go to the people," the Russian people, to be sure, not the Jewish. They carried on a revolutionary propaganda, both by direct and indirect means among the Russian peasants and workmen, known to them only from books.

Dubnov continues (p. 224):

In Russia itself, the Jewish revolutionaries were heart and soul devoted to the cause. The children of the Ghetto displayed considerable heroism and self sacrifice in the revolutionary upheaval of the seventies. Jews figured in all important political trials and public manifestations; they languished in the jails, and suffered in the exiles to Siberia.

These revolutionary temperaments found their expression in Jewish participation in the assassination of Alexander II, on March 1, 1881. It was in this atmosphere that Rabbi Epstein called to his listeners and readers to be loyal to the Tsar. "It is, therefore, no surprise that they (students of secular education) will rebel against the kingdom of heaven as well as the kingdom on earth. Woe to us that we have sinned; how great the desecration of God (Chillul Hashem) is there in this."

Rabbi Epstein continued to develop his argument and related the anti-Semitic actions of the gentiles towards the Jews as part of the above described developmental process. He spoke of pogroms and anti-Semitism, events that had strong repercussions in this period of Russian-Jewish history.

Why did the Rabbi of Navordock, the author of a major halakhic treatise, accepted as a revered Jewish rabbinical leader, speak in such positive terms of such tsars as Alexander III and [or] Nicholas II, whom we know to have been anti-Jewish and supporters of anti-Jewish pogroms? Were this written to appease the censor and government officials or to strengthen his Rabbinical position, it would be sufficient to have prepared a paragraph or two similar to those written by other rabbis of the period. Rabbi Epstein offers us an extensive three-page call for loyalty to the Tsar.

Rather, it is necessary to place the sermon in the historical context of the period. The people of Lithuania (which also housed great numbers of Poles) lived in a country conquered by the Russians. Both the

conquered and conquerors had no love for each other, but what they both had in common was their hatred for the Jews. As stated above, institutionalized pogroms began during the reign of Alexander III. Although historians argue that the tsars were not exempt from blame for the pogroms, a survey of the Jews in that period will testify to their belief that the pogroms were initiated by local governments. While many cities in the Pale suffered from the results of the pogrom policy, Lithuanian cities, such as Navordock, were less affected. This could possibly be attributed to a local governor who was more sympathetic to the Jews or rather preferred not to have the destruction and problems that resulted from the pogroms.³⁵ Rabbi Epstein's concern for pogroms and anti-Semitic actions by the gentile population was a psychological one. The fears of the pogroms were greater than the pogroms themselves. Berlin³⁶ describes this phenomenon, "Truthfully, the fear of the pogroms, the preparations for the pogroms, were no less frightful and, at times, did greater damage than the pogrom itself." Barton³⁷ offers the same suggestion and supports this view as an historian of the period. "Psychologically, the impact of these pogroms was even greater than the physical and material damage."

Rabbi Epstein believed that the only true flesh and blood guardian against this anti-Semitic conduct could be the Tsar.³⁸ It was the actions of his Jewish brethren that brought upon themselves the vengeance of the Tsar, and it was the Jews' religious obligation to be loyal to the Tsar and educate their children in this path. For only the "fools and madmen would contemplate evil about the Tsar."³⁹

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³⁵ The local leaders also might have preferred not to accept Russian initiatives simply because they were Russian and not Lithuanian.

³⁶ Op. cit., p. 283.

³⁷ P. 45.

³⁸ It is interesting to point out that the leaders of the Habad movement throughout their history in Russia advocated the same view. Rabbi Epstein is acclaimed to be influenced by the leader of Habad during his early Rabbinical days. See Fishbane, *Aruch Hashulchan*, p. 9.

³⁹ I want to thank Professor Ira Robinson for his helpful comments and editing of this essay.

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JUDAISM AND ZIONISM

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ZIONISM AND RELIGION: THE TRANSFORMATION OF AN IDEA

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The abstract term “Zionism” was coined by Nathan Birnbaum in 1890.¹ It is derived from the biblical “Zion” (Hebrew: *tzifyon*), the fortress captured by David from the Jebusites (2 Sam. 5:7); the word came to designate Jerusalem (Amos 6:7), the Temple, or the people Israel. “When the Lord returns the captivity of Zion” (Ps. 127) looks to the restoration of the people from Babylon to the land of Israel.

The language of “return to Zion” belongs to the vocabulary of traditional Judaism. The vocabulary of religion remains fairly constant over long periods; it defines the faith community and gives it identity as it wanders through times and places far from its origin. But the use and interpretation of that vocabulary change. Theologians give the community of the faithful a sense of continuity with their past by enabling them to talk the same language while subtly changing its meaning in response to new social and intellectual perceptions. Thus, as we shall see here, since the nineteenth century, several religious thinkers have reinterpreted the “return to Zion,” whether consciously or not, to align it with contemporary European political theory. We shall examine this development and its consequences for Jewish life and thought.

Foundations

Yearning for Zion

The Bible presupposes an intimate relationship between the people Israel, its land, and God. The promise to Abraham (Gen. 17:8), the revelation at Sinai, and the entry into the promised land under Moses have as their ultimate purpose the creation of a model society, bound by covenant to God, in the land (Deut. 16:18). The three “pilgrim festivals” relate directly to the Land and its produce; the sabbatical year—which the Land is to enjoy even when Israel is exiled from it

¹ See Alex Bein, “Von der Zionsehnsucht,” in *Robert Weltsch zum Geburtstag* (Tel Aviv, 1961), p. 33.

(Lev. 26:34)—is for its benefit; numerous agricultural laws ensure the “purity” of its crops as well as their fair distribution to the poor and the needy. Because they slandered the Land, the Israelites were condemned to wander in the desert for forty years (Num. 13); exile from the Land was the ultimate threat (Deut. 28:63). Late prophets, such as Malachi and Deutero-Isaiah, associate restoration to the Land with nascent ideas of a messiah, so that restoration acquires an eschatological dimension.

Substantial sections of the Bible as well as the whole of the Babylonian Talmud were formulated in “a land not theirs” (Gen. 15:13). Psalms 137 (“By the rivers of Babylon...”) and 126 (“When the Lord brought back those that returned to Zion...”) poignantly articulate the emotions of the exiles. The Rabbinic sources that originated in the land of Israel were mostly composed after the loss of national independence, and the texts were transmitted through and edited by Babylonian scholars.

As a result, Rabbinic Judaism is permeated with a sense of exile and a longing for restoration. This is reinforced by the liturgy. According to the second paragraph of the Shema (Deut. 11:13-21), reward and punishment center on the Land; if you obey God the Land will be blessed, if you disobey there will be no rain, you will be exiled from the Land. Several blessings of the Amidah prayer focus on the Land; Jews praise God for rain when it is the rainy season in the land of Israel rather than where they happen to live now.² Calendar determination centers on the Land, the cycle of festivals celebrates the Land, and there are special forms of blessing for fruit of the Land.

The Mishnah articulates the distinctiveness of the Land through halakhah; its first order is dedicated to agricultural regulations most of which apply only in the land of Israel. There is a blessing for the “uprooting of idolatry” from the Land (M. Ber. 9:1); both men and women have the right to “ascend” to live in the Land and to coerce their spouse either to accompany them or to forfeit the *ketubah* (M. Ket. 13:11); ten degrees of sanctity apply to the Land (M. Kel. 1:6-9). The Babylonian Talmud devotes an extensive *sugya* (end of *Ketubot*) to extolling the virtues of living in the Land.

Jacob Neusner has elucidated the way halakhah assigns to Israel the power to change things, to determine status. This power arises from the inwardness of the spiritual life of Torah and transcends the

² This is the prayer *mashiv ha-ruah u-morid ha-gashem*. The “request for rain,” that is, *ten tal u-matar*, ought to be said according to local need (B. Ta. 10a); notwithstanding Asheri’s ruling (*Responsa* 4:10), Jews outside Israel persist in reciting it when rain is needed in Babylonia!

loss of political power and independence; vanquished by the armies of Rome, Israel remains in control of its destiny.³ Such thoughts reinforce the sense of exile and lend it a spiritual dimension. Exile comes to mean alienation from God's favor. This religious interpretation of exile loosens its connection with geography; exile may be experienced in the Land itself.

In the sixteenth century, when England, Spain, and France were beginning to think of themselves as distinct nations, Safed in the land of Israel became a focus of intense Jewish spirituality in both halakhah and mysticism. Among its leading saints and scholars were Spanish refugees and their descendants, drawn to the Holy Land in the expectation of imminent redemption. Psychologically they had not escaped *galut* (exile), and though on holy soil they felt the same sense of alienation as Jews elsewhere. Isaac Luria (1534-72), the most influential of the Safed mystics, saw the *galut* not only "as a terrible and pitiless state permeating and embittering all of Jewish life, but...[as] the condition of the universe as a whole, even of the deity."⁴ Not only Israel, but cosmos and, indeed, Creator, were "in exile"—a concept rooted in classical Rabbinic texts.⁵ Earlier rabbis recognized the divine pathos—"I am with him in [his] distress" (Ps. 91:15)—but did not take Luria's further step of universalizing the concept of exile; for them *galut* was essentially the experience of Israel at the hand of the gentiles, and certainly not an experience of which the gentiles were part.

In Luria's theory of creation, God creates by simultaneously (a) limiting himself, so as to "make room" for something other than himself, and (b) by emanating "light" into the "empty space." The "vessels" into which God, in the process of creation, emanated light, were not strong enough to contain it. As the vessels shattered, some of the light returned to its origin, but the rest, consisting of "sparks," was scattered in confusion, thus putting *galut* "displacement" at the very heart of things. Some of the light even fell into the "husks," "shells," that inhabit the abyss of evil, the "empty space" from which God withdrew himself, and aspire to rise from the darkness and return to their source, but cannot do so without help. Thus even God, so to speak, has partly "fallen" into exile.⁶

³ The theme occurs in many of Neusner's works. The mood intended here is captured in his *Vanquished Nation, Broken Spirit: The Virtues of the Heart in Formative Judaism* (Cambridge, 1987).

⁴ G. Scholem, *The Messianic Idea in Judaism* (New York, 1971), p. 43.

⁵ This concept is found in several early Rabbinic passages that speak of God as being in exile with Israel, for instance B. Meg. 29a; Eicha Rabbati 1:32.

⁶ See lecture seven of Scholem's *Major Trends in Jewish Mysticism*.

This bizarre cosmogony quickly captured the Jewish imagination and within two centuries had spawned the Sabbatean and Hasidic movements. Life, with all its suffering and disappointment, become comprehensible and acceptable; *galut* (exile) was the embodiment of the “fallen sparks” of creation captured in the “husks” of impurity, the divine light within us striving to return godwards. With the assurance that every time he performs a *mitzvah* he restores some of this light to its place of origin, the Jew experiences that redemption has commenced. Redemption is interpreted as a *continuous process*, in which every Jew participates.

“Yearning for Zion” in this way became part of a cosmic process of redemption. It was primarily spiritual and eschatological. The literal expectation of return to the Land remained, and individuals strove, as they had throughout the period of exile, to make their lives there. But not even Nahman of Bratslav, a hasidic leader who visited the Land several times at the end of the eighteenth century and greatly praised its spiritual qualities, articulated the desire to return in the form of a this-worldly political program to be implemented by the Jewish people as a whole. The full return and redemption would come about only under the leadership of the messiah; “though he delay, I await him each day.”⁷

“Return to Zion,” as commonly understood by traditional Jews well into the eighteenth century, had these features:

1. Eschatological context—“future world” would be under the rule of the messiah.
2. Unworldly, discontinuous with history, not part of the present world order.
3. Passive—we were to bear the suffering of exile while awaiting the messiah
4. The anticipated physical return to the Land was the material implementation of a primarily spiritual process of redemption.
5. It was virtuous for individuals to live in the Land even now, but there were no collective plans for colonization or the creation of infrastructure.
6. Government under the messiah would be theocratic, under the rule of Torah.
7. Hopes were centered on Israel’s restoration; universal human redemption was marginalized though not denied.

⁷ From *Ani Ma’amin*, the popular formulation of Maimonides’ *Thirteen Principles*.

Nationhood and Nationalism

The Greeks were proud of being Greeks, the Romans of being Romans, and no doubt almost every nation throughout history has thought itself the best that ever was. Yet the nationalisms that developed in Europe in the eighteenth and nineteenth centuries were different in kind from the ancient sense of belonging to a people. Elie Kedourie wrote:

Nationalism is a doctrine invented in Europe at the beginning of the nineteenth century. It pretends to supply a criterion for the determination of the unit of population proper to enjoy a government exclusively of its own, for the legitimate exercise of power in the state, and for the right organization of a society of states. Briefly, the doctrine holds that humanity is naturally divided into nations, that nations are known by certain characteristics which can be ascertained, and that the only legitimate type of government is national self-government.⁸

Nationalism differs from both patriotism and xenophobia:

Patriotism, affection for one's country, or one's group, loyalty to its institutions, and zeal for its defense, is a sentiment known among all kinds of men; so is xenophobia, which is dislike of the stranger, the outside, and reluctance to admit him into one's own group. Neither sentiment depends on a particular anthropology and neither asserts a particular doctrine of the state.... Nationalism does both... far from being a universal phenomenon, it is a product of European thought in the last 150 years.⁹

Nationalism should be distinguished from *nationhood*. Nationalism depends on transforming ethnic characteristics such as language and social custom into ultimate values for which the individual citizen is prepared to kill and die. *Nationhood* demands no such transformation, but rather a sense of community, of belonging with others through shared history and geography, and to some extent language and social custom; such values are by all means cherished by members of the nation, but they do not define the nation exclusively nor are they transformed into absolutes. The concept of *nationhood*, with its associated values of loyalty and patriotism, is far older than that of nationalism, going back to ancient times.

Does *nationhood* carry any implications as regards the religion of the citizen? The sociologist will want to know the extent to which a particular religion is seen as constitutive of national consciousness; are the language and customs of the religion among the cherished, if not

⁸ Elie Kedourie, *Nationalism* (London, 1966), p. 9.

⁹ *Ibid.*, p. 74.

ultimate values of the nation? And what of the predominant religion of the nation's citizens? The political theorist will want to know to what extent its norms of behavior and definitions of status constitute the legislative structure of the state—will the prohibited degrees of marriage, for instance, be regulated in accordance with the dictates of the Church? These are not easy questions to answer; the history of the nations of Europe in modern times is characterized by indecision as to the rights of religious minorities.

Alain Finkielkraut commented that in German romantic nationalism we observe the reverse of the Enlightenment call to universal reason, truth and justice:

Jurists and writers, as the privileged trustees of the *Volksgeist*, were above all concerned to resist the ideas of universal reason and ideal law. For them the idea of culture no longer implied the driving back of prejudice and ignorance, but rather the expressing in all its indomitable singularity, of the unique spirit of the people whose guardians they were.¹⁰

The tension between nationalism and universalism that rent nineteenth century Europe was manifested in the Jewish national movement, and with one further complication; Jews had to choose whether to lose part or all of their Jewishness by adopting the local European nationalism or whether to opt out of Europe into a nationalism of their own. On the whole, assimilation was chosen where practicable, provided that a Jewish religious identity could be maintained. But where Jews were not accepted, or only very grudgingly accepted as nationals in the countries in which they lived, a drive to a separate Jewish nationhood made itself felt.

In sum, the "Enlightenment" nationalism of eighteenth century Western Europe and America, conceived in reaction to the absolutist regimes of the previous period, featured:

1. Liberal democracy, individualism
2. Detailed consideration of political and economic structures
3. Hopes for material and social benefits here and now
4. Confidence in human progress
5. Human initiative essential
6. Commitment to universal reason, truth, justice

The Romantic nationalism that burgeoned in nineteenth century Germany, Italy, and the Balkans was far more ethnocentric, revolutionary, and absolutist. Hegel's concept of *Volksgeist* was taken to ex-

¹⁰ Alain Finkielkraut, *The Undoing of Thought* (London and Lexington), p. 15.

treme lengths, and the fulfillment of national destiny, sometimes with a religious component, became an absolute value. Forms of government tended to authoritarianism, and it was accepted that the only legitimate form of government for a people was self-government as a nation-state on its own territory.

We now inquire how such ideas, apparently far removed from the traditional idea of the "return to Zion," were absorbed into Jewish religious understanding.

Before the State of Israel

Elijah of Vilna (1720-1797)

The disciples of Elijah, the "Vilna Gaon," formed a corner-stone of the *yishuv* (settlement) in nineteenth century Palestine; even today their influence is felt on Ashkenazic liturgical practice in Israel. But not until 1968, when M.M. Kasher published *Qol Ha-Tor* ("The Voice of the Turtle-Dove") by the Gaon's nephew and disciple, Hillel ben Benjamin of Shklov, was a coherent account available of Elijah's views on messiah and Land.¹¹

The Gaon characterized the years 5500-5600 (1740-1840) as *saf ha-atchalta*, ("threshold of the commencement [of redemption]") and the years 5600-5750 (1840-1990) as the actual *atchalta*, or commencement, thus predicting the course of events for almost two centuries after his death. He believed that the birthpangs of the messiah would be spread out so as to avoid too great suffering at any one time (pp. 475, 512).

Hillel writes that the Gaon became convinced that he had been called to initiate the resettlement of Israel in preparation for the advent of the Messiah son of David. Elijah's attempt to journey there himself in 1780 was unsuccessful, but in 1782 he experienced a vision confirming his mission and summoning him to undertake a practical program of regeneration of the Land in its physical as well as spiritual aspects (p. 516).

The present age, in which "the voice of the turtle-dove is heard in our land" (Song of Solomon 1:12), is already the "commencement of

¹¹ M.M. Kasher, *Ha-Tequfa Ha-Gedolah*. Kasher's Introduction to *Qol Ha-Tor* is on pp. 412-460. In sections commencing on pp. 412 and 455, he discusses the provenance and history of the manuscript and the previous attempts at publication; *Qol Ha-Tor* itself appears on pp. 461-539. The sixth and seventh (final) chapters are missing, as is probably the end of the fifth. Moreover, the whole manuscript is referred to as *tamsit* (a précis). Page references in the following are to this work.

redemption." As we have not shown ourselves worthy of the immediate appearance of Messiah son of David, leader of the final redemption, we undergo this preparatory period of the Commencement under the guidance of Messiah son of Joseph. Since his mission is to achieve the "awakening from below" (the "left side," "the attribute of judgment"), he works in a natural fashion, without "open" miracles. He will (a) reveal the mysteries of the Torah, (b) gather the exiles to the Holy Land, and (c) remove the unclean spirit that at present contaminates the Land, by cultivating it and thus enabling the commandments relating to it to be fulfilled. The process will be a gradual, quiet¹² one, the length of which relates to the effort we put into it; there will be troubles and economic hardships, but these, through God's compassion, will lead to redemption. A pre-requisite for redemption is the presence of Jews in Jerusalem, which should become a center for the propagation of Torah. The new settlers should be men of honesty and integrity; special attention should be given to the accuracy of weights and measures and to the practice of social justice and charity.¹³

Hillel reiterates in the name of the Gaon that the settlers must rebuild Jerusalem and cultivate the Land. This refutes the allegation made by generations of Zionist historians that the early religious settlers were devoid of interest in worldly matters, content to live on the *hahuqa* remitted from abroad and to await the miraculous advent of the messiah. The Gaon's intentions were clear, but they were frustrated. Hillel reports that one of the emissaries he dispatched as leader of the Jerusalem Kotel in the early 1800s to Lithuania appealed there for funds to acquire Land and to erect buildings in Jerusalem. He was followed in the pulpit by a leader of the local community, who castigated him for not being satisfied with money to buy bread for the poor and for his "impertinence" in soliciting money for such "dreams" as the rebuilding of Jerusalem and the purchase of fields. Surely, argued this ignoramus, if God wanted to bring about the redemption he would not expect us to purchase fields ourselves? Hillel refers to his master, the Gaon of Vilna, as "a light of Messiah

¹² *Hatsne'a lekhet*, "to walk humbly (quietly, modestly)" (cf., Micah 6:8). The Gaon meant that the efforts made for the Commencement of Redemption should not be publicized to all and sundry but entrusted only to pious and learned initiates. Perhaps he feared the corruption of ideals that might affect a mass movement.

¹³ Kasher, *op. cit.*, pp. 471-477. On pp. 476-477, he insists on the fulfillment of "in righteousness shalt thou be established" (Is. 54:14) in the two senses of righteousness (social justice) and charity.

son of Joseph.” He does not mean that the Gaon *was* Messiah ben Joseph, as some have erroneously inferred. Hillel has “smeared out” the concept of Messiah ben Joseph in such a way that it is no longer possible to think of the messiah merely as an individual. Messiah ben Joseph exists on three planes (p. 477). On the highest plane, he is identical with Metatron, the Angel of the Presence. On a lower plane, he is to be identified with the righteous leader of each generation—from Joshua in his generation to the Vilna Gaon in his—who labors for the salvation of Israel. On the lowest plane, each individual Jew who takes part in the gathering of the exiles and the other work of Messiah ben Joseph is himself a “remnant of Joseph.” Messiah ben Joseph is eternally present, though mostly unrecognized; he is the supernatural power that ensures the physical survival of Israel and strengthens her spiritual being (p. 502).

The return to Zion, in the Gaon’s view, follows a seven-point program:

1. Ingathering of the exiles.
2. Rebuilding of Jerusalem.
3. Removal of the “unclean spirit” from the Land by planting it and observing the special commandments relating to it.
4. “Redemption of Truth”— i.e., the growth of a society consisting of men of honesty and integrity.
5. The resulting Sanctification of God’s Name among the nations.
6. Revelation of the mysteries of Torah.
7. The whole world established as the Kingdom of God.

So the Gaon, while affirming the spiritual and eschatological elements of the return, interprets the process as a collective human undertaking, directed along practical lines. It is difficult to assess the degree to which the Gaon’s concept of a this-worldly national Jewish revival was influenced by, for instance, French and North American models of national self-awareness. It may be no accident that the Gaon’s vision occurred shortly after the American War of Independence. Moreover, the notion that a dedicated group of people might organize themselves and emigrate to a distant land to create an ideal society was not strange in the eighteenth century; many groups had emigrated from Europe to the Americas with precisely that ideology, formulated in biblical terms. However, such connections remain speculative.

Judah Alkalai (1798-1878)

Among the dates predicted for the arrival of the messiah, 4000¹⁴ (240 C.E.) and to a lesser extent 5000 (1240 C.E.), with their millennial resonances, aroused Jewish messianic expectations and consequent frustration. By the end of the eighteenth century, kabbalists were eagerly touting 5600 (1840 C.E.) as the latest possible date.¹⁵ Among those caught up in the enthusiasm was Judah Alkalai.

Born in Sarajevo, Alkalai was rabbi in the Serbian town of Semlin at a time when the Balkans, under Turkish rule, were rent by ethnic and religious divisions. In 1829, Mahmoud, the Sultan of Turkey, acknowledged Greek independence; in 1830, he recognized Milosh Obrenovich as ruler of Serbia; the following year a Congress to establish Italian unity was crushed by Austria, and a German nationalist movement started in Schleswig and Holstein; Belgian independence was guaranteed in 1832. The liberal, universalist nationalism of the United States and France was being overtaken by romantic, exclusivist nationalisms across much of Europe. Jews were unsure of their acceptance within the new nations; a few—Alkalai among them—reacted by formulating a romantic Jewish nationalism.

1840 brought the Damascus Blood Libel, not Jewish independence under messianic rule. Alkalai concluded that the real significance of that year was that it was the date by which God might have redeemed Israel totally by grace; after that date, redemption would be contingent on prior penitence. The Hebrew word *teshuvah* (“penitence”) is literally “return,” and Alkalai, influenced by his 1839 meeting with the Moroccan rabbi Judah Bibas,¹⁶ reasoned that it included not just return to God after having sinned but physical return to the land of Israel. He therefore proposed the appointment of a Jewish assembly, the establishment of a fund “like the fire insurance and rail companies” to purchase land in Palestine, approaches to the world’s political leaders, and other practical measures to promote Jewish colonization of Palestine.¹⁷

¹⁴ That is, 4,000 “after creation,” on the Bible-based reckoning derived from *Seder Olam*.

¹⁵ The source is *Zohar* Gen. 117a, #444, in the Ashlag edition.

¹⁶ Norman A. Stillman, *Sephardi Religious Responses to Modernity* (London, 1995), p. 55.

¹⁷ The (almost) complete works of Alkalai, edited by Yitzchak Rafael, were published by Mosad Harav Kook (Jerusalem, 1974). The ideas mentioned in this paragraph occur repeatedly; see for instance *Minchat Yehuda* (1843), pp. 195f. of the collected edition.

Like the nationalists around him, he devoted much attention to the revival of the national language, Hebrew. His first published work, *Darké Noam* (Belgrade, 5599/1839), was a Hebrew grammar composed in Ladino; in the lengthy introduction he elaborates his messianic expectations and sets the revival of the Hebrew language in the context of national restoration.¹⁸

Alkalai may have been influenced indirectly by the Gaon and adopts the same notion of the epoch of Messiah ben Joseph as "commencement of redemption." However, his interpretation of the return to Zion was along lines suggested by the Balkan nationalism with which he was familiar. Spiritual and eschatological elements remain central in his writing, which is couched in traditional kabbalistic terminology, but they are colored by romantic nationalism. Alkalai's stress on the national unity of the Jewish people, his awareness of social divisions and the need for organized political action, and his appeal to the Jewish masses exceed the more restrained, elitist approach of the Gaon.

Avineri aptly states that Alkalai "demystifies" the process of redemption.¹⁹ Alkalai's texts, however, are full of midrashic and mystical references that mystify, or at least thoroughly confuse, any reader who is not at home in the world of kabbalah. Though his ideas are new, his vocabulary is the traditional religious one; were his numerous pamphlets and passionate appeals understood by the assimilated Jews to whom he often addressed them, such as Moses Montefiore and the Rothschilds?

Other Jews in his time, writing in the cultural ambience of the German states, formulated similar ideas without the kabbalistic overtones. Alkalai's sense of a Jewish nation presages the Hebrew Hegelian Nachman Krochmal (1785-1840), whose *Guide for the Perplexed of Our Time* appeared only posthumously in 1851.

Another Hegelian, Heinrich Graetz (1817-1891), writing in German, laid the foundation for a new Jewish historical consciousness among Jews who, through assimilation, had lost not only contact with but pride in their Jewish roots.²⁰ Before he commenced his *History*, he argued for the unity of the metaphysical, the religious and the socio-

¹⁸ Rafael's edition has a Hebrew translation of most of the introduction but not of the body of the Ladino original.

¹⁹ Shlomo Avineri, *The Making of Modern Zionism* (New York, 1981), p. 49. Avineri seems unaware of the extent to which this had been anticipated by the Vilna Gaon.

²⁰ Heinrich Graetz, *Geschichte der Juden von den ältesten Zeiten bis auf die Gegenwart* (Leipzig, 1853-1876). There have been several English versions with various degrees of updating, commencing with H. Graetz, *History of the Jews* (London, 1904).

legislative, which had been separated at various epochs of Jewish history. Israel was a "Messiah people;" Torah, Land, and people formed a unity.²¹

Both Krochmal and Graetz, though not identifying with any specific religious denomination, should be understood in a religious context; both were engaged in reformulating traditional religious concepts, not abandoning them.

Hermann Cohen (1842-1918) and Liberal Judaism

Hermann Cohen (1842-1918) brought to its culmination the liberal-rationalistic approach to the interpretation of Judaism that was first clearly and effectively formulated by Moses Mendelssohn in the eighteenth century. His ideas on the messiah were first articulated in an essay published around 1893.²² He regarded hope as the central idea of messianism, distinguishing monotheism from paganism:

Hope is the product and expression of belief in one divine providence... [which] relates not primarily to the individual, and not exclusively to a special people, but to all mankind, the children of God" (p. 106).

Israel's faith is a belief in Man—i.e., in the progress and perfectibility of Man; Israel's hope for the future of Man is the essence of the messianic idea and the high-point of Israelite prophecy. Even the most profound and general ideas that have taken hold of the world, claims Cohen, have grown up in particular national contexts or individual circumstances. The messianic idea indeed first appeared in a strictly national context, manifesting characteristics that were incompatible with what it was later to become; but it is essentially a historical rather than a political concept and cannot be confined within the national limitations of its origin. Cohen cites a number of prophetic passages, attempting to demonstrate that the later ones emphasize "the day of the Lord," that is, the period in which justice will prevail on earth, rather than the personality of the messiah. In a similar vein, he cites the Talmud in such a way as to show how the rabbis stressed the ethical implications of the messianic era rather than the personality of the messiah. He concludes that, difficult as it is to transcend the

²¹ H. Graetz, *Die Konstruktion der Jüdischen Geschichte* (reprint: Berlin, 1936). This first appeared in 1846. See L. Kochan, *The Jew and His History* (New York, 1977), chapter 8.

²² H. Cohen, *Jüdische Schriften*, ed. F. Rosenzweig (Berlin, 1924), vol. I, p. 105f. Page references in the following are to this work.

narrowly nationalistic outlook, the prophets of Israel in fact achieved this through the Messianic Idea—the Idea of Man—for though indeed not all of them grasped the idea clearly themselves, their teachings pointed unequivocally towards universalism. Universalism was not incompatible with the concept of a chosen people for, says Cohen:

Election, in the religious sense, simply means historical vocation.... Rarely has any nation kept itself free from the darkness of nationalism.... There is only one way to do so and the prophets, founders of our religion, discovered it, and for this discovery suffered prison and exile. But through it they made known the God of Israel. This discovery, with which they fought against nationalistic egoism, and through which they, and they alone, revealed the idea of Man—this is the Messianic Idea” (p. 124).

Cohen has been criticized for the apparent inconsistency between his ardent German patriotism and his complete rejection of Jewish nationalism. The criticism may be directed against the German Jewish Reform Movement as a whole, for already in the 1840s the Reform leaders had, while vigorously asserting their loyalty to the (German) Fatherland, expunged from the Prayer Book all references to the physical return to Zion and Jerusalem. Cohen’s justification for German patriotism arises not from the notion that German nationalism is essentially superior to Jewish nationalism, but from his conviction that German idealism corresponds to the later, universalistic stage in the development of Judaism.²³ What Cohen says of German nationalism represents the Enlightenment trend, which already in his time had yielded to the romantic.

Like Elijah of Vilna, Cohen saw the ethical achievement of Israel as the necessary springboard to universal redemption. But whereas the Gaon attached great importance to the actual physical presence of a spiritually regenerated Jewish people in the Land, Cohen dismissed this as obsolete tribalism.

Cohen’s rejection of Zionism articulates the classical position of liberal Judaism and for a time led to a strongly anti-Zionist stance among liberal Jews. Loss of confidence in the belief in human perfectibility, the Shoah, and the establishment of the state of Israel have all contributed to a modification of this position. Moreover, new anthropological perspectives and the modern Western reaffirmation of ethnicity, of the “search for roots,” have allowed liberal Jews, while

²³ Two essays, “Deutschtum und Judentum,” in H. Cohen, *Jüdische Schriften* (Berlin, 1924), pp. 237f.

rejecting biblical literalism, to adopt a positive attitude to the actual state of Israel.

The reversal in the liberal position may be gauged from these official Reform pronouncements, beginning with that of the Philadelphia Conference, November 3-6, 1869:

1. The Messianic aim of Israel is not the restoration of the old Jewish state under a descendant of David, involving a second separation from the nations of the earth, but the union of all the children of God in the confession of the unity of God, so as to realize the unity of all rational creatures and their call to moral sanctification.
2. We look upon the destruction of the second Jewish commonwealth not as a punishment for the sinfulness of Israel, but as a result of the divine purpose revealed to Abraham, which, as has become ever clearer in the course of the world's history, consists in the dispersion of the Jews to all parts of the earth, for the realization of their high-priestly mission, to lead the nations to the true knowledge and worship of God.

Note, by contrast, the San Francisco Platform, 1976:

We are privileged to live in an extraordinary time, one in which a third Jewish commonwealth has been established in our people's ancient homeland. We are bound to that land and to the newly reborn State of Israel by innumerable religious and ethnic ties. We have been enriched by its culture and ennobled by its indomitable spirit. We see it providing unique opportunities for Jewish self-expression. We have both a stake and a responsibility in building the State of Israel, assuring its security and defining its Jewish character. We encourage aliyah for those who wish to find maximum personal fulfillment in the cause of Zion. We demand that Reform Judaism be unconditionally legitimized in the State of Israel.

Orthodox Developments

The Orthodox successors of the Vilna Gaon and Alkalai found themselves by the end of the nineteenth century an embattled minority. The reasons for this were both political and religious.

On the political front, Zionist activity had become a secular enterprise. Increasing secularization allowed the development of Jewish culture and the Hebrew language outside the control of the tradi-

tional religious leaders, who noticed with alarm that their authority was being undermined. It was wrong, in the view of Orthodox leaders such as Israel Meir Ha-Kohen (the "Hafetz Hayyim," 1838-1933), to associate or collaborate with the secular Zionist leaders in any way. West European Jewish leaders, secular as well as religious, particularly in Germany, were also troubled by a perceived threat to the hard-won amelioration of the civil status of Jews in their own countries.

From the theological point of view, and notwithstanding the veneration in which the Gaon was held, it was widely felt that it was wrong for mere mortals to anticipate God's work of redemption; we should remain in exile, observe the Torah faithfully, and trust in God to send the messiah. Moreover, the only legitimate way of return to the Land was in full commitment to Torah; the ideal was a theocratic state, not the socialist utopia of the secular Zionists.

Political considerations led a group of Orthodox and Liberal German rabbis, in the name of the German Rabbinical Association, to sign a trenchant letter of protest against Zionism and specifically against the Zionist Congress Theodor Herzl proposed to hold in Munich in 1897. Theologically, they had little in common, for the Orthodox believed that one day the Jews would be restored to Palestine, while the Liberals thought this was obsolete nonsense. Dubbed *Protest-Rabbiner* ("Protest Rabbis") by Herzl,²⁴ who was forced to change the Congress venue to Basle, Switzerland, these rabbis argued that the intention to establish a Jewish state in Palestine contradicted the messianic destiny of Judaism; Judaism obligated all her believers to be faithful to their native land, serving it as best they could; philanthropic support for agricultural settlers in Palestine was, however, permissible, since it was not connected with the establishment of a Jewish national state. The letter closed with the assertion that love for one's country, i.e., Germany, obligated all those who cared for Judaism to shun Zionism and in particular the Zionist Congress.

²⁴ Theodor Herzl, in *Die Welt* 1/7, 16 July, 1897. The Orthodox rabbis were M. Horowitz of Frankfurt and A. Auerbach of Halberstadt; the Liberals were S. Maybaum of Berlin, J. Gutmann of Breslau, and K. Werner of Munich. The letter was endorsed by the general assembly of the Rabbinical Association in Berlin a year later. Getzel Kressel, in the *Encyclopaedia Judaica*, notes that seventy years after the publication of the protest letter a survey discovered that almost all the children, grandchildren, and great-grandchildren of the "protest rabbis" had settled in Israel.

The Contribution of Socialism

Both utopian and "scientific" socialism attracted Jewish interest from their inception. Karl Marx (1813-1883) and Moses Hess (1812-1875) were among the pioneers. Hess, unlike Marx, rediscovered his Jewish roots and worried about the "Jewish problem;" his Zionist solution is a form of national socialism that "combines his support of revolutionary Mazzinian nationalism with his socialist vision."²⁵

The distinctive Jewish socialism that originated later in the century in Eastern Europe was the product of an alliance of the radical Jewish intelligentsia with the Yiddish-speaking proletariat; it acquired political expression through the Bund, founded at a secret convention held in Vilna on October 7-9, 1897. Nachman Syrkin and Ber Borochov combined a Marxist revolutionary determinism with their Zionist territorialism.

But what of the religious Zionists? Christian socialism, originating in nineteenth century Britain, recognized in socialist collectivism and egalitarianism some of the ideals of Christian teaching; Christian Socialist parties are still prominent in European politics. Many rabbis, like their Christian counterparts, rejected Marx's atheism as irrelevant to his social idealism and found in the latter a fulfillment of the social ideals of the prophets of Israel and a path to the realization of age-old messianic hopes. Not all were as radical as the "revolutionary Gaon," Jacob Isaac Rabbinowitz of Panevezys, Lithuania (1854-1918), on whose account it is said that the Bundists left Panevezys alone when they attacked the Synagogues.²⁶ Both Mizrachi and Agudat Israel spawned labor offshoots, Ha-Poel Ha-Mizrachi and Poalei Agudat Israel. Mizrachi ideologists such as Shlomo Zalman Shragai (1899-1995) published books and articles in which Judaism was portrayed as true socialism;²⁷ this concept lay behind the formation of the *Torah va-Avodah* ("Torah and Labor") young Mizrachi section. It is ironic to see recent American Jewish scholars reading many of the same biblical and Rabbinic texts as endorsing free enterprise economics.

²⁵ Avineri, op. cit., p. 43.

²⁶ Jacob Mark, *Bim'hitzatam shel Gedolei ha-Dor* (Jerusalem, 1958), p. 118.

²⁷ Rabbis such as Reines, M.A. Amiel, Kook, and Meir Berlin were strongly influenced by socialism.

Mizrachi

One of the few Orthodox rabbis to support Herzl and to take part in his First Zionist Congress at Basle in 1897 was Jacob Isaac Reines (1839-1915). Reines, an outstanding Talmudist, took an early and lasting interest in secular studies, including languages, law, and science, and was imbued with a love of Zion by his father, who had emigrated to Safed from Lithuania but was forced by economic circumstances to return.

Reines's close friendship with Theodor Herzl scandalized his Orthodox colleagues; the Hafetz Hayyim is said to have visited Reines personally to dissuade him from supporting the Zionists, and further pressure was exerted by excluding him from the counsels of the *Gedolei Hatorah* ("Torah Sages").

Despite such pressures, Reines succeeded in integrating political Zionism into his theology. He believed that although ultimate redemption lay in the hands of God alone, it was our duty to show our love for Eretz Israel by resettling and developing it. We must accept the kingdom of heaven (that is, observe the Torah fully), restore the Davidic monarchy, and rebuild the Temple; then and then only would the ultimate redemption take place by God's intervention. Reines also regarded Zionism as a practical measure by which to save Jews from assimilation.

Notwithstanding his friendship with Herzl, Reines perceived a need to resist secularist tendencies within the Zionist organization; he therefore founded, in 1904, the movement of acculturated religious Zionists eventually known as Mizrachi.

Meir Bar-Ilan (Berlin) (1880-1949), like Reines an alumnus of Valozhyn yeshiva, of which his father, Naftali Zvi Yehuda Berlin, was head, was appointed general secretary of Mizrachi in 1911. While working in Berlin he coined the Mizrachi slogan, "The land of Israel for the people of Israel according to the Torah of Israel."

After the establishment of the state of Israel, Bar-Ilan organized a committee of scholars to examine the legal problems of the new state in the light of Jewish law and helped found the National Religious Front in an abortive effort to unite the Israeli religious parties.

Abraham Isaac Hacoheh Kook²⁸ (1865-1935) has been called the "leading prophet of religious Zionism." Born in Latvia, he emigrated

²⁸ On Kook, see Ezra Gellman, ed., *Essays on the Thought and Philosophy of Rabbi Kook* (Rutherford, 1991); Benjamin Ish-Shalom, *Rav Avraham Itzhak HaCohen Kook: Between Rationalism and Mysticism* (Albany, 1993).

to Jaffa, Palestine, in 1904, but spent the war years in Switzerland and London. In 1919, he returned to Palestine as its first chief rabbi in modern times. Kook enjoyed a warm relationship with secular as well as religious Zionists. He praised them all for participating in the sacred work of redemption of the Jewish people through the reclamation of the Land and the "ingathering of the exiles." His recognition of the "divine spark" in secular movements extended also to socialism.

For all his love of Israel and its people, Kook was deeply concerned with humanity as a whole. His interpretation of "love your neighbor as yourself" (Lev. 19:18) illustrates his concept of the relationship between the particular and the universal. Only if we can achieve true self-love, by discovering the divine spark within ourselves, can we love our neighbor; from this we proceed to love of Israel and thence to love of all humanity and beyond to all creation.

Kook's influence has been extensive, especially among religious Zionists. There are, however, considerable differences in the interpretation of his thought and even allegations (unproved) of attempts to suppress some of his more irenic writings. The main problem arises from his adoption of the "Messiah ben Joseph" theology, according to which we live now in the era of *atchalta di-geulta*, "the commencement of redemption." Some followers, including his son Zvi Yehuda (1891-1982) and the irredentist Gush Emunim movement of which Zvi Yehuda was the spiritual father, have based on this an extreme nationalistic view, strenuously advocating the right of the Jews to the whole of biblical Israel and opposing any withdrawal on the grounds that the Jewish occupation of territory is an irreversible part of God's redemption. On the other hand, the Peace Now movement and religious groups such as Oz V'Shalom and Netivot Shalom lay claim to Kook's mantle when they stress the religious value of peace and the need for interethnic mutual respect rather than territorialism and nationalism.

Agudat Israel (1912)

By the end of the nineteenth century, the increasing secularization of European society combined with the growth of antisemitic nationalisms unsettled Jewish life to such a degree that even the most reactionary leaders accepted the need for a new, concerted response to "the Jewish problem." They rejected the three popular solutions of assimilation, international socialism, and political Zionism and sought a solution that would reaffirm the traditional link of Torah, people, and God.

The position of German Jewish Orthodoxy in this is remarkable. On the one hand, as we have seen, the Orthodox were ready to join forces with Liberal Jews in the protest against Herzl's proposals for a Zionist Congress. Now, on the other hand, they found common cause with the heads of the Lithuanian yeshivot and the Rebbes of the Hasidim of Central and Eastern Europe. The man who achieved this was Jacob Rosenheim (1870-1965). A member of the independent "neo-Orthodox" congregation founded by Samson Raphael Hirsch (1808-1888) at Frankfurt-am-Main, Rosenheim revived the *Freie Vereinigung für die Interessen des orthodoxen Judentums*, which Hirsch had set up in 1886, and made it the springboard for his life's work, which was dedicated to the union and organization of world Orthodoxy.

As Alan Mittelman has remarked, "The Orthodox graduates of German universities and of Lithuanian yeshivot did not, literally, speak a common language. Different historical forces drove these groups to participate in a common project of political development."²⁹ The westernized German Orthodox Jews, most of them followers of Hirsch, sought to articulate a coherent conservatism; for them, "Agudah was conceived as a way of employing a distinctly modern, rational instrument—a political movement—in order to achieve a distinctly nonmodern end: a sacred polity...[they] invested the political realm with cosmic weight and symbolic purpose." The eastern traditionalists took a more pragmatic view of political activity as "a holding action designed to buy time while messiah tarried;" their political role model was the *shtadlanut* of the medieval and early modern communities.

At the Tenth Zionist Congress in 1911, the decision was taken to embark on cultural and educational work. The secular approach was unacceptable to the small number of Orthodox who up to that point had collaborated with Congress, and those who walked out spurred the efforts of the Orthodox to form an independent world wide organization. Agudat Israel was inaugurated by Orthodox rabbis including the Hafetz Hayyim at a conference in Kattowice (Poland) in 1912. Its policy toward settlement in Palestine was ambivalent, but it opposed the secular Zionist leadership, in the belief that a return to Jewish statehood was conceivable only under the messiah and in full accordance with Torah laws.

A bitter dispute arose between Rosenheim, whose status was lay, and the co-founder of Agudat Israel, Rabbi Salomon Breuer (1850-

²⁹ Alan L. Mittelman, *The Politics of Torah: The Jewish Political Tradition and the Founding of Agudat Israel* (Albany, 1996), p. 6. Much in this section is based on Mittelman's analysis; the citations are from his book.

1926), son-in-law and successor of S.R. Hirsch. Breuer wished to restrict Agudah membership, or at least eligibility for office, to members of separatist Orthodox communities; Rosenheim insisted that it should be open to all Torah-abiding Jews. This apparently minor constitutional quarrel concealed a deep theological rift, which had previously surfaced in the 1870s in Hirsch's dispute with Seligmann Baer Bamberger. Breuer conceived "Agudat Israel" as the embodiment of the Jewish people, a primordial, ontological reality, defined in terms of its Torah-based covenant with God; it must not be "contaminated" by compromise with "mixed" or liberal communities. Rosenheim, while talking the conventional language of the Jewish *Volk* as an organism with the Torah as its soul, took a much more relaxed view of the organization he created as "a voluntary, consensual or contractarian society of like-minded individuals."³⁰ It was never easy to reconcile this democratic stance with the principle that crucial policy decisions are taken not by the party's members but by its *Mo'etzet Gedolei ha-Torah* ("Council of the Great in Torah [learning]").

After the Shoah, and especially once the state of Israel was established, Agudah cooperated, if uneasily, with the Zionist leadership and in 1948 became a political party in Israel, exerting pressure whenever possible for the imposition of Orthodox standards. The Rosenheim/Breuer dispute is reflected in attitudes to the Jewish state. Agudah negotiates with the state, participates in government where it feels able to influence events towards Torah faithfulness, but cannot wholeheartedly identify with a secular polity. The Jewish state, that is, tends to be regarded by the *haredi* Jews of Agudah not as the fulfillment of a divine promise but as simply another political entity with which the "eternal Jewish people," Agudat Israel, must negotiate while awaiting the messiah.

The Establishment of Israel

Israel as a Jewish State

To be an Islamic state means to be a state under the jurisdiction or at least the guidance of Islamic law, even though in many instances the law may not be applied by the *ulema* but rather by secular justices. There is no system of Christian law comparable to halakhah and

³⁰ *Ibid.*, p. 137.

shari'a that could be applied as the constitution of a state. In the past, Christian countries discriminated against non-Christians. With secularization, this has declined, but a country is easily recognized as (post-)Christian through its traditional institutions, public buildings, public holidays, culture, and ways of religious discourse.

The "return to Zion" demanded that a recognizably Jewish political entity be set up. As the messiah had not arrived, and the politically effective leaders were predominantly secular Jews, there was no chance that it could be a theocracy. Israel is Jewish in the sense that Britain is Christian rather than in the sense that Iran is Muslim; its population is predominantly Jewish, but its legal system is a secular creation, largely inherited from the British Mandate period prior to the creation of the state. It has no written constitution. Its Declaration of Independence stated:

The State of Israel will be open for Jewish immigration and for the ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants, irrespective of religion, race, or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the Charter of the United Nations.

This means that its citizens of whatever creed are all free to practice their own religion and have equal access to justice, equal status before the law.

In the absence of a written constitution, relations between state and "Church" are based on a status quo, which has four components:

1. The Jewish Sabbath and festivals are the national public holidays.
2. Kosher food is the standard for public institutions.
3. Personal status (marriage, divorce, some aspects of inheritance) is subject to the jurisdiction of the rabbinical courts. (For non-Jews, personal status is governed by their own religious courts or tribunals.)
4. State schools belong either to the National Secular stream or to the National Religious stream.

The Law of Return passed in the Knesset in 1950 confers a *prima facie* right on all Jews, wherever they live, to immigrate to Israel and be granted citizenship. A government decision of July 20, 1958, stated: "Anyone declaring in good faith that he is a Jew, and who does not profess any other religion, shall be registered as a Jew."

In July, 1978, a bill was presented to the Knesset revoking section 46 of the Palestine Order in Council 1922-1947 which, with some qualifications, applied "the substance of the common law and the doctrines of equity in force in England" to Palestine. Under the new bill, enacted by the Knesset on 23 July 1980:

Where a court finds that a question requiring a decision cannot be answered by reference to an enactment or a judicial precedent or by way of analogy, it shall decide the case in the light of the principles of freedom, justice, equity and peace of the heritage of Israel.³¹

Although, under this bill, Jewish ethics may be considered in an appeal where the matter is not determined by statute, the ultimate appeal is to the secular justices, not to the religious courts. Even in those few instances in which some specific element of traditional Jewish law has been incorporated into state legislation, it would be wrong to refer to the state as governed by Jewish law; the secular justices, not the rabbis, constitute the ultimate authority.

The Jewishness of Israel is expressed not through its legislative system but through the following:

- Its ethos and values are heavily influenced by traditional Jewish teaching.
- The general way of life of the state enables Jewish rituals such as Sabbath observance to be followed without great inconvenience or embarrassment.
- The sense of history and belonging relates to Jewish texts such as the Bible. There is a naturalness in being Jewish absent in other countries.
- Cultural and linguistic development can take place on the basis of traditional sources in the full richness of a vigorous national life rather than a restricted community.
- National and international problems such as international relations in peace and war, the environment, religious pluralism, or treatment of minorities, can be addressed from within the framework of Judaism.

Jewish theologians are divided as to whether and how far to read contemporary Israel as the fulfillment of biblical prophecy. Those of liberal outlook reject literalism in Bible interpretation, believing that

³¹ See Daniel B. Sinclair, "The Fundamentals of Law Bill, 5738-1978," in *The Jewish Law Annual* III (1980), pp. 165-167.

this obstructs a proper understanding of the Bible's message. Even among fundamentalists the position is unclear. Some regard modern Israel as the fulfillment, or at least the beginning of fulfillment, of biblical prophecy. Others assert that only a state set up under the messiah and governed in accordance with the "true" interpretation of Torah could be the fulfillment of prophecy.

Jewish attitudes to Israel range widely, and include:

- Israel is the fulfillment of the "national" aspirations of the Jewish people; after thousands of years of minority status, of being alienated from the host societies and in many cases actually prevented from becoming full citizens of the lands in which they lived, they feel they have at last "come home" and are able to control their own destiny within the normal limitations of independent statehood.
- Israel is perceived as a secure haven for persecuted Jews; had Israel existed during the years of the Holocaust, Jews would have had somewhere to turn to.
- An independent Jewish state within the borders of biblical Israel is the fulfillment of prophecy, or at least the commencement of redemption.
- Religious Jews who do not regard Israel as the fulfillment of prophecy may take either the negative view of the Satmar Hasidim, who actively oppose the state, or the more positive view welcoming Israel as providing the opportunity to live a fulfilling Jewish life.
- Religious Jews differ as to whether a specific biblical obligation devolves upon each individual Jew to live in the land of Israel.
- Part of any national self-understanding is a shared sense of history. In the case of Israel, the Bible is a unique part of this; the Israelis read the Bible as part of their national history. Even if not religious, they are part of the community. This opens the way to a more liberal theology of the Land, meaningful even to the non-literalist.

Recent Developments in Israel

The old debates about the meaning of Zionism assumed a new, practical urgency once the State was established. Before summarizing the tensions, we shall illustrate a way in which the novel problems of statehood have been approached on the basis of traditional texts.

The Use of Traditional Sources

In 1967, Israel, defending itself from Arab attack, occupied surrounding territory including the West Bank and Gaza, both of which lie within the biblical boundaries of the land of Israel. These territories remained under Israeli control after the 1973 Yom Kippur war and after the accommodation with Egypt under Begin and Sadat in 1978.

In 1973, a major religious debate erupted on the question of whether the West Bank and Gaza might be voluntarily handed over to Arab control in return for peace. In 1980, a religious peace movement, Oz V'Shalom, published some papers on this topic and on the treatment of minorities according to halakhah by Shilo Refael, at that time a *dayan* (judge) of the rabbinical court in Jerusalem. Here is the summary of the halakhic rulings as agreed by Refael and the then Sephardic Chief Rabbi of Israel, Ovadiah Yosef:

According to the majority of early authorities,³² "they shall not dwell in your land" (Exod. 23:33) does not refer to Muslims, since they are not idolaters.

All authorities agree that nowadays, when Israel does not have power to drive out nations from the Land, the prohibition "they shall not dwell in your land" has no application.

According to many of the greatest authorities, both early and late, the prohibition *lo tehanem*, "do not show them kindness" (Deut. 7:2), in the sense of "do not give them dwelling *haniyya* in the land," applies only to idolaters.

Even if it were prohibited to sell land (in Israel) to non-Israelites, the possibility would remain of exchanging it.

According to all authorities, it is permitted to return territories of (biblical) Israel in order to remove the possibility of war, for nothing stands in the way of *pikuah nefesh* (the saving of life).

Even if there were disputes as to [whether this was a case of] *pikuah nefesh*, wherever there is a doubt in a matter of life and death we take the more lenient view (and avoid risk).

In a generation where all are righteous and immersed in [a life of] Torah, one might trust in God even where there is risk to life, but in our generation we cannot rely on miracles, and therefore we should return the territories to remove enemies from ourselves.

Even according to Nahmanides, who maintains that it is a religious duty to wage war for the conquest of the land of Israel, there is no religious duty on us today to risk our lives to hold on to the territories we have conquered against the will of the nations of the world.

³² In this context, "early authorities" means the post-Talmudic rabbis preceding Joseph Caro (1488-1575); "late authorities" are from that time onwards.

With the agreement of the leaders of the community, not only converts but non-Jews may be appointed to any public office.

The manner in which Yosef and Refael relate to the classical sources of Judaism is interesting. They do not base their arguments directly on biblical texts but on the Rabbinic interpretation of those texts. Then they cite a principle formulated by the rabbis that the safeguarding of life has priority over all of the commandments (except murder, idolatry, and adultery/incest) and use it in a context for which there is no clear Talmudic precedent, namely, the circumstance in which part of the historical territory of Israel is occupied by non-idolators. How is this extrapolation justified? In fact, it would seem that, engaged in a characteristic process by which theologians effect change, they have selected one value from a number of available, but conflicting, values in the tradition and accorded it priority. The selection of the value of *pikuah nefesh* over that of settlement of the Land is not dissimilar, for instance, to the selection of the value of human dignity over that of the ownership of slaves. Both are *creative* decisions, determining the direction in which faith and law are to proceed.

Moreover, though the *value* priority has been established, nothing very definite follows in practice. Surely they are not suggesting that if Arabs threatened to kill just one person they would relinquish the Land rather than run such a risk? After all, both Yosef and Refael support defensive wars and even pre-emptive strikes in certain circumstances. Ultimately, what they are doing is re-reading the classical texts of Judaism in the light of modern political theory, in particular the liberal democratic convictions of the Western world. Other halakhists, whose liberal convictions are less strong, draw more belligerent rulings from the same texts.

On Religious Conflicts in Israel

Even before the state of Israel was founded, the presence of substantial numbers of Jews in the country raised questions of halakhah that had not been addressed from a practical point of view in the diaspora. This had been foreseen by the Vilna Gaon and others who had insisted that the relevant, previously neglected, texts be studied.

Rav Kook, for instance, came under severe censure from the orthodox for his legal fiction of selling land to non-Jews in the sabbatical year to release Jewish farmers from the obligation to desist from agricultural work in accordance with biblical law; he feared that observance of the laws would not only cause economic hardship to individuals but impede progress toward reclamation of land.

With the establishment of the state, a range of new problems arose for which there was at best meager precedent in Rabbinic texts. One obvious way to address the situation was to convene an authoritative Rabbinic body to debate such matters and, indeed, any other modifications that might be required in traditional law. One of the most serious proposals for the establishment of such a legislative Sanhedrin came from Rabbi Judah Leib Maimon (Fishman) (1875–1962). He had assisted Reines in founding Mizrahi, settled in Eretz Israel in 1913, and after World War I and a period in a Turkish jail met Rav Kook, with whom he became very friendly. His advocacy for the institution of a supreme religious authority aroused fierce opposition in orthodox circles and was dropped. Although Israel has two chief rabbis, it lacks a universally acknowledged religious legislative body; religious law can be modified only through creative interpretation and consensus.

Since Jewish, that is, Rabbinic, law, is not the law of the state, there is some ambivalence in orthodox attitudes to the legal system. In April, 1999, following a nine-year investigation, Aryeh Deri, the lay leader of the Shas party, was found guilty of corruption and sentenced to a term of imprisonment. The trial was highly controversial, and the judgement of the High Court stated that prosecution witnesses had been intimidated. The form the intimidation had taken was that witnesses were told that to give testimony against Deri, a champion of orthodoxy, was a grievous sin, tantamount to treachery against the Torah. Underlying this argument was the assumption that the Torah's laws, that is, traditional halakhah, demanded absolute obedience, but the laws of the state did not. Clearly, no jurisdiction can accept that another system of law takes precedence over its own. The controversy was therefore read by many as a serious attack on Israel's judicial system. It highlights the paradox of religious Zionism. Can a religious Jew accept any jurisdiction other than that of the Torah? If not, how can he or she acknowledge the ultimately secular legal system of Israel?

From the other side, secularists have argued that the legal system results in religious coercion, particularly in matters of personal status that, under the status quo, are controlled by the religious courts. For instance, marriages between Jews may take place only in accordance with halakhah as interpreted by Orthodox rabbis; Conservative, Liberal, and Reform rabbis are not recognized by the state. Calls for the introduction of a civil marriage register have been endorsed by the moderate religious party, Meimad, but are vigorously opposed by the other religious parties.

The Orthodox also claim a monopoly on the determination of

who is a Jew. This has far-reaching consequences not only for marriage but also for citizenship rights under the 1950 Law of Return. The most famous test case was that of Oswald Rufeisen, Jewish born but later a Catholic monk ("Brother Daniel"), who was denied automatic citizenship in the light of the government decision of July 20, 1958, that: "Anyone declaring in good faith that he is a Jew, and who does not profess any other religion, shall be registered as a Jew."³³

More recently, debate has centered on the status of non-Orthodox Jews. The uneasy compromise is that non-Orthodox converts from abroad are recognized as Jews with respect to the Law of Return but not for marriages; non-Orthodox conversions in Israel itself are not recognized.

The issue of exemption from military service has divided the Orthodox community. Those of Mizrahi orientation often take pride in their military service, particularly when this is combined, as the law allows, with yeshiva study. Many (by no means all) *Haredi* Jews claim exemption from military service, not on pacifist grounds but because they are afraid of "contamination" by secular Jews. After the status quo had been established, David Ben Gurion agreed, but without effecting explicit legislation, that students in the yeshivot would be exempt from military service. At the time, there were four hundred such students; now there are many tens of thousands, and for decades there has been a sense of outrage among secular Israelis that *Haredi* Jews are failing, as they see it, to carry out their share of responsibility for national defense and apparently despise those who risk their lives to defend them. In 1998, the Supreme Court ruled that there was no legal basis for the exemption.

Religious Parties, 1999

The religious political parties that sought election in the May, 1999, election fell into two groups, divided by their attitudes towards Zionism. The non-Zionist parties, often categorized as "ultra-Orthodox," or *haredi*, would like Israel to be a state run according to halakhah as defined by the Rabbinic authorities they recognize. They do not regard the present state of Israel as a fulfillment of biblical prophecy, and some refuse to recognize the legitimacy of a secular Jewish state altogether. The dominant parties are United Torah Judaism (Agudat

³³ See Bernard S. Jackson, "Brother Daniel: The Construction of Jewish Identity in the Israeli Supreme Court," in *International Journal for the Semiotics of Law* VI/17 (1993), pp. 115-146.

Israel and Degel Hatorah) and the predominantly Sephardic Shas party.

The National Religious Party unites the divisions of Mizrahi. It is strongly Zionist and endorses the principles of modern Jewish nationalism. Meimad is a moderate national-religious party that failed to win seats in the first election it contested, in 1992, but in 1999 obtained seats in the Knesset by agreeing to be part of the Labor list; it favors modification of the status quo, for instance to allow civil marriages.

This division of religious parties does not correspond exactly to their attitudes on the peace process. Shas has several doveish members, while the NRP includes hard-liners.

The "return to Zion," we see, continues to occupy a central role in Jewish religious thought. The meanings attached to the vocabulary of Jewish national restoration have traveled far in the past two hundred years. They have been influenced by the political philosophies of the modern Western world and put to the test by the reality of a Jewish state that has every appearance of being a normal political entity, subject to the same strains and stresses as any of "the nations round about." How does one reconcile normality with eschatology? How can the texts that promised a "new heaven and a new earth" (Is. 66:22) be read when earth continues inexorably upon its orbit? This is the problematic of religion and Zionism.

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THE REVOLUTIONARY CONSCIOUSNESS OF THE RELIGIOUS ZIONIST MOVEMENT SINCE 1902

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From the very inception of the movement in 1902, the thinkers of religious Zionism were inspired by a revolutionary spirit. This feeling was evidently well founded. For, we must emphasize, while the revolutionary motivation of *secular* Zionism is well known and has been documented and researched,¹ *religious* Zionism has not fared so well. This is despite the fact that the religious Zionist community was a partner in the Zionist revolution as a whole, and the degree and complexity of that community's revolutionary drive are even more impressive given the conservative, traditionalist background against which religious Zionism continued to exist.² With this in mind, in this paper I wish to set out the fundamentals of religious-Zionist revolutionism.

In light of the messianic and political idea in Judaism, the very appearance of a religious Zionist ideology was revolutionary: here, for the first time, human initiative took direct and surprisingly forceful action, explicitly rebelling against the passivity of the exiled Jewish people and refusing to await redemption by divine means. Another aspect of the revolutionary element was the desire to create a new religious type, a "redeemed person" who would respond to the demands posed by the need to construct a modern political entity and would reshape his or her religious faith in accordance with those demands. The entry into organized politics signaled by the founding

¹ See, e.g., Binyamin Harshav, "The Revival of Erez-Israel and the Modern Jewish Revolution: Reflections on the Current Situation," in N. Graetz, ed., *Nekudot Tazpit—Tarbut ve-Hevrah be-Erez-Yisra'el* (Tel-Aviv, 1988), pp. 10, 23 (in Hebrew). Thus the Hebrew translators of David Vital's classical trilogy on the history of Zionism chose the title *Ha-Mahpekhah ha-Zionit—The Zionist Revolution* (Tel-Aviv, 1978-1991), 3 vols.; Jacob Barnay, "On the Question of the Origin of Zionism," in Y. Weitz, ed., *Beyn Hazon le-Revizyah* (Jerusalem, 1998), p. 136 (in Hebrew).

² For an excellent summary of the revolutionary parallels between secular and religious Zionism see Joseph Gorni, "On Social *Namos* and National Interest—The Question of Religious-Secular Coexistence in the Zionist Movement," in Y. Gafni and G. Motzkin, eds., *Kehunnah u-Melukhah* (Jerusalem, 1987), pp. 269-270 (in Hebrew). Cf., Eliezer Schweid, *Likrat Tarbut Yehudit Modernit* (Tel-Aviv, 1995), pp. 258-274.

of the Mizrachi movement was a major landmark in the emergent revolutionism and its institutionalization.

Definition and Status

In regard to group self-definition, the religious Zionist rejected the exclusivity of the community cell as an expression of a religious (or rather, religiously observant) minority, sometimes well-organized but lacking national and sovereign features, subordinate to a non-Jewish majority ruled by foreign social and religious leaders;³ the religious Zionist aimed to replace this status with a national one, in which "nation" meant a politically and religiously independent entity with its own land, language, and other national characteristics. In other words, religious Zionism spurned the existing status and sought another: "We have resolved to create a new creation."⁴

One consequence of the desire to change status from community cell to nation was negation of *Galut*—the conception of the existence of the Jewish people in exile, uprooted from its homeland. Religious Zionism defined itself as "a movement built on the foundations of pure recognition of the concepts of Judaism and our historical spiritual values, free of any *Galut* influence."⁵ One of its foremost spiritual mentors likened *Galut* to "the burial place of our national body."⁶ For the religious-Zionist thinker, *Galut* was an anomalous episode, tantamount to denial of the nation's real identity, while the return to the national homeland and language was a "return to ourselves, to the

³ See Daniel J. Elazar, "The Community from Its Beginnings till the Threshold of the Modern Era" (Heb.), in D.J. Elazar, ed., *Kinship and Consent: The Jewish Political Tradition and Its Contemporary Uses* (Ramat-Gan, 1981), pp. 174-207.

⁴ Yeshayahu Aviad (Wolfsberg), *Iyyunim ba-Yahadut* (Jerusalem, 1955), p. 117. Aviad, a leader of religious Zionism in Germany, was speaking of the state as against *Galut* (see below).

⁵ Samuel Hayyim Landau ("Shahal"), one of the founders of "Ha-Poel ha-Mizrachi," the socialist sector of the Mizrachi movement), *Ketavim* (Warsaw, 1935), p. 27. See also the quotation in the name of Rabbi Isaac Nissenbaum, a Zionist preacher who joined the Mizrachi, in Joseph Tirosh, "Religious Zionism," in *Mizpeh (Hazofeh)* Yearbook for 1953, p. 39. On various aspects of the negation of *Galut* in religious Zionist thought, see at length E. Don Yehiya, "The Negation of *Galut* in Religious Zionism," in *Modern Judaism* 12 (1992), pp. 129-155.

⁶ Rabbi Zvi Yehudah Kook, Rabbi A.I. Kook's son and the spiritual mentor of Gush Emunim, in H.A. Schwartz, ed., *Ha-Torah ha-Go'elet* (Jerusalem, 1983), p. 80. Rabbi Eliezer Berkovits, an important religious-Zionist philosopher who officiated as rabbi in Sidney and Boston, pointed out that *Galut* is considered an abnormal condition even though the Jewish people have lived longer in exile than in the land of Israel; see his *Faith after the Holocaust* (New York, 1973), p. 120.

roots of our individuality;⁷ *Galut* was landlessness, while the national renaissance meant "life in the bosom of nature;"⁸ *Galut* erected a barrier between the sacred and the profane, between Torah and wisdom, while the national renaissance meant a return to unity and to total sanctity.⁹

Some thinkers of Zionism in general and of religious Zionism in particular emphasize the revival of the Jewish nation as a united people in contrast to the plethora of movements characteristic of the period of Emancipation.¹⁰ National status became a dogma, a basic principle underpinning Judaism,¹¹ while the negation of "*Galut* negativity"¹² became an unquestionable goal. In addition, the very founding of the Mizrahi as an independent faction in the Zionist organization marked a profound change, from a status of partnership and membership of observant individuals in organizations and movements (such as *Hibbat Zion*) to an institutionalized political involve-

⁷ Yeshayahu Bernstein (an ideologue of "Ha-Poel ha-Mizrachi"), *Ye'ud va-Derekh* (Tel-Aviv, 1956), p. 87. Elsewhere, Bernstein wrote that any spiritually and culturally rich nation jealously preserved its individuality and the special expressions of its identity, thus safeguarding its existence, its uniqueness and its ability to maintain its creativity (ibid., p. 101). Thus, *Galut* exposed the Jews to foreign influence and obscured its individuality.

⁸ Nehemiah Aminoah (an ideologue of "Ha-Poel ha-Mizrachi"), "Our Goals in the *Moshavei Ovdim*," in N. Aminoah and Y. Bernstein, eds., *Anthology of Articles on the Torah va-Avodah Concept* (Jerusalem, 1931), p. 105.

⁹ Rabbi Moshe Zvi Neriah, in the name of Rabbi Kook, published in Y. Avneri, ed., *Ha-Ve'edah ha-Shevi'it shel ha-Po'el ha-Mizrachi be-Erez-Israel* (1935) (Ramat-Gan, 1988), p. 64.

¹⁰ See Rabbi Judah Leib Hakohen Maimon (Fishman, leader of the Mizrahi for many years), *La-Sha'ah vela-Dor* (Jerusalem, 1965), p. 96. Cf., his statement: "Zionism, in its entirety and full extension, is not only a national movement, but it is national revival pure and simple, the revival of the Hebrew nation, of Hebrew emotion and language and the revival of the Land of the Hebrews. Zionism strives to develop and strengthen the life force of the Hebrew nation in fulfilling its material and spiritual needs, and its program embraces everything that is capable of revitalizing the Hebrew nation, endowing it with life on earth and eternal life, in all countries of the Diaspora and in its historical land..." (ibid., p. 97).

¹¹ For example: "It is surely a great and awesome principle of faith that we will return to the land of our fathers, for only there, as a free nation in its own land, shall we be able to evolve and become a wise, intelligent people, a kingdom of priests and holy nation.... It is clear, therefore, that whoever does not believe in the future of the Jewish people in its historical land divests the Torah of its meaning" So Rabbi Moshe Samuel Glasner, one of the first Hungarian rabbis to espouse Zionism, in "Zionism in the Light of Faith," in S. Federbush, ed., *Torah u-Melukhah* (Jerusalem, 1961), p. 67 (in Hebrew). See also Dov Schwartz, *Emanah al Parashat Derakhim* (Tel-Aviv, 1996), pp. 20, 271; idem, *Erez ha-Mammashut veba-Dimyon* (Tel-Aviv, 1997), pp. 31-33 and passim.

¹² The term was coined by Mosha Unna, *Bi-Shvilei ha-Mahashavah veba-Ma'aseh* (Tel-Aviv, 1955), p. 63. Unna was an ideologue of Ha-Poel ha-Mizrachi.

ment. This change is highly significant as far as the tradition of political thought in traditionalist Judaism is concerned. In addition, a good many people in the religious-Zionist camp were adherents of Marxist theory, which holds that the mere fact of organization is expressive of revolutionary consciousness.¹³ In this respect, the suffering, exploited Jew was seen as parallel to the proletariat, redeemed in an act of organization that highlighted his or her special status. Another aspect of the change in political status that religious Zionism brought to the traditionalist world was the very use of modern political terminology, indicative of future forms of government, at even a relatively early stage of the Mizrahi.¹⁴

In sum: religious Zionism's total negation of *Galut* status and its desire to modify the nation's self-definition were unmistakable expressions of revolt and revolutionism. The revolutionism implicit in the mere fact of political organization is particularly evident in light of a well-known quip of Nahum Goldmann, to the effect that the only Jewish statesman in thousands of years of exile was the Messiah.¹⁵

Messianic-Theological Significance

Religious Zionism lent legitimacy to human efforts that aimed to shape divine and cosmic events, such as redemption and the revival

¹³ Cf., Shlomo Avineri, *Mishnato ha-Hevratit veba-Medinit shel Karl Marx* (Tel-Aviv, 1976), pp. 144-146. Many young Jews, including Rabbi Kook's colleague and disciple Rabbi David Cohen (known as the "Nazirite"), were involved in revolutionary activity in Russia at the turn of the century.

¹⁴ See, for example, the following declaration of Rabbi Mordecai Nurock in A. Tartakover, et al., eds., *Zekher Mordekhai* (Jerusalem, 1967), p. 116: "We, who stand on the foundations of traditional Judaism, have the ambition to instruct and show everyone that 'Tradition and Freedom' are not two opposites, but a uniform whole, and that they can both be fulfilled: One can be a complete democrat in all the minutest details, a loyal lover of the broadest sectors of the nation, and at the same time be an observant Jew, devoted with all his heart and soul to the tradition of his ancestors, for whom his Torah and religion are part and parcel of himself. The foundations of the Torah are not only not opposed to the broad foundations of democracy, but these concepts are intertwined and interlinked as a flame is to the glowing coal." This declaration was first issued late in 1917, while the Bolshevik revolution was still in progress in Russia. Nurock even proposed establishing an educational system that would combine religious and secular studies.

¹⁵ The fascination implicit in the idea of political organization before the advent of the messiah may also be discerned in discussions of the status of the modern State of Israel relative to messianic fulfillment by Rabbi Shlomo Goren, formerly Chief Rabbi of Israel. See his *Torat ha-Medinah* (Jerusalem, 1996), pp. 18-27. Cf., Ella Belfer, *Malkhut Shamayim u-Medinat Yisra'el* (Ramat-Gan, 1991), pp. 58-71.

of Jewish nationality. Even more: cosmic events owed their inception, at least, to a human agent. Exclusively divine action was no longer the sole factor in shaping the fate of humankind and the world. What was revolutionary here was that a mortal, as it were, would take God's place in paving the road to redemption. Even the most apocalyptically minded thinkers, such as Rabbi Kook, his students, and his "grand-students," who defined the ultimate redemption as an eminently miraculous situation—particularly in regard to the imminent resurrection of the dead—had to admit that the process was initiated by human beings and was entrusted to human hands.

Religious Zionism was quite aware of the theological revolution implicit in the very fact that it saw itself as an active partner in the redemption—an awareness already evident in the writings of its founding father, Rabbi Isaac Jacob Reines. Rabbi Reines explicitly associated the *Hibbat Zion* movement with the imminent redemption, frequently expressing himself in typically messianic terms.¹⁶ God himself, as it were, was waiting for mortals to initiate the redemptive process, and only then would he intervene. "[T]he unexpected fruits of human endeavor reveal themselves as the mysterious manifestation of divine guidance."¹⁷ The implications for the ideas of the divine and of divine providence are fundamental and need not be discussed here.

At the same time, the land of Israel was brought down, as it were, from heaven to earth, no longer a divine, spiritual realm, but a temporal, concrete land. Although its divine dimension as the Holy Land was preserved, even enhanced and expanded, the once-hidden temporal dimension came to light. The nation's link with its homeland, once an abstract, disembodied yearning, could now focus on a real land.¹⁸ Two approaches developed with regard to this "descent" of the land from metaphysical heights to the practical world: some saw it as a shift from the divine interior to the divine exterior; while others believed that the land would also, as it were, drag God down with it, implying his presence in the very clods of its earth.¹⁹ In any case, the

¹⁶ See the discussion and quotations in Joseph Shapira, "Thought and Halakhah in the Philosophy of Rabbi Isaac Jacob Reines" (Dissertation, Hebrew University, Jerusalem, 1997), pp. 133-135 (in Hebrew).

¹⁷ Berkovits, *Faith after the Holocaust*, p. 156.

¹⁸ "This primeval right of the Jewish people to its land is not abstract, and its validity is not confined to the realm of its special spiritual qualities.... The Jewish people has possessed [the land of Israel] since the time of the Patriarchs as a legally valid acquisition and inheritance." So Rabbi Shlomo Goren, *Torat ha-Mo'adim* (Jerusalem, 1996), p. 642.

¹⁹ For an account of these two approaches, see my *Erez ha-Mammashut ve-ha-Dimyon*. (supra. n. 11)

abstract deity was thus tied to the terrestrial soil—a revolutionary theological step in the context of traditional thought.

Anthropological Significance

Religious Zionism wished to create what was almost a new anthropological model, the religious type of the messianic world.²⁰ The earliest supporters of religious Zionism clearly distinguished between the *Galut* person, egotistical, wrapped up in him/herself, and the new person, whose actions were conditioned by the needs of the community;²¹ between the religiosity of instinct and the religiosity of purposeful awareness;²² between a depression-like psychological state of fear and trembling and a state of mental health;²³ and between alienation

²⁰ There is a certain parallel here to the secular-Zionist myth of the “new Jew;” see Anita Shapira, *Yehudim Hadashim Yehudim Yeshanim* (Tel-Aviv, 1997), pp. 155-174.

²¹ “The *Galut* Jew cannot strive for anything but the selfish goal of his own good, and, as he is cut off from his land and never sure of his sustenance, his heart and mind are preoccupied with his profit and his own preference at the cost of others.” By contrast, “the awareness of the simple farmer, whose diligent tending of his land does not serve him and his family alone, but the entire nation, elevated and refined his Jewish awareness and his character to such a degree that he had to come to the study house only on Sabbaths and festivals.” So Glasner, “Zionism in the Light of Faith,” p. 72.

²² “In the situation of the nation in Exile, the instinct of the national will to exist ruled each and every individual Jew, impelling him to preserve the religion and respect faith in general—even though that particular individual had no clear consciousness of the value of Jewish religion and faith and the value of the sanctity of Israel—out of a hidden, instinctive feeling that any weakening of the link between religion and faith would nullify national emotions and might lead to disintegration of the entire nation. Whereas it was not possible for the clear awareness of the nation’s will to exist and its paths of renaissance to be actualized and be revealed in the nation as a whole..., now, insofar as the light of the national movement has arisen, out of will and awareness, on a practical basis, with the strong ambition to assemble in the Land of Israel and renew the primeval life of the people as of old, the time has come for the clear awareness of the nation as a whole to be revealed. And when the process is complete, great things will take place for the existence of the Divine Light, for the knowledge of the Lord that is unique to Israel, for faith and observance of the Torah, which constitutes the Jewish way of life much more than all the actions of natural, blind instinct.” So Rabbi Abraham Kook, *Ma’amrei ha-Ra’ayah* (Jerusalem, 1980), p. 30 (first published in 1911).

²³ “The sojourn in the darkness of the lands of Exile, subservience to the gentiles, determined to a unique degree the inner depression in the tents of Jacob, in the innermost parts of his soul and spirit... This spiritual and mental darkness and gloom hindered absorption of the sight of the light of dawn that was shining forth and rising, through the concealing mask of external and internal circumstances, while the Jewish spirit was awakening to reveal the force of its truth and the rebuilding of its perfect life” (Rabbi Zvi Yehudah Kook, *Li-Netivot Yisra’el*, I (Jerusalem, 1989), pp.

from general culture and involvement in it.²⁴ The religious Zionist could point to the practical, external achievements of Zionism: the metamorphosis of an entire nation, the waves of immigration to the land of Israel, the rebuilding and re-cultivation of the land, the pioneering spirit, the revival of Hebrew as a spoken language and the establishment of modern Hebrew education—all achievements that, while firmly rooted in the soil of history, constituted an ongoing process. But, as Dr. Aviad (Wolfsberg) observed, there was one phenomenon that was entirely internal: the creation of a new person, the liberated Jew—the resurrection of the individual within a liberated nation.²⁵

The new type of person could not be created unless the very state of *Galut* were shattered, so as to expose the new reality. To this day, the national renaissance in the land of Israel is understood as recovery from “the malady of *Galut*.”²⁶ Formally speaking, indeed, the goal was to retrieve the ancient past, a time when Israel was living an autonomous life upon its own land. But religious Zionist thinkers were well aware that the rebuilding of the nation demanded new cultural orientations, hence also suitable educational preparation, in order to shape and stabilize the new type.²⁷

136-137). “Just as fear belongs to Exile, and on the other hand courage is revealed in the era of redemption, so self-humbling before the gentiles was fitting for Exile...as against the straightening of our public stature that is now being revealed in our midst” (Rabbi Shlomo Aviner, a contemporary religious-Zionist rabbi, in *Am ke-Lavi* (Jerusalem, 1983), vol. II, pp. 184-185).

²⁴ “Divine Providence now demands of us (perhaps for the first time in Jewish history) that we face the foreign world proudly and bravely, with *kiphot* on our heads and Tractate *Yevamot* in our hands, and conquer it, thereby investing it too with sanctity.... Wherever we tread, be it laboratory or business premises, university campus or factory—that ground must be hallowed by the fact that when the Torah student enters, he takes the place over and does not allow the profane to envelop the holy” (Rabbi Joseph Dov Soloveichik, *Hamesh Derashot* (Jerusalem, 1974), pp. 98-99).

²⁵ Yeshayahu Aviad (Wolfsberg), *Yahadut ve-Hoveh* (Jerusalem, 1962), p. 30. Aviad went on to assert that Zionism had created “a new, interesting and fascinating type of person,” and to attribute the appearance of this multifaceted, flexible Jew to a combination of the tradition of Torah study, on the one hand, and the ability to survive in Exile, on the other (p. 67). On religious Zionism as a rebellion and revolution, see further pp. 110-111.

²⁶ Quoting Rabbi Jacob Dushinsky, a religious-Zionist preacher who spent his last years in South Africa; see his *Be-Ikvei Haggim u-Mo'adam* (New York, 1982), p. 152.

²⁷ See my *Emunah al Parashat Derakhim*, pp. 176-189.

Revolt against Rabbinical Authority

By taking the messianic initiative into their hands, the proponents of religious Zionism necessarily brought the movement into conflict with the rabbinical leadership. As a rule, with few individual exceptions, it seems clear that religious Zionism did not deliberately or willingly rebel against rabbinical authority; the revolt grew out of a given situation, in which most of the leaders of the Torah world were opposed to the Zionist movement and rejected it out of hand. The Mizrahi leaders were well aware that their efforts for the homeland required them to abandon their religious mentors.²⁸ They knew that Zionist action involved activism of a pioneering and political stamp that was foreign to the existing Torah world, a type of activity for which the traditional yeshiva student was not well suited.²⁹ This was a notable expression of the revolutionary element in religious Zionism. Through various conflicts and arguments, such as the controversy over women's right to vote, which began toward the end of the 1910s, representatives of the Mizrahi in Palestine and in the diaspora gradually arrived at a position that limited the authority of the rabbis. Such questions, they argued, were cultural rather than religious;³⁰ or, as one Mizrahi leader put it in particularly blunt terms: "In matters of *issur ve-hetter* [= "purely" religious matters]...we consult the rabbis, but in matters of life in the marketplace they must ask us."³¹ Another case was the controversy over "partition" (1937), when certain rabbis insisted that political questions such as the partition of Palestine were not halakhic issues.³² This view is in sharp contrast to the idea of *Daat Torah*—"Torah opinion"—current today in the *haredi* community.

The rebellion went so far as to challenge Hasidic leadership, rejecting the authority of the *admorim*. In areas formerly under the ex-

²⁸ As stated, for example, by Rabbi Meir Bar-Ilan (Berlin), the most prominent leader of the Mizrahi for many years, at the Seventh Conference of Ha-Po'el ha-Mizrachi in the Land of Israel (1935); see *Ha-Ve'edah ha-Shevi'it*, p. 32.

²⁹ Rabbi David Zvi Katzburg, cited in I.Z. Zehavi, *Meha-Hatam Sofer ve-ad Herzl* (Jerusalem, 1966), p. 336.

³⁰ Simon Menahem Lazer, in G. Kressel, ed., *Al ha-Mizpeh* (Jerusalem, 1969), p. 174.

³¹ Rabbi Judah Leib Maimon (Fishman), speaking concerning women's right to vote; see Menahem Friedman, *Hevrah va-Dat—Ha-Ortodoksiyah ha-Lo-Zionit be-Erez Yisra'el 5678-5697* (Jerusalem, 1978), p. 166.

³² This was the view of Rabbi Reuben Margalio; see Itamar Warhaftig, "Rabbis' Positions in the Controversy of the Partition of Palestine (1937)," in *Tehumin* 9 (1988), p. 276 (in Hebrew). See also S. Dotan, *Pulemus ha-Halukkah bi-Tekufat ha-Mandat* (Jerusalem, 1980), p. 182. On the term "*Daat Torah*," see G. Bakon, "Torah Opinion and Pangs of the Messiah," in *Tarbiz* 52 (1983), pp. 497-508 (in Hebrew).

clusive sway of Hasidism, religious Zionists arose and issued a call "to release the followers and students of the Torah from the chains and yoke of *admorut*; this *admorut*, now empty both of its original content and of its early nature, which has been so bold as to prohibit the land of Israel and the Hebrew tongue; this *admorut*, so remote from worldly life and the life and desires of the nation, which is nothing but an instrument of wrath wielded by a few unknown and irresponsible persons."³³ Even opponents of this view, believing that they could continue devoutly to follow the Hasidic leaders, while relying in political matters on Sokolow, Weizmann and others, admitted quite freely at the same time that the *admorim* were ignorant of politics.³⁴

Many prominent religious-Zionist thinkers worked hard to conceal the revolt against rabbinical authority; as against these, however, many leaders of the Mizrachi, particularly of various factions in the *Torah va-Avodah* movement, were emphatic concerning their rejection of total rabbinical authority. They refused to accept the idea that the rabbinate should be obeyed blindly.³⁵ In many periods, indifference to rabbinical leadership was a fact of life. Professor Menahem Zvi Kadari, a leader of Hungarian *Bnei Akiva* in 1943-1946 and later Rector of Bar-Ilan University, surveying attitudes at the time, writes: "It did not occur to anyone that rabbis were needed at the head of a political movement. There was nothing wrong if a member had achieved the rabbinical level in his studies: he could continue his activities in the leadership as well. But it would not have been proper to bring rabbis in from the outside to serve in the key positions in the movement."³⁶ It is worth noting that many had given up the hope that the Chief Rabbinate heralded the reinstatement of the Sanhedrin.

³³ Rabbi Judah Leib Zlotnik (Avida), a Mizrachi rabbi in Poland, cited in A. Rubinstein, *Tenu'ah be-Idan shel Temurah* (Ramat-Gan, 1981), p. 158. Zlotnik bewailed the fact that "the ritual of *admorut*" still existed in Mizrachi circles and was worried that certain people "might transfer this ritual to the Land of Israel too." He went on to say: "Surely no-one would dare suspect these *admorim* of hardening their hearts, of cruelty, but we see here people who are remote from life, for whom the matters of the people are foreign and strange, and who are not awake to the sorrow of the nation. For the time has come to explain to all ranks of *haredim* that these people, for all their greatness in Torah and observance, cannot direct the nation in its way of life and lead it to its renaissance" (p. 164). Zlotnik's blunt appeal attracted others, such as A. Gruenwald (Oputashno); see p. 197.

³⁴ Rabbi Katriel Fishel Tchursh (a member of the Council of the Chief Rabbinate), *ibid.*, p. 167.

³⁵ Zuriel Admanit (a central idologue of the religious Kibbutz movement), in Y. Asher, ed., *Be-Tokh Ha-Zerem ve-Negdo* (Tel-Aviv, 1977), p. 352.

³⁶ Menahem Zvi Kadari, "The Ideology of the Bnei Akiva Youth Movement in Hungary against the Background of the Main Events of its History" (in Hebrew; forthcoming).

Despite such differences of reaction from group to group and from place to place, it seems clear that this revolutionary aspect was the practical result of the three previous aspects. In recent years, the position of religious Zionism *vis-à-vis* rabbinical authority has weakened, and many of its leaders have come to accept rabbinical discipline and to advocate obedience to rabbinical opinion.³⁷ In addition, rabbis have penetrated leadership positions. This process is the outcome of a variety of factors, which require an inter-disciplinary investigation in themselves.

Conclusion

It is readily understood that these four aspects of revolutionism reveal basic characteristics of a revolution. One basic characteristic of revolutionism is the totality of social change.³⁸ This element, which can be traced in the major revolutions of both east and west, is also relatively valid for a national revolution, such as Zionism in general and religious Zionism in particular. The most cautious formulations of the founding fathers of religious Zionism at the end of the nineteenth and the beginning of the twentieth centuries reveal an uncompromising readiness to adopt the total change in social and religious order implied by Zionist action. The desire for change and rebellion became manifest in various areas, as mentioned above. It is therefore clear that religious Zionism developed a strongly revolutionary consciousness, a fact that runs counter to the movement's exclusion from the power centers of the Yishuv and of the young State of Israel. This situation changed after the Six-Day War, and the newly emerging circumstances promoted practical expression of the revolutionary aspect—a development that needs further research.

³⁷ Nevertheless, witness the recent decision of the Central Committee of the National Religious Party not to leave the Israeli government over the decision to implement the Wye Plantation agreement, despite the call of some rabbis, generally considered the party's spiritual leaders, to do so.

³⁸ See S.N. Eisenstadt, *Revolution and the Transformation of Societies* (New York, 1978).

REVIEWS

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Donald Harman Akenson, *Surpassing Wonder. The Invention of the Bible and the Talmuds*. New York, San Diego, and London: Harcourt Brace & Co. 658 pp., \$35.

No one before has ever tried to tell as a single, unfolding narrative the story of the formation of the Scripture of ancient Israel, the diverse Judaisms of Second Temple times, the formation of Christianity, and the development of Rabbinic Judaism. In this vast, remarkable and ambitious work, written with rollicking good humor and grace, a historian whose prior credits focus upon Irish history, Donald Harman Akenson has done just that. He lays matters out in four parts, “inventing the covenant,” which deals with the return to Zion and the formation of the Hebrew Scriptures from Genesis to Kings; “inventive fecundity and Judahist multiplicity: the later Second Temple Era;” “the invention of Christianity;” and “the invention of the Jewish faith.” While in each case he conducts a vigorous dialogue with the literary evidence, he has composed much more than a history of the diverse documents of ancient Judaisms in their unfolding. This is narrative history in the grand style.

What makes Akenson’s book unique is the fourth section, on Rabbinic Judaism, because the prior histories—and they are many—stop with 135 C.E., that is, the conventional date for the end of the Jewish chapter of Christianity. Without that section, “the invention of the Jewish faith,” moreover, Akenson cannot have accomplished his goal, which he explicitly states at the end. He “is willing to deal with the Tanakh, the ‘New Testament,’ and the Rabbinic literature with an open mind and a desire to learn.” He aims “to encourage a form of Jewish-Christian ecumenism,” by which he means, specifically, to bring “present-day Christians and Jews into a more intelligent and more sympathetic relationship with each other:”

This will not occur...by minimizing the differences between the two sister-faiths. Instead, one simple set of parallel cognitions must be encouraged: the recognition that Christians will not understand their own faith until they are at least modestly familiar with the basic texts that form the modern Jewish faith, not just the Tanakh, but the great Rabbinic texts and especially the massive, glorious Bavli; similarly, adherents of modern Judaism should recognize that they cannot understand their own faith unless they are conversant with the Christian scriptures....

That is why Akenson presents the primary texts of Rabbinic Judaism, Christianity, and “the ancient Yahweh-faith,” with texts as the focus in all three cases, because “it would be false to distinguish between

the invention of each of their sacred texts and the invention of their specific religions." Akenson sees discontinuities between Scripture and the Rabbinic texts, so too, between Scripture and the Christian ones: "each went through massive disorientation in the post-70 CE years, and each was such a radical re-invention of older ideas that neither one can legitimately share a single label with its ancient predecessor." But while distinct, "the texts of the three faiths intertwine with each other. Sometimes this interweaving is direct and obvious, at other times, complex and convoluted." Akenson holds that what they have in common is "a common bank of reflexes in dealing with the catastrophes of 70 CE." The author of *Genesis-Kings*, after the first destruction, set the pattern: [1] "the details of the now-dust Temple are set down...; [2] the author-editor of *Genesis-Kings* does not permit himself to be trapped in the belief that the physical manifestation of the Almighty was the sole and complete meaning of the Temple; [3] in responding to the crisis engendered by the Temple's destruction, the author-editor of *Genesis-Kings* brought together for the first time the previously-disparate portions of the great narrative theodicy...we call Scriptures." Then comes Akenson's principal thesis: "The Jewish religion and the Christian each reacted in exactly the way one would have predicted, given a knowledge of the earlier pattern of response to the destruction of Solomon's Temple. Separately, but in a strikingly parallel fashion, the leaders of the Jesus-faith and of embryonic Rabbinic Judaism re-invented the religion of the Temple, but without a physical Temple being required. The faithful did not re-establish a Temple on this earth, but in their hearts, in the heavens, and in each home."

This account of Akenson's generative thesis hardly does justice to the complexity of his execution of the shank of the book, which is massively detailed and shows broad and deep reading of both sources and contemporary scholarship. Experts in the four fields he here brings together, Tanakh-studies, Second Temple sectarian writings, the Gospels, and the Mishnah-Tosefta-Yerushalmi-Bavli and Midrash-compilations, will have to form their own judgments on the details of his presentation. My sense is, where scholarship is strong and well-articulated, Akenson stands on solid foundations, and his reflections prove dense and engaging. Where scholarship is elementary and even primitive, there the work loses its vitality and trails off into episodic observations. Certainly the first and third sections show Akenson at his most certain, the treatment of earliest Christianity being imaginative and stimulating, not just a reprise of familiar exercises on the historical Jesus. The work is original and demands attention in its own right with his observation:

The Christian scriptures are an impressively coherent, wondrously successful entity, because the "New Testament" honors the ancient Hebrew grammar of religious invention, and does so at three levels, each of which is best approached by its own metaphor. Specifically, at the level of macro-structure...the "New Testament" canon was organized like a successful piece of architecture. Second the "New Testament" achieved another level of unity between the various books through the "interdigitation" of motifs, symbols and icons. And third, at a verse-by-verse level, the author-editors of the "New Testament" achieved yet another form of unity, by shaping their individual phrases so that they resonated with those of the Hebrew scriptures....

Equivalently magisterial writing characterizes Akenson's treatment of the earlier phases of Second Temple Judaism, when the Tanakh was taking shape. By contrast, his discussion of the later Second Temple times, especially of the apocalyptic writings, loses coherence just as the sources do, and the evidence of the Dead Sea scrolls does not yield a clear and cogent account at all. Here Akenson's powerful mastery of narrative rhetoric ("Inventive fecundity and Judahist multiplicity: the later Second Temple Era," yielding "Siloam's Teeming Pool") does not fully mask the incoherence of the sources and the failure of scholarship to come to grips with them in a massive, field-theory. That is work left for another generation to undertake. As to Akenson's treatment of Rabbinic Judaism, most of it comes directly from my work, though Akenson is much stronger on the description of the documents than on the analysis of the religion, Rabbinic Judaism, that those documents adumbrate. A great part of the presentation of "the hermetic, perfect Mishnah," "taming the Mishnah: tractate Aboth, the Tosefta, Sifra, and the Yerushalmi," and "the bounteous Bavli and the invention of the dual Torah," recapitulates my work and its implications. I found it quite coherent.

The real question raised by Akenson's undertaking is, does he accomplish his goal, that is, do we emerge with a picture of "parallel histories"? Others have toyed with the same motif, most recently Hershel Shanks. While Shanks and the dozen scholars he assembled announce and then ignore the problem they promise to work out, viz., how Judaism and Christianity run along parallel lines (Shanks's project really ignores Judaism as a religion altogether!), Akenson has tried both to narrate the story of the literature and the history that it yields and also to demonstrate the proposition he has taken for himself. And yet if we ask ourselves whether he has shown that Rabbinic Judaism and the Christianity portrayed by the New Testament really do what Akenson says they do, which is, "re-invent the religion of the Temple"—his unifying conception of "parallel histories"—we must respond, for the moment, with the verdict "not proved." I do not

think Akenson has shown that the texts intertwine; I think he has shown the opposite. I doubt that Akenson has established that the destruction of the Temple forms for both religions a starting point, only an important motif. We cannot characterize New Testament Christianity as focused upon issues of 70, and while, for Rabbinic Judaism, the destruction asked the generative question, it did not dictate the character of the final answer, only details thereof. I am not inclined to concur, therefore, that Rabbinic Judaism and Christianity of the formative age run along parallel lines; indeed, my colleague Bruce D. Chilton and I have argued just the opposite, in great detail showing that the histories of the two religions run along intersecting, not parallel lines, our key-language being "trading places," and that for essentially this-worldly and political reasons. Akenson has allowed a massive dose of good will and ecumenical affection to shape a study that, in its own terms, requires the sources to yield a picture that, in my view, they cannot be made to sustain.

But for all of the good will that animates this loving and pro-Judaic book, Akenson's account of "parallel histories" pays remarkably little attention to the single most powerful testimony against seeing Christianity and Judaism as somehow co-equal continuators of the religion and Scriptures of ancient Israel. The Rabbinic sages cherished every jot and tittle of the Torah and staked their entire claim to truth upon their capacity to build from the Scriptures of ancient Israel to the Oral Torah as they recorded it. By contrast, Christianity retrojected backward its own fabrications, not even pretending to take seriously, in its own terms, the claim of Sinai. As a matter of fact, Christianity in its formative history rejected its patrimony in, and as, "Israel." Despite the numerous points of continuity that attract attention, the New Testament is an anti-Semitic book, the source of a more formidable contribution than any other piece of writing in all of Western civilization to hatred of the Jews and contempt for Judaism. That anti-Semitism, moreover, is not episodic but endemic, marking not only Paul's dismissal of "the Law" (a.k.a., the Torah), but also Jesus's violent condemnation of the Pharisees in Matthew and Mark, and John's even more hate-filled caricature of "the Jews." Akenson points to the figure of Mary as somehow representing a break with the past. But the very essence of the New Testament embodies poisonous hatred of "Israel after the flesh," "the Jews," "the Torah," not to mention the dismissal of "Judaism," and all the rest. How, out of all this, we are supposed to fabricate "parallel histories" I cannot explain and Akenson does not address.

But we should not miss the true excellence of this remarkable work. It is a work that uses the results of scholarship in the investiga-

tion of issues of general sensibility and culture. Akenson is a historian, meaning, a reflective and learned intellectual engaged by the story of the past. He has brought his historical faculties to bear upon diverse and unconnected problems, the history of Ireland for example, and still has written sixteen non-fiction books and five novels. So what we have here is the result of profound learning on the part of a writer and an intellectual who also is a scholar. The study of the history of Judaism in ancient times in dialogue with the history of Christianity in that same period has rarely attracted the systematic reading of a first-class intellectual and writer, such as Akenson certainly is. The result is engaging, witty, insightful, and well worth the sustained and coherent reading that the writer demands for himself.

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Bezalel Bar-Kochva, *Pseudo-Hecataeus "On the Jews:" Legitimizing the Jewish Diaspora*. Number XXVI in the series, HELLENISTIC CULTURE AND SOCIETY, ed. by Anthony W. Bulloch, Erich S. Gruen, A.A. Long, and Andrew F. Stewart. Berkeley, University of California Press. 396 pp.

What a joy it is to read great scholarship! Bezalel Bar-Kochva, Tel Aviv University, here writes the definitive work on an important historical problem concerning the Jews in ancient times. He takes up the essay, "On the Jews," cited by Josephus in his defense of Jewry against Apion, the essay deriving from an Egyptian Jew of Ptolemaic times. But Bar-Kochva's reading of the issue proves acutely contemporary, for he sees the author's purpose as "to legitimize and justify Jewish residence in Egypt." The unknown author writes for Jews on Jewish issues, even though the book is (falsely) attributed to a gentile writer, Hecataeus of Abdera. Here we have the critical edition and translation of the text, and balanced, reasoned discussions of these subjects: "the question of authenticity," "date of composition," "the author: origin, education, and religious group," "the framework: literary genre, structure, and contents;" and "the purpose of the book." Nothing is left out, the scholarly tradition is carefully examined and evaluated, and Bar-Kochva has said the last word on the subject.

Bar-Kochva compellingly argues that "On the Jews" was written "to justify residence in the Diaspora during the time of Jewish independence by pointing to the political support provided by Diaspora Jews to the Jewish state." Attributed to a Greek author, it forms an apologia for the Jews in Egypt: "Egyptian Jews occupied key positions in the Ptolemaic administration and army. More than once Jewish officials exerted their influence in favor of Jews in the Holy Land." The essay is dated in this language: "Is it too bold to suggest that the unique justification of Jewish residence in Egypt provided in the treatise was invented under the strong influence of the background to Cleopatra's treaty with Alexander Jannaeus and her withdrawal from the Holy Land?" In that case, the date of 107 B.C.E. is plausible.

The author has a "profound knowledge of Jewish tradition, particularly of the cult in the Jerusalem Temple, but his Hellenistic education is incomplete: his Greek is a mixture of different styles; he evidently did not have any philosophical education; there are no traces of allegorical, moral, or philosophical interpretations of Jewish traditions; the author was probably brought up with the Hebrew Bible and went on to use it in religious services, to the exclusion of

Septuagint versions; the author resides in Egypt, but his heart is given to the Holy Land, demonstrating constant interest in current events there as well as loyalty and reverence for the Jerusalem Temple."

The reason Jews should remain in Hellenistic Egypt, "On the Jews" maintains, "was to create there a great concentration of Jews occupying key positions in the army, court, and economic life; local Jews would be able to exert their influence on the Ptolemaic authorities on behalf of the Jews in the Holy Land." If this account of matters sounds suspiciously contemporary, Bar-Kochva makes the case with elegance, a brilliant work, a tour de force.

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BARD COLLEGE

Susannah Heschel, *Abraham Geiger and the Jewish Jesus*. Chicago, 1998: University of Chicago Press. Chicago Studies in the History of Judaism, edited by William Scott Green. 337 pp.

Abraham Geiger stands out as the most interesting and original mind in critical scholarship on Judaism in the nineteenth century and a principal theologian of Reform Judaism. That is how he is represented in the definitive biography, Max Wiener, *Abraham Geiger and Liberal Judaism* (1962), from its publication the standard work in English on its subject—and in the aftermath of this gussied up dissertation, still—alas!—the standard work.

Here, in this much overcooked dissertation, masquerading as culture-philosophy in a garment of dreary, sectarian jargon, we are asked to read Geiger not as a Reform theologian but as a post-modernist avatar:

Geiger's work represents a revolt of the colonized, bringing the tools of historiography to bear against Christianity's intellectual hegemony.... Intellectually, that hegemony began to end when the *Wissenschaft des Judenthums* [scholarship on Judaism] started writing the history of Christianity as a branch of Jewish history.... The *Wissenschaft des Judenthums*...is one of the earliest examples of postcolonialist writing.... Postcolonial theory's recognition that minority literature is characterized by counterdiscursive practices helps to illumine Geiger's work, inasmuch as the logic of his historical arguments represented an inversion of accepted European self-understanding. Geiger's counterhistory constituted a transvaluation of Christian arguments against Judaism and functioned as a passionate defense of Judaism (p. 3).

Geiger represented the Pharisees, whom Christian scholarship portrayed in violently hostile terms, as the Reform Jews of their day: "liberal democratizers of Judaism.... Modern liberal Protestants who seek the faith of Jesus...can find it in Reform Judaism." Here Heschel finds "a form of counterhistory:" "Counterhistory is a form of polemic in which the sources of the adversary are exploited" and turned against the oppressor: "Geiger sought to defend Judaism by writing a counterhistory of Christian counterhistory:

That is, he did not simply offer a straightforward rendition of the history of Jesus and Judaism but presented Jewish history in the context of his own, original counterhistory of Christianity (p. 14).

Heschel further calls on "gender theory" to clarify "some of the hidden motivations" for Jewish theologians' intense interest in the origins of Christianity:

The position of Jews entering the world of Christian theology is not unlike the position of women novelists entering the nineteenth-century literary world...women were required to "kill the angel in the house," the aesthetic ideal of the female promoted in male literature, before they could generate their own literature. Similarly, Jewish theologians initiated an effort to destroy the image of Judaism within Christian theology as part of their project of self-definition (p. 18).

Predictably, Heschel ends her post-modernist theory of Geiger with attention to Edward Said's *Orientalism*, where she finds nothing new: "The intimacy between knowledge and power may be better known to Jewish historians than anyone else."

This heavy dose of the regnant academic ideology, taken at the start, finds a match at the end, the story having been told, in a regurgitation of the same ideology. For Jews [Geiger] was "the ultimate overthrow of Christian hegemony. The extraordinary embrace of Geiger's position by modern Jewish thinkers is indicative of their deep satisfaction with their argument." There follows a survey of twentieth century response to Geiger's position that Jesus was a Jew and a Pharisee. Here Heschel passes her opinion on a great many issues she has not, herself, investigated, concluding with what must be simply the weirdest discussion of the historical Jesus of recent times. For the bizarre characterization Heschel fabricates, Jesus as a kind of "cross-dresser;" only her own words suffice to convey the full fatuity of her interpretation of Geiger's oeuvre:

The dispute over Jesus' religious identify that was set into motion by Geiger's identification of him as a Pharisee has never been resolved. Jews dress him as a Jew, Christians dress him as a Christian.... The theological situation lends itself to useful interpretation by means of poststructuralist critical theory. Read in postmodern categories, as cross-dressed, Jesus is at once both a signifier and that which signifies the undecidability of signification, pointing toward himself but also toward the place where he is not.... The literary theorists...have argued that "transvestism" is a category which reconfigures the relationship between male and female and places in question binary gender identities previously viewed as stable and known. For Judaism and Christianity Jesus functions as a kind of literary theological transvestite (p. 239).

Readers are asked to stipulate that I have copied her exact words and have not manufactured a malicious parody of post-modernism or grossly caricatured Heschel's take on Geiger. She writes with a permanently-straight face.

So much for the beginning and the end. But these are tacked on, fore and aft, and do not ruin the shank of the book at all. The dissertation-part of the book is written in workmanlike, professional prose and in no way invokes the phony "interpretative framework"

promised at the beginning and invoked at the end. Mercifully, Heschel, once she tells her story of Geiger, forgets where she started, and at the end does not even pretend to refer to the nub of her narrative either. With rare lapses into post-modernist gibberish, what we find in the middle of the book, rather, are a series of professional, well-researched chapters on the life and work of Geiger, the raw material of a good, if tedious dissertation. Take away the gibberish and what is left is this systematic program of biography: the creation of a historical theology (early life and education), Judaism, Christianity, and Islam: prelude of revisionist configurations; reconceiving early Judaism; D.F. Strauss, the Tübingen School, and Albrecht Ritschl; the Jewish Jesus and the Protestant flight from the historical Jesus; from Jesus to Christianity: Geiger on the post-apostolic era; the reception of Geiger's work. All this is fairly standard and unexceptionable, if also unexceptional. The author shows herself industrious and competent, though whether she has improved on Wiener's prior biography is a judgment that only specialists in nineteenth century intellectual history of Reform Judaism can make.

Jacob Neusner
BARD COLLEGE

Menachem Kellner, *Must a Jew Believe Anything?* Littman Library of Jewish Civilization. 1999. viii+182 pp. \$19.95.

In this rather simple-minded polemic, where issues are obscured and entire periods in the history of Judaism misconstrued, Kellner argues for a pluralist and latitudinarian position on theological dogma in Orthodox Judaism and against the Orthodoxy that insists “that God revealed the (one, uniquely true, immutable) Torah to Moses at Sinai.” Describing himself as “a believing, Torah-observant Jew,” he insists that viewing Orthodoxy “not as a way of life but as a way of structuring our thinking about other Jews” is a very particular and idiosyncratic position, not the norm that people take it to be. Specifically, he argues that that is the position of Maimonides, whose “dogmatic Orthodoxy” Kellner wishes to marginalize and delegitimize. Here is how he summarizes his views:

Maimonides was right in rejecting the essentialist view of the Jewish people, but wrong in replacing it with a definition of the Jew as a person who adheres to a strictly defined set of dogmas.

Rather, Kellner distinguishes faith as trust in God expressed in concrete behavior as against faith as primarily the acknowledgement of the truth of certain faith-claims. He regards Maimonides position, favoring the latter view, as “a new element,” which defined Jews “first and foremost by their beliefs:”

This is the tendency to define Jewish “legitimacy” in terms of the acceptance of certain abstract theological claims, which in turn involves the application of categories such as heresy and sectarianism to individuals and institutions.... This book has a clear polemical intent...the application of theological tests of Jewish legitimacy...reflects only one particular vision of Judaism, a vision first found in the writings of Maimonides.

Readers who form the impression that this is a book about Maimonides, err—but not by much. The strong part of the book is the Maimonidean exposition; that is Kellner’s field, and he persuasively presents himself as a principal interpreter of Maimonides today. But to write a book on “Judaism” and not just Maimonides, Kellner had to cover a broad range of subjects. And here the book is uneven, and the polemic gains shrillness as Kellner ventures into fields he has not made his own.

Kellner’s position on the face of it is absurd. After all, Moses and the prophets insisted that there is only one God, made known at Sinai, who is just, merciful, and omnipotent, creator of heaven and

earth. The Israel to whom they revealed this God's Torah was expected not only to do his will but also to accept his dominion. The proclamation of God's unity, *Shema Yisrael*, surely represents exactly that theological "test" that Kellner insists begins with Maimonides. The rabbis of the Mishnah, Midrash, and Talmuds read out of their "Israel" those who rejected the divine authority of the Torah, its origin with God. A vast corpus of Halakhah or normative law rests on explicit convictions encompassing an entire range of theological dogmas, and these represent faith not only in God, but that God bears specific expectations as to right attitude as much as right action: "You shall love your neighbor as yourself" represents only one of these. Not only so, but if Kellner followed scholarship on Rabbinic Judaism, rather than just citing a few conventional, and now-outdated, standard reference works, he would have found it necessary to engage with arguments concerning normative convictions of Rabbinic Judaism, its structure and system, of which, in these pages, he is simply oblivious. He is so preoccupied with his own proposition that he pays no attention to systematic works of scholarship that disprove it.

Invoking Buber's "two types of faith," Kellner starts with an exposition of two types of faith: faith, belief, and trust; *emunah* (reliance, trust) in the Torah; theology and the Torah; classical Judaism and the absence of dogma. He proceeds to "rabbinic thought:" testing for required beliefs; an objection from M. San. 10:1; a defense of dogma; heretics and sectarians, a theology of action. Then he turns to the issues of systematic theology and medieval philosophy and theology in particular: "why Judaism acquired a systematic theology:" behavior and belief, extrinsic reasons for the lack of systematic theology in Judaism, why systematic theology developed among the Jews, the importation of theology. Then in the shank of the book come two long and detailed chapters on Maimonides: "dogma without dogmatism" and "Maimonides: impact, implications, challenges." These recapitulate for the present polemic scholarship he has published elsewhere. He proceeds to two chapters of constructive theology, first a chapter on "heresy-hunting:" orthodoxy and heresy; theology and halakhah: a category mistake; three contemporary Orthodox statements; why has Maimonides' position become dominant? The final chapter, on the social policy of contemporary Orthodox Judaism, is "how to live with other Jews:" asking the right question, so who or what is a Jew anyway, non-Orthodox Jews and Judaisms, Maimonides and the objectivity of truth. Clearly, the book is disproportionate and unbalanced, merely cobbled together out of diverse and incoherent essays. It simply is not a systematic and coherent, well-argued demonstration, with a beginning, middle, and end.

Here he argues historicistically, trying to prove not from theological logic but from mere fact that innovation is less legitimate than tradition. That is the premise of his argument that Maimonides innovated, with the clear implication, therefore erred. The measure of the work therefore depends then upon his demonstration that Maimonides breaks the supposedly-inchoate, latitudinarian position of the Mishnah-Talmud-Midrash. Here, alas, I regret to state that Kellner's treatment of "rabbinic thought" is simply uninformed, casual, and impressionistic. Demonstrating his ignorance of the matter, he repeats hoary canards, lacking all foundation in sources and contradicted by scholarship, about the unsystematic character of Rabbinic thought: "systematic thinking and formulation were foreign to the rabbis who constructed this literature." To represent the rabbis of the Mishnah and Talmuds as unsystematic, one has to ignore all of the marks of system, order, purpose, focus, and cogency that characterize Rabbinic writings. These have been systematically expounded in works Kellner does not know and does not even include in his (wildly-padded) bibliography.

Kellner's entire claim that Maimonides innovates in identifying matters of faith that define Judaism rests on his own astonishing ignorance of the modes of thought and the now-fully-demonstrated theological structure and system of the rabbis of the Mishnah, Midrash, and Talmuds. He simply does not know what these are, how they work, why in philosophical and theological terms they form a structure and system of remarkable cogency and sustained authority, and why, therefore, Maimonides understood, and Kellner himself does not understand, the imperatives of Judaism. That explains why Kellner's is not a reliable answer to the stated question.

Jacob Neusner
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Lee I. Levine, *Judaism and Hellenism in Antiquity. Conflict or Confluence?* Seattle & London, 1998: University of Washington Press. The Samuel and Althea Stroum Lectures in Jewish Studies. 227 pp.

We know that a scholarly field has run its course when research settles no questions and people have lost sight of what is at stake in learning. In these well-crafted and reasonably intelligent lectures, Lee I. Levine, Hebrew University archaeologist and historian, works through a received program of academic study with results so bland and indeterminate as to condemn as simply hopeless the entire range of questions that he raises. They prove unanswerable and probably irrelevant to the important questions of history, theology, and culture of Judaism that are waiting to be investigated.

Levine takes up the hoary question of how “Hellenism” and “Judaism”—categories so gross and imprecise as to lose all specific character—related: “the impact of Hellenism on Jewish society,” dealing with the dichotomy between “universalism” and “particularism,” “adaptation” and “accommodation,” “the degree of Hellenization,” “Jewish receptivity to foreign influences,” and other category-formations of learning that presuppose a vast interpretative structure. Levine’s basic view is stated as follows (pp. 182-183):

...in each and every case studied, we have taken pains to note the ability of the Jews to absorb and internalize such influences without compromising their unique tradition. Fortified by an ideology that accorded them a special status in the eyes of God...the Jews were often able to both appreciate and cultivate their inherited tradition while incorporating the ideas, institutions, and patterns of behavior of others as well. The dynamics involved in this interaction were diverse: selectivity, adoption, adaptation, and at times, outright rejection....

At any specific stage in its history, Jewish civilization may be viewed as an array of traditions and institutions, many of which had been forged through contact with non-Jewish cultures whose influence had become part and parcel of the Jewish enterprise.

Given these concluding observations, readers may expect a work of cultural analysis and considerable theoretical precision, defining terms and specifying the criteria by which we are supposed to know this from that. But the shank of the book that ends with these remarks does not lead us to them. In context, they are stupefyingly bland.

In the principal part, Levine covers three main topics, case-studies of whether Judaism and Hellenism came into conflict or into confluence. After a bibliographical essay on “Hellenism and the Jewish

world of antiquity," striking for its puzzling omission of entire bodies of learning that pertain to his subject but that Jerusalem evidently chooses to ignore, Levine turns to Second Temple Jerusalem, Rabbinic Judaism in its Roman-Byzantine orbit, and the ancient synagogue, the first a mainly archaeological chapter, the second principally devoted to written evidence, and the third a mixture of the two.

The first of the three principal expositions reviews Jerusalem before the encounter with Hellenism, and here Levine shows what he does well, which is, expound the historical and cultural implications of archaeological evidence, e.g., the languages of Jerusalem, funerary rites, and so on. The discussion is concrete and specific, and the conclusions well-founded. Here, in fact if not in theory, Levine indicates what he means by Hellenism, the following passage capturing the clarity of the whole:

Jerusalem was a thoroughly Jewish city in the early Roman period, in population, calendar, holidays, forms of religious worship, historical memories, and more. Walking its streets in the first century, a visitor in all probability could not help but be struck by the absence of idols, statues, and figural art, an absence that distinguished Jerusalem from every other non-Jewish urban center in the Empire.

The remainder of the discussion is equally sinewy and decisive and illuminating.

Alas, the second chapter, on Rabbinic Judaism, shows what Levine finds difficult, the translation of literary evidence into historical and cultural data. The reason, in part, is that he frames matters in clunky categories, e.g., universal dimension in biblical and postbiblical Judaism, "contrasting views among the rabbis" (that is, this rabbi said this, that rabbi said that); and the like. But in larger part, Levine really has not done more than paraphrase what those scholars he chooses to cite have to say. Basically he thinks that if he can show explicit evidence of citation of Greek texts, then he has Hellenistic influence, and if not, he doesn't. He treats "hermeneutical rules," asking whether the rules for interpreting Greek literature find counterparts in the Rabbinic literature. He asks whether the marriage-contract attests to Greek influence: "the possible connection between a Hellenistic practice and its appearance in a Jewish context." And he treats the Passover Seder as, allegedly, borrowed from the Greco-Roman symposium ("a banquet and philosophical discussion"). Then he collects sayings that indicate "rabbinic attitudes toward Greco-Roman culture." What Levine has missed is that Greek philosophical modes of thought and analysis permeate Rabbinic Judaism from start to finish. But because rabbis don't cite Aristotle in so many words, we are not supposed to ask whether Greek philoso-

phy and science define the intellectual framework of Rabbinic thought. As to Levine's use of Rabbinic sources for positive, historical purposes, it suffices to say the work is a mass of contradictions. Sometimes he does, sometimes he doesn't believe with perfect faith what a late document alleges about a long-ago event. Why Levine paraphrases one story as fact and dismisses the other as fable, he does not systematically explain. He merely says, this is historical and that isn't. Not surprisingly, the writing in this chapter lacks the vigor and precision of that in the opening chapter.

The chapter on the ancient synagogue, utilizing both archaeological and literary evidence, falls somewhere in between. It is difficult to know what, precisely, is subject to discussion. On the one side, we deal with buildings and their art, on the other, liturgy. How the two intersect I cannot say. Nor does he. The archaeological repertoire strikes me as cogently presented, the literary part inchoate and incoherent. The indeterminate character of the discussion is captured in the on-the-one-hand/on-the-other-hand quality of his conclusion:

In some aspects of the ancient synagogue, the Hellenizing component was pervasive; in others it was markedly ancillary.... If diversity was a hallmark among the synagogues of late antiquity, then to a great extent this was due to the different ways in which each community related to the models and influences stemming from the outside world.

I cannot claim to know what conclusions I am supposed to draw from this empty language.

Does Levine's "Judaism" conflict with, or flow together with, "Hellenism"? In the end we are left with a massive corpus of particular data, trees but only a vaguely insinuated, scarcely present forest. Here we find no general theory of culture that would illuminate the question Levine promises to ask or tell us how it should be answered. Part of the reason is Levine's difficulty in using both literary and archaeological evidence to solve a single, particular problem, but the larger part is his greater capacity to see trees than forests. Still, anyone who wants to know the state of the question from the perspective of Jerusalem will find here as fine a summary of learning and opinion there as is likely to be in print anywhere.

Jacob Neusner
BARD COLLEGE

Jacob Neusner, *Four Stages of Rabbinic Judaism*, London and New York: Routledge, 1999.

Jacob Neusner's *Four Stages of Rabbinic Judaism* presents us with an interesting mix of historical development and theological interpretation. His first three (of four) stages, in linear, historical perspective, roughly correspond to what has become standard from the time of Graetz. But whereas modern scholarship sees Israelites producing a biblical Judaism, with its laws that became outmoded as social and political changes occurred and new forms of practices and beliefs formed in response to Hellenism and new political realities, Neusner will have none of this. Rabbinic Judaism did not arise out of the need to reconcile new practices with old texts to replace what had been a Temple bound Judaism, once the Temple was destroyed in 70 C.E. Neusner does see stages in the development of Rabbinic Judaism, but they develop out of logical reflections upon privileged readings that can provide all the information necessary to tell one how to act in every detail mentioned in the Bible, viz., Sabbath and purities and the like. Stage 1) Bible Judaism contains narratives and laws that are systematized and produces 2) a long oral period in which laws were drawn out of the Bible, by applying complex and rigorous rules of thought, and then passed down orally until such time as 3) they became systematized and focussed in the work of the Mishnah. The process is one of linear development and finally many disputes are summoned to produce a systematically organized document recording the meditative positions of the disputants in philosophically resolute categories. Finally, the Mishnah document, soon after its production, is rubbed against the entire backdrop of Jewish legal traditions and argued, within the dialectic of the Talmuds, so cogently and finely that meanings emerge that are the definitive statement of the whole process. 4) This statement is a wholly self-contained religious system that informs the aggregate of the parts. In each stage Neusner gives us the "theology" embedded in the material precious to that period and shows how each period develops its own theme past itself and so evolved into the next stage. Like the stages of the caterpillar, so the latent meaning of the Pentateuch's subtle structures progressively emerges in full monarchical color in the pages of the Babylonian Talmud. Neusner's characterizations are fully supported by his thoughtful presentations of texts, and the reader will easily join the parade, every step being paved by the sure hand of the master ground breaker. The book rings true at almost every turn.

True there are some weak spots: I did not think all his comparative characterizations particularly useful. Jewish homiletic midrash reads materials backwards as much as NT does, and not all Rabbinic legal derivation is read forwards. His generalization implies otherwise, if I read him correctly. The Talmudic term *asmachta* is applied in many cases in which it is acknowledged that the Bible is read backwards in the Talmud. The reader may find, here and there, some other causes for minor complaint, but Neusner, as far as he goes—which is far indeed—, makes his points. His style shows articulate, clear, and interesting thought patterns. He is convincing.

Still, Neusner's presentation can only be called speculative, for there are several other scenarios that command as much attention as his does. We need seriously to consider that oral law and written law are simultaneously practiced within the community. Development is not linearly logical, or, to be more precise, hermeneutically generated but directed through need. For example, our society looks the way it does because the laws of physics and chemistry have been channeled in ways to meet our technological needs. Likewise, the vast laws inherent in the symbols of the Bible become channeled in certain ways, not without ample discussion, to meet social and religious needs. The Rabbis themselves wondered about the process they inherited; some thought the laws were passed down so perfectly and completely that there was no change in laws and virtually no argument until the times of Hillel and Shammai, and then arguments ensued only because the students were lazy and did not preserve the tradition perfectly as had been the case previously. More realistically, Rabbi Yose argues that there had always been controversies, but they had not been recorded because the supreme court in Jerusalem decided between conflicting ideas in every case, leaving nothing unresolved. Only after the time of Herod, when the court system became untrustworthy and self-serving, did arguments begin to arise that were left unresolved.

The difference between a "more simultaneous" presentation with periods of overlap and the neat linear one Neusner presents is that Neusner will insist that, with little exception, the laws in the Mishnah were once derived from the Bible, as witnessed by midrash halakhah, exegetical reconstructions of the Amoraim, and Neusner's own ingenious derivations. The alternative position, claiming simultaneous systems of Biblical matter along side oral traditions, will of necessity see a different picture. Many of the biblical derivations that the rabbis provided for laws given in the Mishnah seem only to be hypothetical derivations, designed for two reasons: first, to explain that the basis of an argument between two teachers is in fact an argument in the mechanics of biblical interpretation and not totally arbitrary; second,

to convince Sadducees (and others) that the oral law is really divine since it is implied in the written.

The alternative view will further hold that the written text of the Bible is in no wise a complete law code and that its words point beyond the text to a wide legal system that was familiar to the people. The precise methods of the Temple service, the exact procedures for Sabbath and festival observance, the rules of civil damage and inheritance are very incomplete and there had to be a wider, unwritten (in the Bible), legal system in place for these institutions to function. Also, if the laws were so clearly drawn from the Bible, why all the fuss over the Sadducees' claim to deny that the "traditions of the elders" of the Pharisees ran counter to biblical law? In short, Neusner's argument suffices for a picture of texts being begat by father texts, but it raises many questions for the operating of his first two stages as really distinct. The production of the third stage is also problematic in that we will want to know what works existed prior to Mishnah for its editor to draw from. Several candidates (prior Mishnah-compilations) seem to have existed and even to be cited in the Mishnah. Neusner's categorization of the Talmuds is well done, although I thought his claim too restrictive in respect to the talmudic exegesis of the Mishnah never wavering but always revealing the exact intent of the Mishnah's editor.

In retrospect, I think Neusner's work also progresses in stages, the exegesis of the phenomenological results of this book can still be refined and further categorized and emended. In the dialectical tension of Neusner's own work, I suspect he will settle the issue of the alternative pictures of simultaneous development of Scripture, scriptural exegesis, oral tradition. His current picture of strict linear development is very defensible in a neat piece of writing, less so in considering the messy realities of living people and groups. What stuck in my mind most about Neusner's presentation is that it is just too ordered. So, while I would agree that his characterization of Pentateuchal law is credible and his depiction of the Talmuds accurate, I am uncertain how discrete or divergent the middle stages are.

I suspect the occasion of the Mishnah was complicated in that it had some relation to what non-Rabbinic sources refer to as the Pharisaic "tradition of the elders" or the myriad of oral laws mentioned in Philo's *Hypothetica*. Josephus seems to claim expertise in the science of law when he says that only two or three others have this expertise, although he freely brags that even children know all the laws. When yet a teenager, he claims, elders visited him to get his opinion on legal matters that stumped them. He appears to refer to deep analytic processes of an oral tradition while the Temple still stood. Indeed, he

refers to Pharisees, masters of extra-biblical traditions and specialists in biblical interpretation, as existing hundreds of years before him. That oral tradition existed apart from a coherent system of philosophical thought is not attested. The system of the Mishnah might not be as revolutionary as Neusner and others think. That is, oral tradition and Mishnah-type thinking might not be totally separate categories. Louis Ginzberg demonstrated that Mishnaic thinking lies behind many of the rules in the Damascus Document, and no one has yet shown him wrong in this. It does not seem that oral traditions really were just this law and then another without any conceptual framework joining them.

The question of chronological developments as opposed to simultaneous ones has many facets and results in a legitimate debate. In many cases it can be demonstrated that development proceeds from the complex to the simple, which might suggest that the Mishnah, if anything unique, is a reduction of a more complex system that had developed earlier. The Talmud in that case would aim at reconstructing the complex structures the Mishnah simplified and would not merely be a continuation of the Mishnaic process as Neusner alleges. Pure Darwinism might argue for linear evolution, but we now know that sometimes late evidence does not necessarily mean late existence. More able people than I have shown the dangers in looking at chronology by determining the earliest date of attestation. In regards to the chronology of the Rabbinic legal tradition, Neusner has written a highly defensible work. Whether it is true in all its facets or not has yet to be determined.

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Ronen Reichman, *Mishna und Sifra. Ein literarkritischer Vergleich paralleler Überlieferungen*. Tübingen: J.C.B. Mohr (Paul Siebeck), 1998. XIII + 279pp. (Texte und Studien zum Antiken Judentum 68). DM 168.

One of the perennial problems of the history of early Rabbinic literature is the dating of the halakhic midrashim and their relationship with the Mishnah and the Tosefta. Traditional scholarship follows the indications of Sherira Gaon and considers them slightly later than the Mishnah and dependent on it. Based on the facts that the rabbis quoted in them are Tannaim, their language is Mishnaic Hebrew, and their topical interests are roughly the same as those of the Mishnah and the Tosefta, many scholars (e.g., J.N. Epstein, E. Melammed, S. Lieberman) still tend to date them to the third century. Indeed, the team of the Academy of the Hebrew Language that prepares the *Historical Dictionary of the Hebrew Language* grouped all these texts in the period ending with 300 C.E. On the other hand, there has been a widespread tendency to move the halakhic midrashim farther from the Mishnah and to distinguish the (earlier) traditions they contain from their (later) literary redaction as books. H. Albeck and his followers insist that the halakhic midrashim are never cited in either of the Talmuds and therefore must have been unknown to their redactors. In this view, the numerous parallels between the halakhic midrashim and Talmudic *baraitot* are explained on the basis of the claim that several collections of *baraitot* were used both by the redactors of the midrashim and of the Talmuds. The halakhic midrashim should therefore be considered as roughly contemporary with the redaction of the Yerushalmi, even though they are composed of much earlier materials.

For both sides in the debate it is clear that, in spite of their closeness to each other, not all the texts are to be taken as a unified body of writings. An extremely late date has been proposed by B.Z. Wacholder for the Mekhilta (eighth century), a rather early date for Sifre Zutta by S. Lieberman, who considers it the earliest halakhic midrash, redacted in the early third century. As to parts of the midrashim, even much earlier dates have been proposed, e.g., by L. Finkelstein, who argues that the core of Sifra was used as a textbook for priests in the Temple.

Considering this bewildering diversity in dating the halakhic midrashim between the late Second Temple period and early medieval times, the question of reliable criteria arises. Some authors go as far as to claim that there never was a final redaction of Rabbinic

writings; every single manuscript is to be considered as an individual redaction of preexisting materials. It is quite clear that some medieval scribes were not mere copyists, but scholars in their own right, and some of them attempted to revise and redact the materials they copied, in a very conscious and systematic way. The copyist of the Erfurt manuscript of the Tosefta seems to be a good example of this type of scribe; but the folios of a manuscript of the Tosefta recently discovered by M. Perani at Norcia in Northern Italy, which antedate the Erfurt manuscript, already contain many of its characteristics and thus call for caution when judging the innovative and creative redaction of some Rabbinic manuscripts by their scholar-scribes. Some groups of texts, as the Hekhalot literature or the Tanhuma midrashim, seem to have been very volatile in their textual tradition; but most classical texts were much more stable. As to Sifra, the extreme closeness of each other of the two earliest manuscripts, Vatican 31 and 66, in spite of their different geographic origins, demonstrates that already rather early a stable written text was handed on very carefully (see, most recently, S. Naeh, "The Structure and Division of Torat Kohanim [A]: Scrolls" [in Hebrew], *Tarbiz* 66, 1996-1997, pp. 483-515). But there is still a large gap between the date we can reach by working back from the oldest manuscripts and quotations and the possible date of redaction of the midrash or its larger parts. Is there a way to overcome the present scholarly dissent as to the origins of this midrash?

Ronen Reichman has dedicated his doctoral dissertation—presented to the Free University Berlin in 1996/1997 (supervisor Peter Schäfer) and published here unchanged—to a thorough reexamination of the question of how Sifra and the Mishnah relate to each other. He states the results of his research at the outset: Sifra is older than the Mishnah, which used Sifra consistently. He thus adopts the position proposed already in 1912 by S. Gandz, but not well argued and therefore never really accepted. But it would be wrong to see in Reichman the *advocatus diaboli* who does his best in defense of a lost cause. He consistently tries to develop a complex of objective criteria that are clear proof of the dependence of one text on another. He insists on the necessity of developing a method of comparing parallel traditions and detecting literary dependencies in a way that does not anticipate its results. Whether or not parallel traditions depend on each other can be determined only on the basis of the differences between the texts ("Ob ein Abhängigkeitsverhältnis tatsächlich vorliegt, läßt sich *nur* anhand der Abweichungen zwischen den Texten zeigen," p. 18). The analysis of parallel texts starts with a problem, e.g., lack of coherence, in one of the texts: "Die Literarkritik

wird erst dann eingesetzt, wenn für einen bestimmten Sachverhalt eine Erklärung gesucht wird" (p. 21). The reconstruction of the stages in which a text was transformed is correct if it is able to explain how the problem in the text came about. This and not an effort to reestablish the coherence of the text is the task of the interpreter.

At this point of the discussion of method, a first objection may be raised. Do we really have to assume that every reworking of earlier texts raises problems and deteriorates the earlier text? Reichman certainly does not claim this, but probably thinks that only such elaborations of earlier texts may be detected. Otherwise one would expect to get at least a few examples in which the later redactor has improved the coherence of texts that he used as the basis of his work. One also wonders whether the dissecting knife of modern western logic really is such an objective tool in dealing with ancient texts. Is what a modern observer regards as lack of logical coherence not sometimes caused by the angle from which we observe a situation, and does not at all reflect a problem that would have been recognized by the ancient authors and their readers?

But instead of discussing theoretical questions, let us have a look at the concrete texts Reichman analyzes. He has chosen a selection of twenty passages of the Mishnah that, he intends to prove, are the result of a redactional reworking of twenty-four passages in Sifra. In the first two parts of his book, Reichman analyzes eight texts of the Mishnah in which he detects a lack of coherence the origin of which may be understood when comparing the texts with their parallels in Sifra, or in which semantic differences in basically identical texts are to be explained by the Mishnaic redactor's misunderstanding of his Vorlage. The third part of the book studies texts in which the transformation of passages from Sifra by the redactor of the Mishnah may be recognized on the literary (and not only the logical) level. This part also deals with the fundamental question of how the dependence of one writing on the other may effectively be demonstrated.

In each section of the first part, Reichman offers the Mishnaic text found in Codex Kaufmann together with important manuscript variants, a translation, and a thorough analysis of the passage, highlighting what he claims is logically not quite coherent. He then offers a critical text of the Sifra parallel and its translation, followed by its analysis. Only in a third step is a comparison of the two passages undertaken, which generally ends with the conclusion that the redactor of the Mishnah had before him the text of Sifra. Reichman argues that, in copying this text into his own literary context, the Mishnaic redactor, for reasons Reichman tries to explain, misunderstood it. Reichman's discussion of the texts and their problems is

generally very sophisticated, and it is not always easy to follow the discussion and to be aware of the presuppositions behind this seemingly unbiased discussion. Since the author uses the same procedure in every section, I here review only the first text discussed in this part of the book.

Based on Lev. 7:8, M. Zeb. 12:2-3 discusses the right of the priest to the hide of the burnt-offering. It belongs to the priest even when the animal was slaughtered for some purpose other than that for which it was originally designated. This is followed by the distinction that hides of Lesser Holy Things belong to the owner, while hides of Most Holy Things belong to the priests. An argument *a fortiori* tries to demonstrate this with regard to hides belonging to the priests and to counter a possible (but not stated) objection that the altar might prove the contrary. The main problems of the text, in the eyes of Reichman, are (1) that the argument *a fortiori* does not deal with the whole preceding passage but only with its second part, the rights of the priests (I do not quite see the problem), and (2) the concluding sentence, which counters an objection not stated in the context. This is really problematic. The parallel version in Sifra, Sav pereq 9:1-4, offers the element lacking in the Mishnah, as has been seen by all traditional commentators.

The text of Sifra is a dialectical passage that Reichman considers—correctly, but without any argument—as belonging to a later stage of redaction. It is obvious that the two texts are closely related to each other. But is this a sufficient basis for the statement that the redactor of the Mishnah has consciously omitted part of the text that lay before him? For Reichman it is a fact that the redactor of the Mishnah used a written text of Sifra and saw no problem in abbreviating it because he could always check in his copy of Sifra when a problem arose. One can accept that a bad author might work this way; but in the case of the Mishnah, which very soon became an object of permanent study and commentary, it is extremely unlikely that its tradents would not have added the missing clause—secondary additions are quite frequent in the textual transmission of the Mishnah. Since nobody ever cared to supplement the text, obviously generations of tradents and students did not see here a problem that necessitated an explanatory addition.

An additional problem is the nagging doubt concerning how, in spite of the close parallels between the two texts, one can in fact demonstrate that the redactor of the Mishnah possessed a written text of Sifra in a version already reworked and expanded by a redactor. “Die Version in der Mishna ist eine abgekürzte sekundäre Version einer Überlieferung, die in ihrer vollständigen Form im Sifra

enthalten ist" (p. 40): I could accept this statement that speaks of a tradition (*Überlieferung*); but just before, Reichman spoke of a source (*Quelle*) that the redactor had before his eyes (see also p. 41: "Dieser Mangel ist die Folge der Versenkung des Bearbeiters in seine Vorlage;" "Der Mishna-Text basiert auf einem Extrakt aus der gesamten Komposition des Sifra"! While, in general, I am inclined to accept that written texts were much more important for the Rabbinic tradition than is frequently assumed, I do not see how, in this case, one can prove the direct use of a written *text* of Sifra and not just the knowledge of *traditions* known from Sifra. The only certain fact is that Sifra contains an element lacking in the Mishnah. But I cannot offer arguments why the redactor of the Mishnah should have eliminated all the other elements Sifra contains but the Mishnah lacks (i.e., the name of Ishmael and the replacement of the technical terminology of Sifra with an argument *a fortiori*).

This text (and many others) shows clearly that Sifra and the Mishnah make use of a common pool of, in part, already redacted and even written units based, in part, on the exegesis of Leviticus and, in part, on the liturgical practice in the Temple, which influenced the exegesis. This explains the many overlappings of the two works; its basis in the biblical commentary also explains why in such cases Sifra is so much more detailed than the Mishnah. But if we attempt directly to derive the text of our Mishnah from that of Sifra (as we know it today), too many questions remain. The problem of the final argument in our passage of the Mishnah is real. Its solution should be sought elsewhere.

In the second part of the book, Reichman deals with six passages that occur in slightly different forms in the Mishnah and Sifra. None of the passages presents particular difficulties when looked at in isolation from its parallel. Questions regarding the relationship between the texts only arise when the differences between the parallels are examined: how did closely parallel texts come to be different from each other, and which text is primary? Here again Reichman tries to demonstrate that the redactor of the Mishnah has misunderstood texts in Sifra, not correctly understanding how the components of the text in Sifra relate to each other; he thus arrived at an incorrect, but nevertheless workable, understanding of his Vorlage (p. 94). Here again, I discuss only one example.

M. Yom. 6:1 and Sifra Ahare Mot pereg 2:5 describe in nearly the same words the procedure to be followed when one of the two goats of the Day of Atonement died prematurely. One has to purchase a new pair of goats and to cast the lots for them. The one upon which the lot corresponding to that of the dead goat has come up stands in

its stead. The other goat is put out to pasture until it is blemished or too old to be offered as sacrifice; then it is sold, and the proceeds go to the treasury of the Temple; according to Judah, it is left to die. For Reichman, Sifra is the earlier text; there, the whole preceding passage is attributed to Judah, whereas the Mishnah refers the attribution only to the last sentence. This understanding offers no problems and is absolutely possible; it simply does not reflect the structure of Sifra (p. 117).

While one can argue with Reichman's argument regarding the primacy of Sifra here, more important, in my eyes, is another difference between the two texts. M. Yoma first offers the anonymous and normative saying that the goat that is not needed is put out to pasture; Judah then says, "It is left to die." Sifra has the sequence differently: "It is left to die, the words of R. Judah. Sages say: It is set out to pasture." Sifra has a special predilection for this chiasmic arrangement of opinions and frequently uses it where parallels in other texts do not have it. Since the Mishnah, too, frequently uses this structure, there is no reason to assume that its redactor would have eliminated it had it existed in his Vorlage. It is much more probable that Sifra rearranged traditional materials or written sources even where the Vorlage did not have this structure. Wherever Sifra alone among a group of textual parallels uses the form of chiasmic dispute, I am inclined to see it as an argument that Sifra has reworked its sources—an argument that must, of course, be corroborated by other arguments in order to represent really strong evidence.

The third part of the book deals with cases in which it can be demonstrated that the redactor of the Mishnah used not only individual passages of Sifra but made use of Sifra in the stage of its final redaction. One of the texts discussed is M. Pe. 7:7, where Eliezer and Aqiba discuss how one should consider a vineyard the produce of which entirely is defective clusters. Do these clusters belong to the owner of the vineyard (thus Eliezer, based on Deut. 24:21) or to the poor (thus Aqiba, based on Lev. 19:10)? Aqiba admits, as a concession to Deut. 24:21, that the poor may not claim the defective clusters before the harvest. Reichman considers this a lack of coherence: What is normally considered the final compromise in reality cannot refer to the vineyard that entirely consists of defective clusters. For our judgment that a text is not coherent, the possible intention of the redactor of a text is entirely irrelevant (pp. 164f: "darf die mögliche Intention des Redaktors, keine Rolle spielen, Die Struktur des Textes postuliert eine Harmonie, die jedoch nicht existiert"). I cannot follow this apodictic approach to the text. Why should we not accept the compromise of this text that even where there is no regular

harvest, the poor may claim their right only at the moment of the harvest?

But let us see how Reichman judges the parallel in Sifra Qedoshim pereg 3:1. There the lemma "defective clusters" (Lev. 19:10) is immediately followed by the introduction "On the basis [of this verse sages] said" (*mikan amru*) and the precise wording of M. Pe. 7:7, enlarged by an explanation (*she-yakhol*, "else, one could think"). Reichman sees in this passage of Sifra the same lack of coherence as in M. Peah; in Sifra, however, it may easily be explained how it came about: the redactor joined two independent traditions by the insertion of the dispute introduced by *mikan amru*. "Der Text ist fehlerhaft aufgebaut. Beide Traditionen gehören nicht zusammen und wuchsen auch nicht zusammen" (p. 167). The redactor of the Mishnah took over the whole unit of Sifra and omitted those parts that he did not need. As I understand the texts, Reichman has turned the real relationships of the two texts upside down. In reality, the introduction *mikan amru* in Sifra quotes the Mishnah; the sentence Sifra introduces with *she-yakhol* is a gloss within the quotation. This is much more plausible than the reverse: why should the redactor of the Mishnah have omitted exactly these passages if he had read them in his Vorlage? The continuation of Sifra quotes and glosses still other passages of M. Peah. I therefore see here no evidence for the claim that the redactor of the Mishnah used as one of his sources a text of Sifra in a stage of advanced redaction.

To conclude: Reichman's book follows a strictly logical and methodical scheme. Every chapter presents and analyses a passage of the Mishnah and points out certain logical problems within the text. Only after an independent discussion of a parallel text in Sifra are both texts compared in a third step of the analysis that invariably leads to the conclusion that a faulty reception of Sifra by the redactor of the Mishnah caused the problem in the text of the Mishnah. This procedure results in many very sophisticated analyses of Mishnaic texts and frequently points to problematic passages that have to be explained. The analysis of the texts of Sifra is in general less thorough, although here too problems are sometimes pointed out and discussed.

Three points are problematic in this procedure: (1) From the very first page, Reichman sets out to prove his thesis that the Mishnah used and abbreviated the text of Sifra. Other possibilities are never taken into account. This could be accepted as a simple working hypothesis but not as a foregone conclusion. (2) The yardstick of logic and textual coherence applied to the Mishnah (and less to Sifra) is not necessarily adequate for these texts; it is also not always so objective

and clearly demonstrable as is suggested. (3) The procedure is too static. Reichman considers only one possibility: the redactor of the Mishnah used as his Vorlage the finished text of Sifra and was influenced only by this text of Sifra in all the passages discussed in this book. The possibilities of common traditions or an oral exchange between the rabbis engaged in both projects, Mishnah and Sifra, or of other theses and interpretations discussed in contemporary Rabbinic circles are never taken into account. It may serve the clarity of the logical procedure if only two precisely delimited items are admitted for comparison, but reducing the complexity of real life to conditions ideal for an experiment in the laboratory will hardly be adequate for a full understanding of the development of traditions and the creation of literary works. As I have tried to show elsewhere (*Approaches to Ancient Judaism* 11, 1997, pp. 39-82; JSJ 30, 1999, pp. 277-311), Sifra has undergone several stages of redaction extending over a long period; the redactors of the Mishnah certainly knew and used early stages of Sifra (here I would agree in general lines, although not in detail, with D.W. Halivni, *Midrash, Mishnah, and Gemara*, Cambridge, 1986, pp. 48ff), but later stages of Sifra clearly knew the text of the Mishnah and extensively quoted it.

Reichman's book excels in close analyses of many texts of Sifra and the Mishnah, and it offers a thorough reflection on the problem of demonstrating literary dependencies between two texts in a methodically unobjectionable way. Reichman thus contributes much to our awareness of method. As a result, although I completely disagree with the results of the analyses regarding the relationship between the Mishnah and Sifra, I greatly value the book as an important contribution to Rabbinic scholarship.

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