

The Edah Journal

A Forum of Modern Orthodox Discourse

The Mission of Edah is to give voice to the ideology and values of Modern Orthodoxy and to educate and empower the community to address its concerns.

Fully committed to Torah, *halakhah*, and the quest for *qedushah*, Edah values open intellectual inquiry and expression in both secular and religious arenas; engagement with the social, political, and technological realities of the modern world; the religious significance of the State of Israel; and the unity of *Klal Yisrael*.

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Statement of Purpose

The Edah Journal is a forum for discussion of Orthodox Judaism's engagement with modernity. It is Edah's conviction that such discourse is vital to nurturing the spiritual and religious experiences of Modern Orthodox Jews. Committed to the norms of *halakhah* and Torah, *The Edah Journal* is dedicated to free inquiry and will be ever mindful that, "Truth is the seal of the Holy One, Blessed be He."

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The Edah Journal invites submissions of original scholarly and popular essays, as well as new English translations of Hebrew works. Popular essays should be between 800–2000 words. The journal particularly welcomes halakhic, philosophic, and literary studies relating to *qedushah* in modern experience, the religious significance of the State of Israel, Jewish ethics, emerging Torah conceptions of and opportunities for women, Talmud Torah as an intellectual and spiritual discipline, pluralism, and Judaism's relation to gentiles and contemporary culture.

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Submissions to *The Edah Journal* should be sent online to journal@edah.org, or mailed in duplicate to Editor, *The Edah Journal*, c/o Edah, PO Box 1574, New York, NY 10156. Submissions must include a one paragraph abstract and one line biography of the author. Paper submissions should be accompanied by a diskette with essay in rtf, txt or MSWORD format. Hebrew transliterations should conform to the rules (scientific) found in *Encyclopedia Judaica*. Notes must appear as footnotes. Communications and inquiries should be directed to the above email address.

Reader responses should be sent to the editor at journal@edah.org for possible electronic publication at the journal's website.

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Editor's Welcome and Introduction to the *Marheshvan* Edition

Eugene Korn

Abstract: An overview of possible responses to modern empirical pluralism and various Orthodox strategies for validation of, and limitations on, interaction with gentiles and non-traditional Jews.

Biography: Dr. Eugene Korn, a member of Edah's Advisory Council, is Judaic Scholar at Metrowest New Jersey Federation and JCC's and Adjunct Professor of Jewish Thought at Seton Hall University.



Editor's Introduction

The Edah Journal *Marheshvan* 5761

Eugene Korn

Welcome to *The Edah Journal*. All of us at Edah look forward to your participation as a reader, contributor and commentator to this publication.

As our statement of purpose indicates, the objectives of the journal are both to inform and stimulate ongoing discussion of issues vital to Modern Orthodox life. Torah discourse has always been the lifeblood of *klal yisrael*, nurturing both its religious and communal life in our quest for *qedushah*. It is our hope that *The Edah Journal* contributes to this enduring spiritual process.

The Edah Journal will publish three on-line editions per year. In addition, the journal will post reader responses and interchanges weekly throughout the year to promote sustained discussion of the ideas raised in the journal.

I invite you to join *The Edah Journal* community by sending me your comments at journal@edah.org.

The *Marheshvan* Edition

Perhaps the most significant difference between Orthodox life before and after the Enlightenment is the pervasive presence of “the Other,” i.e. gentiles and heterodox Jews. Much of our first edition is devoted to various Orthodox thinkers’ attempts to understand “the Other.”

Of course gentiles and non-traditional Jews existed prior to the modern era, but in the former case there was little

impetus for social intercourse or religious cooperation with them, and in the latter instance, pre-modern non-observant Jews were a marginalized statistical rarity. By contrast, modern life is doggedly pluralistic. Modernity willy-nilly places in close proximity people with different religious, ideological and existential commitments. Thus modern experience sharpens both the practical and spiritual need for making sense of the Other. For Modern Orthodox Jews the issue is most acute: Participating in the mainstream of modern life, we live, work and often socialize with gentiles, as well as with heterodox, secular and Zionist Jews. How are we to understand these “Others” within our Torah worldview?

Whether modern pluralistic conditions are cause for celebration or regret, sociologists of religion such as Peter Berger have shown that these conditions threaten traditional religious sociologies and the unchallenged assumptions on which past religious life rested. The presence of the Other immediately calls into question monolithic life-styles, traditions and beliefs.

Orthodox communities have generally adopted one of three strategies for confronting modern *empirical* pluralism:

- (1) Consciously avoiding interaction with, or acknowledgment of, non-Orthodox persons and modern conditions. This is achieved *via* withdrawal into voluntary monolithic communities that strive to seal off non-Orthodox influences. This isolationist strategy is most often associated with extreme forms of Orthodoxy, such as the Satmarer and Munkatch communities.

(2) Pragmatically accepting the need to interact with gentiles and non-Orthodox persons for political or economic benefit. Thus civil ‘tolerance’ of the Other and his culture is an instrumental value, marking a concession to the ubiquitous conditions of modern life. As a departure from the pristine halakhic ideal, interaction should be minimized consistent with prudential judgment. This policy is most common among what is termed, ‘Ultra-Orthodoxy,’ and animates much of the traditional yeshiva world.

(3) Understanding gentiles and non-Orthodox Jews in a way that incorporates their presence within the *hashkafah* of Torah. Under this conception the Other assumes some form of positive religious and halakhic value, and Orthodox interaction with the Other is pursued as a spiritual *desideratum*, rather than a pragmatic necessity. This is *normative* pluralism, often associated with Modern Orthodoxy

This neat logical categorization is only a theoretical construct, for in real life all but the most extreme thinkers and communities—on the right and the left—pursue a mix of these strategies. Absolute isolation is an existential impossibility, while total normative openness to the Other tends to undermine any unique Jewish purpose and places Jewish life in peril. So while the important philosophic objective is finding validity for the Other, the serious practical question reduces to determining where the boundaries lie in any one approach, i.e. where normative acceptance should end and separation should begin, and *vice versa*.

Each Orthodox thinker discussed here, from the Me’iri in the 13th century (in Moshe Halbertal’s seminal study) to the Neziv in the 19th century (in Howard Joseph’s essay) to Rabbi Yechiel Ya’akov Weinberg (whose biography is reviewed by Simcha Krauss), to our 21st century spokespersons (Tamar Ross and Shmuel Goldin), considers some form of normative pluralism to be spiritually desirable. As Samuel Heilman’s essay points out, Joseph Lieberman’s national political involvement and his recent nomination for Vice President perhaps constitute the

most obvious testimony to this approach. Yet each struggles with the tension between openness and boundaries. Each demonstrates that these categories are not strictly hierarchical, accepting a primary axiology of normative pluralism, and concurrently rejecting some form of pragmatic interaction. As such, each advocates a specific dialectical approach.

All of us recognize that normative pluralism can come at great cost—weakening Jewish identity, disruption of communal continuity, and as Tamar Ross eloquently puts it, “a watering down of religious intensity” and “a distancing from the literal meaning of (religious) language.” Yet there are also great potential benefits. Experiencing the Other as one created *b’tzelem Elokim*, appreciating the variety of the human spirit as part of God’s infinite wisdom, and developing relationships of mutual respect and dignity with the Other, all help us live an integrated spiritual life in which our religious ideals and practical necessities point toward coherent unity rather than cognitive dissonance.

This dialectic of potential costs and spiritual benefits contribute to the complexity of Modern Orthodox life. Our lives may be filled with serious dangers, but they also hold out the promise of increased *qedushah* by relating to all God’s creatures and internalizing the wondrous fullness of His creation.

In the first of our regular *halakhah* essays, Saul Berman challenges us to enhance *shabbat* and *yom tov* by investing those times with greater *qedushah*. He suggests that playing ball may hold the potential for such a creative contribution.

B’vrakha,



Eugene Korn
Editor

“Ones Possessed of Religion”: Religious Tolerance in The Teachings of The Me’iri

Moshe Halbertal

Abstract: A detailed analysis of R. Menachem Ha-Me’iri approach to understanding to talmudic restrictions on interaction with gentiles. The Me’iri reformulated the conception of idolatry, contending that it had disappeared from everywhere except the ‘extremities’ of civilization. Hence the traditional laws limiting Jewish economic intercourse with non-Jews as well as the halakhic inequalities between the legal rights of Jews compared to those of non-Jews in principle do not apply to either Christians or Moslems. Rather, those gentiles participate in the community of legitimate religious peoples. The author demonstrates how the Me’iri’s legal tolerance was informed by his philosophical orientation drawn from the Maimonidean philosophic tradition.

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“Ones Possessed of Religion”: Religious Tolerance in the Teachings of the Me’iri*

Moshe Halbertal

In dealing with relations between Jews and gentiles, Rabbi Menachem Ben Shlomo Ha-Me’iri (1249–1315) of Provence took up a subject with a long history of treatment by the halakhic authorities who preceded him. His unique approach in this area offers an instructive example of the integration of philosophy and *halakhah*.

The halakhic consideration of relations with gentiles had taken place in the 11th century, more than two hundred years before the Me’iri’s time. From the beginning of Jewish settlement in Christian Europe, Jewish communities formed economic relationships with their Christian neighbors that were inconsistent with talmudically dictated restrictions on business dealings with non-Jews, such as the ban on commerce with non-Jews on their festival days, the ban on selling their ritual objects, and the ban on commerce whose profits would accrue to the Church. These limitations foisted economic difficulties upon the Jewish communities in Christian Europe, which in turn set their own rules of conduct *vis a vis* Christians.

The German and French halakhists adopted varied and

complex strategies for bridging the gulf they confronted between communal practice and *halakhah*. As a first step, Rabbeinu Gershom Me’or Ha-Golah claimed that the halakhic prohibitions remained intact, but local halakhic authorities should avoid vain efforts to enforce them: “Better that Israel sin unknowingly than knowingly.” Nevertheless the communal practice gained halakhic legitimacy through various explanations offered by Rabbeinu Gershom and the halakhists who succeeded him. One position reasoned that the prohibitions had been decreed in different circumstances, at a time when the Jewish community was large enough to be economically self-sufficient—and that situation no longer existed within the small *Ashkenazi* communities. Another position, also relying on changed circumstances, sanctioned the customary conduct “because of hatred” (“*mi-shum eivah*”).¹ Still other authorities sought to limit the applicability of these prohibitions by means of local, novel reinterpretations of the talmudic passages that had generated the restrictions.² All these halakhic strategies shared a common component: Each halakhic authority refrained from drawing a distinction in principle between Christianity and the idolatrous religions toward which

*This essay is a translation of major portions of Chapter 3 of “*Bein Hokhmah Le-Torah*,” by Moshe Halbertal, Jerusalem, 2000 (Hebrew University Magnes Press). Translation by Joel Linsider

¹ That is, adhering to the prohibitions could promote hatred of Jews on the part of Gentiles. —*Translator*

² For an in-depth consideration of the medieval halakhists’ approach to these issues, see J. Katz, *Bein Yehudim Le-Goyim [Between Jews and Gentiles]*, Jerusalem, 5721 [1960/61], chapters 3–4, and J. M. Ta-Shema, “*Yemei Eideihem*” [“Their Festival Days”], *Tarbits* 47:197–210 (5738 [1977/78]).

the halakhic restrictions had been formed.³ At most, they distinguished between the Christian multitudes and the Christian religion. Relying on the argument in the Talmud Bavli that, “Gentiles outside of the land of Israel are not idolaters. Rather, they adhere to their ancestral customs” (*Hulin 13b*), these halakhists determined that because the local gentiles were not devout, some of the prohibitions on commerce did not apply to them. Nevertheless, they held that even though Christians were not devout in their religion, Christianity itself was idolatrous.⁴ As Jacob Katz has shown, this complex position of the *Ashkenazi* halakhists grew out of their desire to preserve the huge disparity between monotheistic Judaism and idolatrous Christianity while simultaneously easing the economic burden that resulted from defining Christianity as idolatrous.

Religious tolerance in the Me’iri’s teachings has been the subject of scholarly examination, but the nexus between his halakhic position and his general worldview and its sources has never been adequately clarified. Scholarly consideration began with a detailed analysis by Jacob Katz, who viewed the Me’iri as adopting a unique, comprehensive position based on a fundamental theological concept. The Me’iri’s predecessors had proposed various solutions to bridge the gulf between widespread medieval *Ashkenazi* practice and the halakhic limitations on

contact with gentiles. However, none of them took a position that distinguished fundamentally between idolatry and Christianity. If such a distinction appeared at all in halakhic literature, it was limited in its use to particular times and places, and it provided no basis for a definitive and generalized permissive ruling. The Me’iri was the first to draw this fundamental distinction, and the permissive ruling he proposed was accordingly definitive and independent. It followed neither *post facto* from the community’s practice, nor did it depend on other permissive rulings. Finally, it extended beyond the permissive rulings issued by the halakhic authorities who preceded him.⁵

Efraim Urbach took issue with Jacob Katz’s position, contending that the Me’iri’s distinction between idolatrous religions and Christianity could already be found in the writings of his predecessors. In his view, the Me’iri merely coined a new term for non-idolatrous religions: ‘nations restricted by the ways of religion’ (*‘umot ha-gedurot be-darkhei ha-datot*). Similarly, contended Urbach, the Me’iri permitted nothing more than had his predecessors, and that was the true measure of his ruling. Inasmuch as no halakhic consequences flowed from the Me’iri’s new formula, no substantive change can be said to have taken place by reason of his position on religious tolerance.⁶ Responding to Urbach’s critique, Katz and

³ An exception is the position, common among the Tosafists, permitting accepting a gentile’s oath [even though the gentile may take the oath in God’s name while having another divinity in mind] because that sort of association is not forbidden to gentiles. Katz’s view, that this position should not be seen as negating the idolatrous nature of Christianity, strikes me as the proper explanation for the permissive ruling. See J. Katz, “*Sheloshah Ma’amarim Apologetiyim Be-Gilguleihem*,” [“Three Apologetic Essays and Their Transformations”], in *Halakhah Ve-Qabbalah [Halakhah and Received Tradition]*, Jerusalem, 5746 [1985/86 pp. 278–279–4; Ta Shema, *id.*

⁴ For this distinction, see the *responsa* of Rabbenu Gershom Me’or Ha-Golah, #21. R. Gershom permits taking priests’ vestments as collateral on the theory that idolatrous religious articles are proscribed only after having actually been used in idolatrous worship, a category from which he excluded contemporary Christian worship: “Inasmuch as gentiles outside the land of Israel are not idolaters, even though they perform idolatrous practices, it is not considered idolatry.” In the ensuing sentence, however, he argues that a crucifix itself is considered idolatrous inasmuch as it is proscribed from the moment it is made: “But an idolatrous object itself is forbidden, as it is taught, a gentile’s idolatrous object is forbidden whether or not it is actually worshipped.” R. Eliezer b. Nathan of Mainz applied this concept not as an established legal principle but as a position to be applied on the basis of empirical examination (*Sefer Ha-RabN*, p. 288).

⁵ J. Katz, “*Sovlanut Datit Be-Shitato Shel Rabbi Menahem Ha-Me’iri be-Halakhah U-Ve-Filosofiyah*” [“Religious Tolerance in Rabbi Menahem Ha-Me’iri’s Halakhic and Philosophical System”], *Tsiyyon* 18:15–30 (5713 [1952/53]) (also in *Halakhah Ve-Qabbalah [Halakhah and Received Tradition]*, Jerusalem, 5746 [1985/86], pp. 271–291).

⁶ A. A. Urbach, “*Shitah Ha-Sovlanut Shel Rabbi Menahem Ha-Me’iri: Meqorah U-Migbelotehah*” [“Rabbi Menahem Ha-Me’iri’s Approach to Tolerance: Its Sources and Its Limits”], *Peraqim Be-Toledot Ha-Hevrah Ha-Yebudit Bi-Yemei Ha-Beinayyim U-Va-’Et Ha-Hadashah Muqdashim le-Y.* Katz [Chapters in the Social History of the Jews in Medieval and Modern Times, dedicated to J. Katz], ed. by A. Etkes and Y. Salmon, Jerusalem, 5740 [1979/80][*id.*,

Gerald Blidstein showed that the Me'iri's unique formula indeed extended his permissive ruling's range beyond that of his predecessors' rulings, and its wider scope was not confined to the practical and apologetic needs of the community.⁷

My purpose is to present sources not yet analyzed in the literature and that support Jacob Katz's position. Most of the study will be devoted to clarifying the term "nations restricted by the ways of religion," in the broad and systematic context of the Me'iri's position, and to explicating the Me'iri's concept of historical progress, which distinguishes between ancient nations and those of his time.

[A]

The Me'iri's position can be analyzed by delineating three categories that touch on the *halakhah's* relationship to gentiles. The first category encompasses prohibitions on commerce with gentiles that flow from the concern that such commercial contacts promote and indirectly facilitate idolatrous ritual, or cause Jews to benefit from idolatrous ritual or its apparatus. The prohibition on trading with a gentile on his festival day, lest he proceed to thank his gods for profit gained through the transaction, provides a paradigm for prohibitions designed to distance Jews from any even indirect contact with idolatrous ritual. With respect to the gentiles of his day, the Me'iri relaxed the prohibition on trading with a gentile on his festival day, the prohibition on trading with a gentile when a portion of the profit is taxed for ritual necessities, the prohibition on selling ritual necessities such as incense or frankincense to a gentile, the prohibition on letting a house to a gentile lest he bring into it idolatrous worship, the prohibition on deriving benefit from ordinary gentile wine (*setam*

yeinam), which was decreed out of concern about wine that had definitely been meant for libations (*vadai yeinam*), and the prohibitions on expansively greeting a gentile and entering a gentile's house to greet him on his festival. The Me'iri permitted these six activities in his day, and applied the prohibitions only to the ancient, idolatrous nations.

Each halakhic authority refrained from drawing a distinction in principle between Christianity and the idolatrous religions

The second area to be considered is the *halakhah's* attitude toward a gentile's juridical rights and obligations. This category focuses on the legal and personal standing of the gentile, not on indirect contact with ritual. A prime example is the gentile's liability to fully compensate a Jew for damage caused by his animal to a Jew's property, in contrast to the Jew's exemption from any corresponding liability to the gentile when the Jew's animal causes damage. The Me'iri treated the gentiles of his day no differently from Jews with respect to obligations and rights in the following matters: compensation for property damage, the prohibition on robbery, the obligation to return lost property, the obligation to rescue from harm, granting gratuitous gifts, the obligation to help in loading a beast of burden⁸, the prohibition on excessive profit, the imposition of equal punishment for killing a gentile, the prohibition on delaying payment to a hired worker, the violation of the sabbath to save human life, the authorization to sell armaments to a gentile, and the authorization to stable an animal in a gentile's inn. According to the Me'iri, the discrimination that pervades the *halakhah* with respect to these rights applies only to the ancient nations, which are "not restricted by religious practices".

Mehqarim Be-Mada`ei Ha-Yahadut [Essays in Jewish Studies, ed. by Haar and Frankel, Jerusalem 5758 (1997/98), pp. 366–376.] See also Ta Shema id. and. "He'arah le-He'arah" ["Shedding Light on a Remark"], *Tarbits* 49:218–219 (5740 [1979/80]).

⁷ J. Katz, "Od `Al `Sovlanuto Ha-Datit Shel R. Menahem Ha-Me'iri" ["Further Comments on 'R. Menahem Ha-Me'iri's Religious Tolerance'"], *Tsiyyon* 46:243–246 (5741 [1980/81]) (also in *Halakhah Ve-Qabbalah* [supra Katz 5713], pp. 307–311. G. Blidstein, "Yabaso Shel R. Menahem Ha-Me'iri La-Nokhri: Bein Apologetiqa Le-Hafnamah" ["The Relationship of R. Menahem Ha-Me'iri to the Gentile: Between Apologetics and Internalization"], *Tsiyyon* 51:153–166 (5741 [1980/81]).

⁸ Cf. Deut. 22:4—*Translator*

In the Me'iri's view, contemporary gentiles are fully equal to Jews in these respects.

The third category encompasses measures to distance Jews from gentiles, tied to the ban on intermarriage. An example is the prohibition on drinking ordinary gentile wine. In this area, the Me'iri left all the prohibitions in place, applying them to the gentiles of his day as well.⁹

These three categories are not necessarily tied to one another. For example, one could reason that commerce with Muslims should be permitted even if it is connected with ritual, as Muslims are not idolaters and their ritual is not idolatrous, yet Muslims should be no different from other gentiles with respect to their legal rights and obligations. Maimonides, for one, did not extend the first category of concern to Muslims, since they are not idolaters. He permitted commerce with them on their festival days even while forbidding it with respect to Christians. At the same time, he drew no distinctions

between Muslims and other gentiles with regard to portions of the second category, and the rights he denied to idolaters he denied to other Noahides as well, even monotheists.¹⁰

A fundamental question arises concerning the linkage between the two areas, i.e. ritual related prohibitions on contact and the delineation of juridical obligations and rights. Does the discrimination that dominates talmudic *halakhah* with respect to the rights of gentiles flow from their being idolaters, implying that a different rule governs gentiles who observe the seven Noahide commandments and that were a group of gentiles found that does not practice idolatry, its status in both areas would change simultaneously? An alternative is that the denial of gentile rights follows directly from the fact that they are gentiles, rather than idolaters. If the latter, the inapplicability of the first area of concern to a group of non-idolatrous gentiles has no effect whatsoever on the second area. In other words: Is the discrimination between monotheists and

⁹ "The remaining similar prohibitions, whether related to the derivation of benefit or to eating, are among those that were decreed because of concern about intermarriage, and they are equally applicable to all nations." (*Beit Ha-Behirah, Avodah Zarah*, A. Sofer ed., p.59.)

¹⁰ An examination of Maimonides' rulings in various areas of juridical rights and obligations reveals several instances of halakhic inequality between Jews and non-Jews, even where the latter are monotheists. (It is important to note that in these instances, the Me'iri differs with Maimonides, as we shall see below.) These include the obligation to return lost property (*Hil. Gezeilah Va-Aveidah* 11:3); the prohibition on excessive profit (*Hil. Mekhirah* 13:8); the exemption of a Jew from punishment for killing a gentile (even though the act itself is forbidden) (*Hil. Rotseiah U-Sheimat Ha-Nefesh* 2:11); the obligation to help load a beast of burden (*id.* 13:1); the exemption from double compensation in cases of theft (*Hil. Geneivah* 2:1); the exemption from paying an additional one-fifth in cases of denied bailment (*Hil. Gezeilah Va-Aveidah* 7:7); the Jew's exemption from compensating a gentile for damage caused by the Jew's property, in contrast to the gentile's obligation to provide full compensation to a Jew for property damage caused by the gentile's property (Commentary on the *Mishnah, Bava Qama* 4:3; *Hil. Nizvei Mamon* 8:5). In cases of robbery, however, Maimonides rules that Jews and gentiles are subject to the same rule: "It is forbidden as a matter Torah law to rob in any way, and even a gentile idolater may not be robbed or despoiled; and if one has robbed or despoiled [anyone], he must return [the property]" (*Hil. Gezeilah Va-Aveidah* 1:2).

In all of the *halakhot* that point to discrimination between Jews and gentiles, the printed version of the Mishneh Torah uses the term "idolater" [*acum*], an acronym for "worshiper of stars and constellations"; but in the best manuscripts of the work, the term used is "gentile" [*goy*]. One cannot infer, however, merely from Maimonides' reference to "goy," that he is speaking not only of idolaters but of monotheistic gentiles as well; for even when it is clear that he is speaking of idolaters, he uses the term "goy" (*Hil. Avodat Kokhavim* 9:3). One may therefore ask whether Muslims, whom Maimonides does not number amongst "*acum*," are also to be discriminated against with respect to the items enumerated above. From the explanations that Maimonides provides for his various rulings, it appears that the juridical discrimination between Jews and gentiles is based not on the fact that the former are monotheists and the latter idolaters, but on the understanding that gentiles—monotheists included—are not encompassed within the biblical terms "your peer" or "your fellow." Maimonides accounts in this way for the discriminatory *halakhot* that relate to excessive profit, lost property, and bloodshed. The discriminatory provisions extend not only to monotheistic gentiles, but even to resident aliens, as can be inferred from the law of murder: because resident aliens are not within the category of "your peer," one who kills a resident alien is relegated to divine justice and the human court imposes no punishment. It thus appears that according to Maimonides, even monotheists such as Muslims are subject to juridical discrimination; for if resident aliens are not within the category of "your peer," monotheistic gentiles are excluded from it *a fortiori*. In some *halakhot* in the Mishneh Torah, Maimonides applies the same rule to Jews and resident aliens. He forbids distorting a court ruling with respect to a resident alien (*Hil. Melakhim* 10:12), and there is equality between resident alien and Jew with respect to withholding a worker's wage (*Hil. Sekhirut* 11:1). In addition, Maimonides permits a gratuitous gift to a resident alien (*Hil. Avodat Kokhavim* 5:1). One may reasonably argue that the equivalence between Jew and resident alien in these areas is limited to resident aliens in the technical-formal sense, as Maimonides defines it in *Hil. Melakhim* 8:10, and does not, therefore, encompass all monotheistic gentiles.

pagans or between Jews and gentiles? The question focuses on whether the line in *halakhah* distinguishing Jew from gentile rests upon the premise of an ontological gap between Jews and gentiles, or upon the difference between the monotheist's way of life and the idolater's. Clarifying the source of this discriminatory line with respect to rights has profound implications for who bears the inequality—gentiles generally or only idolaters. Similarly, there is a significant moral difference between how the discrimination is justified under each of the two possibilities. This is not the place for a comprehensive consideration of the question based on talmudic sources¹¹, but delineating these two categories of the *halakhah's* attitude toward gentiles is important for an understanding of the Me'iri's position.

[B]

An examination of the Me'iri's writings discloses a striking consistency in his treatment of the two categories. Scholars of the Me'iri have focused on the term “nations restricted by religious practices” as his central and innovative concept, but the Me'iri himself never mentions it in connection with his permissive rulings in the area of indirect contact with idolatrous ritual. Allow me to detail, one by one, the cases in the first area.

In considering the prohibition on commercial dealings with a gentile on his festival day, the Me'iri says, “It appears to me that these matters all pertain only to worshippers of idols and their forms and images, but that nowadays, these [commercial] activities are wholly permitted” (*Beit Ha-Behirah Avodah Zarah*, A. Sofer ed., p.4). Again, on the same subject: “For it is the common practice in all lands to trade with those among whom they dwell, in all commodities and all manner of commerce, even on their holiday. It seems certain that the reason is

that these rules were enacted only for their [i.e. talmudic] times, when the worship of idols was widespread for sacrifice and thanksgiving, as you see in the reference to their festival days, for they worshipped the heavenly host, the sun, the moon, trees, and stones” (*id.* p.9). The Me'iri thus distinguishes between ancient times, when idolatry was prevalent, and his own era. When doing so he nevertheless makes no mention of the distinction between nations restricted by religious practices and nations not so restricted. In that same context he tries to overcome the explicit talmudic reference to Christians being amongst those with whom one may not trade on their festival days:

As for the statement in the *gemara* that “a Christian [*notsri*] is always forbidden [to be traded with],” I interpret it as derived from “watchers [*notsrim*] who come from a far country,” as stated in Jeremiah [4:16], who referred to that nation as *notsrim* after [Babylonian King] Nebuchad Nezzar ; and it is known that there was an image of the sun in Babylon and the entire nation of Nebuchad Nezzar worshipped it. And you already know that the sun serves on the first day [Sunday] in the enumeration of the beginnings of days, and that day accordingly was called *notsri* on account of its connection to Nebuchad Nezzar because of its association with the sun's dominion, all of which is obvious and clear. (*id.*, p. 4.)

The Me'iri's interpretive agility in his effort to distinguish between the Christians and the ancient idolatrous nations reaches its pinnacle in his interpretation of the term *notsri* in the Talmud. In his view, the Christians (*notsrim*) referred to in the Talmud are none other than the Babylonians, the nation of Nebuchadnezzar, and the “First Day” (Sunday) referred to in that context is not the Christian holy day but a First Day on which the

¹¹ This subject requires a study of its own, but it is important to note that the existence of a non-Jewish monotheistic group, considered another religion, was not known before the time of the *tana'im*, so it is possible that the question never even occurred to them. Still, the issue may be evaluated from two other aspects: the attitude toward resident aliens, and the various justifications presented in the Talmudic material for discrimination.

Babylonians worship the sun.¹² The step of determining that the Christians of his day were not idolaters is taken as well in other passages dealing with the prohibitions that flow from concern about indirect contact with idolatrous ritual. For the same reason, the Me'iri thus relaxes the prohibition on profitable commerce for gentile ritual necessities: "We have already explained that rules such as this were instituted in their times, when those gentiles were devout in their idolatry, but now idolatry has come to an end in most places, and there is accordingly no need to be stringent with respect to them in the manner of the old innovations and general embellishments" (*id.*, p.28). Here too the Me'iri determines that idolatry has come to an end, and he makes no mention of the formula, "nations restricted by religious practices."

With respect to the prohibition on selling items that might be used for ritual needs, the Me'iri says: "There are some who rigorously forbid some of these activities in places where idolatry remains, as we have explained. Yet it appears that these matters should generally be permitted, though a sensitive person (*ba'al nefesh*) will restrain himself" (*id.*, p.32).¹³ As for the prohibition on letting a residence to a gentile lest he bring idolatry into it (thereby violating "Thou shall not bring an abomination into thy house." [Deut. 7:26]), he says, "As far as issuing a ruling, this ban was instituted only in the land [of Israel] and in the period we have referred to, but outside of the land [of Israel] and in our times, it is permitted to let even a dwelling, and even to do so in a neighborhood and block [in which Jews reside]. [This is true] all the more so in places where idolatry is not found, for the essence of this

prohibition relates to those idolaters who kept idols in their homes and burned incense and sacrificed to them there" (*id.*, p.48). Here are his comments regarding the prohibition on deriving benefit from ordinary wine of gentiles, something decreed because of concern over wine definitely meant for libations: "In my view, those places where idolatry endures remain subject to the stringency applicable to the earlier [peoples]."

It thus appears that nowhere in his treatment of contacts with gentiles that are forbidden because of indirect ties to idolatry does the Me'iri use the formula "restricted by the ways of religion." He maintained that the gentiles of his day were not idolaters—in contrast to the ancient nations that did worship idols—and contacts connected with the rituals of contemporary gentiles are therefore not forbidden.

The Me'iri does raise the distinction between "nations restricted by the ways of religion" and "nations not [so] restricted" in the context of the second category, that of juridical rights and obligations. In his view, the halakhic inequality with respect to the rights of Jews and gentiles applies only to gentiles who are not restricted by the ways of religion. An extensive description of these nations can be found in the Me'iri's comments permitting Jews to sell to gentiles of his time items that can be used as implements of destruction and to stable animals in their inns. He forbids these activities only with respect to nations not restricted by the ways of religion, as he says: "All of these people possess no religion in the world and submit to the fear of no divinity, instead burning incense to the heavenly bodies and worshipping idols; therefore, they are

¹² With respect to the Me'iri's interpretation that the *notsrin* referred to in the talmudic tractate are sun-worshipping Babylonians rather than the Christians of his day, see also: "and on the first [day] is explained in the *gemara* as 'because of the *notsrin*,' which I take as meaning the Babylonians, whom they greatly feared, and he refers to them as *notsrin* because of Nebuchadnezzar, as we explained in connection with the verse 'watchers come from a far country.' And it is well known that a great image connected with sun worship was worshipped at that time in Babylon, and they observed a festival on the first day...and I have already provided a similar explanation of their statement, in the first chapter of *Avodah Zarah*, that 'a *notsri* is always forbidden'" (*Beit Ha-Behirah, Ta'anit*, A. Sofer ed., p.97). On this identification by the Me'iri, see L. Zalcman, "Christians, *Notserim* and Nebuchadnezzar's Daughter," *JQR* 81:411–426 (1991).

¹³ With respect to prohibiting benefit from ritual apparatus, see also: "And even with respect to these [rules related to benefit from ritual necessities], there is reason to question the prohibition, and we have already written in Chapter 1...that these matters [the sale of ritual necessities] should generally be permitted, though a sensitive person will restrain himself" (*Beit Ha-Behirah Avodah Zarah*, A. Sofer ed., p.189). As Jacob Katz has pointed out, while the Me'iri's relaxation of the other prohibitions is absolute, his relaxation of the ban on ritual necessities is hesitant.

unconcerned about any sins” (*Beit Ha-Behirah Avodah Zarah*, A. Sofer ed., p.39). Elsewhere he adds regarding the obligation to rescue a gentile: “Here, too, one must assess, as we have already discussed, what kind of gentile is under consideration. What I mean is that of idolaters it is said that they were not restricted by the ways of religion. On the contrary, every sin and everything repulsive is fit in their eyes. As the foremost of the philosophers has already said, ‘Put to death one who has no religion’” (*id.*, p.59). Hence the halakhic inequality of rights applies only with respect to nations that are not restricted by the ways of religion or, in a parallel term that the Me’iri uses, those who “possess no religion.”

A general formulation of the principle is found in the Me’iri’s comments on the obligation to return a gentile’s lost property and the prohibition of robbery: “Thus, all people who are of the nations that are restricted by the ways of religion and worship the divinity in any way, even if their faith is far from ours, are excluded from this principle [of inequality]. Rather, they are like full-fledged Jews with respect to these matters, even with respect to lost property and returning assets gained through error and all the other matters, with no distinction whatsoever” (*Beit Ha-Behirah Bava Qama*, K. Schlesinger ed., p.330).¹⁴ In his view, the halakhic dividing line is not between Jews and gentiles in an ontological sense, but between nations possessed of law and lawless nations, i.e. between barbarism and civilization.

The Me’iri calls the principle into play in a systematic manner with respect to compensation for property damage:

If the ox of a Jew gores the ox of a gentile, [the Jew] is exempt [from paying damages] because of the [limiting] law of “one’s peer” [‘re’ehu], but if a gentile’s ox gores a Jew’s, the gentile pays full damage, regardless of whether the ox is known as a goring ox or not.¹⁵...But according to what the *gemara* says, this pertains specifically to nations not restricted by the ways of religion and proper conduct. ...Accordingly, all those who adhere to the seven [Noahide] commandments are treated in our [courts] as we are treated in theirs, and we do not accord ourselves favorable treatment. It therefore goes without saying that the same thing applies to nations restricted by the ways of religion and proper conduct (*id.*, p. 122).¹⁶

The Me’iri reiterates this principle in his consideration of the following subjects: the prohibition on withholding the wages of a hired worker,¹⁷ the authorization to give a gratuitous gift,¹⁸ the obligation to assist in loading a beast of burden,¹⁹ the prohibition on excessive profit,²⁰ and equal punishment for killing a gentile.

The Me’iri’s rulings with regard to equal punishment for Jews and gentiles is particularly interesting against the background of the Talmud’s consideration of the issue

¹⁴ See also the formulation by the Me’iri with respect to returning lost property: “Nevertheless, only the lost property of your brother is referred to [“so shall thou do with every lost thing of thy brother’s which he hath lost and thou hast found”—Deut. 22:3]; but the reference is to everyone who is restricted by the ways of religion. (*Beit Ha-Behirah* on Tractate *Bava Metsi’a*, K. Schlesinger ed., Jerusalem 5723, p.100.)

¹⁵ The Me’iri is here paraphrasing *Mishnah Bava Qama* 4:3. In the usual case, where both plaintiff and defendant are Jews, the defendant pays only half-damage if the ox is not known as a one that gores. —*Translator*

¹⁶ This passage implies that nations restricted by the ways of religion enjoy a higher status than those of Noahides who observe the seven Noahide commandments.

¹⁷ *Beit Ha-Behirah Bava Metsi’a*, K. Schlesinger ed., p.416.

¹⁸ *Beit Ha-Behirah Avodah Zarah*, A. Sofer ed., p. 46. See also *Beit Ha-Behirah Hulin*, A. Lis ed., Jerusalem 5735, p.434.

¹⁹ *Beit Ha-Behirah Bava Metsi’a*, K. Schlesinger ed., p.118.

²⁰ *Id.*, p.219.

and Maimonides' ruling regarding the punishment for killing a gentile. One can infer from the *tosefta* that inequality of punishment for killing a gentile applies even where the gentile observes the seven Noahide commandments: "How do we treat the spilling of blood? If a gentile spills a gentile's blood or that of a Jew, he is liable; if a Jew spills a gentile's blood, he is exempt" (*Tosefta Avodah Zarah* 8:5). According to a *baraita*, a Jew who kills a Noahide is liable in accordance with heavenly law (*dinei shamayim*), but is not put to death by the earthly court, and Maimonides indeed so holds.²¹ The Me'iri, however, interprets the *baraita* as follows: "A Jew [who kills] a gentile who does not fulfill the seven [Noahide] commandments is exempt, for [the gentile] is an idolater..., but if he is among those who fulfill the seven commandments, he is included amongst those possessed of religion. Even the greatest of the compilers²² wrote that withholding his wage violates the positive commandment of 'in the same day that shalt give him his hire' [Deut. 24:15]." In his view, the *baraita* deals only with an idolater, but a Jew who kills a Noahide possessed of religion is liable in court. The Me'iri recognizes the forced nature of his interpretation and cites Maimonides as support. Critically he does not cite Maimonides on the self-same subject, for he is well aware of Maimonides' holding that a Jewish killer is exempt even if the gentile victim is a Noahide [who observes the Noahide commandments]. He therefore reaches out to Maimonides' ruling with respect to the withholding of wages. Beyond that, the Me'iri warns the reader: "Even though the passage implies something different, be careful not to err and interpret it otherwise" (*Beit Ha-Behirah Sanhedrin*, A. Sofer ed., pp.226–227).²³

As we have already seen, the claim is that even a group that is non-idolatrous remains excluded from halakhic rights equal to those of Jews. Indeed, the asymmetry with

respect to punishment for shedding blood (a gentile who kills a Jew is liable; a Jew who kills a gentile is exempt) is applied by the *tosefta* even to a gentile who observes the seven commandments, and Maimonides was of that opinion as well. There thus exists a halakhic position that takes the inequality between Jew and gentile as found in the Talmud with respect to a substantial segment of juridical obligations and rights as a distinction between Jews and other nations, not between monotheists and pagans. The Me'iri's innovation in this area is the unequivocal claim that the distinction is between idolaters and worshippers of the Divine. He further transforms the distinction between idolaters and worshippers of the Divine into a distinction between "nations that are not restricted" and "nations that are restricted". In his view, the justification for this discrimination is not rooted in some need to penalize idolaters and deny them their rights because they do not believe in a true divinity. Rather, advances the Me'iri, it is because idolatry generates a society lacking fear of God and lacking law, and such a society is not protected by law.²⁴

The halakhic dividing line is not between Jews and gentiles in an ontological sense, but between nations possessed of law and lawless nations.

Especially important is the Meiri's comparable treatment of Jew and gentile with respect to the obligation to return lost property, the obligation to help load a beast of burden, the prohibition on excessive profit, equal compensation for property damage, and equality of punishment for bloodshed. In all these instances, the existing discrimination had been justified by reference to limiting family-related

²¹ See above, n.10.

²² The Me'iri's term for Maimonides.—*Translator*

²³ See Blidstein *op. cit.* p.158.

²⁴ Formulations such as this appear explicitly in the Me'iri: *Beit Ha-Behirah Yoma*, Y. Klein HaKohen ed., p.212; *Beit Ha-Behirah Bava Qama*, K. Schlesinger ed., p.330; *Beit Ha-Behirah Ketubot*, A. Sofer ed., Jerusalem 5707, pp.67–68.

Scriptural terminology: “your peer” (*rei`akha*), “your brother” (*ahikha*), and “your fellow” (*amitekha*). An explicit statement of this point may be found in the Me’iri’s comments on the prohibition of excessive profit: “Anyone disciplined by religious practices is within [the protection of the ban on] excessive profit, but idolaters are not within the scope of brotherhood for purposes of being included within the law against excessive profit in a commercial transaction. The Rabbis established the principle, ‘Do not wrong one another.’ [(Lev. 25:17), the Scriptural basis for the prohibition on excessive profit] to mean, ‘You shall not wrong one who is with you in Torah and commandments’” (*Beit Ha-Behirah Bava Metsi`a*, K. Schlesinger ed., p.219). According to the Me’iri, those who are restricted by the ways of religion are included within the term “your fellow (*amitekha*),” which is interpreted in the Talmud as “one who is with you in Torah and commandments” (*Bava Metsi`a* 59a). The Me’iri defines people possessing religion to be Israel’s partners in Torah and commandments, and he brings them into the circle of brotherhood for purposes of juridical standing. By this remarkable step, the Me’iri cancels the juridical distinction between Jew and gentile and replaces it with a distinction between one possessing religion and one lacking it.²⁵

A broader analysis of the Me’iri brings to light sources not yet considered in the scholarly literature that show just how far beyond his predecessors the Me’iri took his concept

of equality. The first source relates to the *halakhah* establishing that the sabbath may not be desecrated to save the life of a gentile.²⁶ The Me’iri elucidates this *halakhah*, which had been a source of discomfort to halakhic decisors in the preceding generations, in a manner consistent with his fundamental approach: “[In a case of] danger to human life [*piquah nefesh*], we do not rule in accordance with the [status of] the majority.²⁷ How [do we apply this principle]? Given a courtyard inhabited both by Jews and by idolaters for whose rescue we are not commanded to desecrate the sabbath, *for they have no religion...*” (*Beit Ha-Behirah Yoma*, Y. HaKohen Klein ed., p.212). In another formulation: “The ancient worshippers of heavenly bodies, for whom we are not commanded to desecrate the sabbath, *inasmuch as they lack any religion and have no regard for the obligations of human society...*” (*id.*). In the Me’iri’s view, the prohibition on desecrating the sabbath to save the life of a gentile applies only to gentiles not possessing any religion. As far as I know, this fundamental conception of the authority to desecrate the sabbath to save human life does not predate the Me’iri, and his permissive ruling in this regard shows the broad applicability of his principle.

Further evidence, not yet considered by scholars, of how far the Me’iri went in extending his permissive rulings beyond the merely pragmatic can be found in his halakhic decision regarding a Jew’s obligation, when standing before a house of idolatry in all its glory, to express wish-

²⁵ The authority to charge interest to a non-Jew constitutes an exception to this equal juridical status of Jew and gentile, for the Me’iri does not revoke the distinction between them in this area. See, on this, Urbach, *op cit.* Even here, however, the Me’iri’s concept was unique. Following R. Abraham ben David and other early authorities (*risbonim*), he disagrees with Maimonides, who, in view of the scriptural statement “you may deduct interest from loans to foreigners” [Deut. 23:19; the Heb., *la-nokhri tashikh*, can be read as permissive or mandatory], posits a positive commandment to lend to a gentile on interest. These *risbonim*, following a passage in the Babylonian Talmud (*Bava Metsi`a* 70b), understand “*la-nokhri tashikh*” [which is phrased positively rather than negatively] as subjecting interest taken from a fellow Jew to the status of something violating a positive commandment. A Jew is not commanded to lend on interest to a gentile, however, even though the Torah permits him to do so. The Me’iri goes a step further, taking the position that “*la-nokhri tashikh*” imposes a positive commandment to lend to a gentile in order to sustain him. Doing so is an aspect of the obligation to give charity; for on the Me’iri’s approach, a Jew is obligated to provide economic support to all who are “restricted by the ways of religion.” The distinction in this regard between Jew and gentile is only that the obligation to lend without interest extends to Jews alone and not to gentiles. The Me’iri thus turns on its head Maimonides’ understanding of “*la-nokhri tashikh*” as an obligation to oppress the gentile. See *Beit Ha-Behirah Bava Metsi`a*, K. Schlesinger ed., p.267; and, for a thorough consideration of the issue, see Blidstein *op cit.*

²⁶ See, for example, Maimonides, *Mishneh Torah, Hil. Shabbat* 2:20.

²⁷ That is, if a group of people are in danger, and only a minority or them are people for whose safety it is permitted to violate the sabbath, we nonetheless violate the sabbath instead of relying on the statistical probability that the person in jeopardy is of the majority.—*Translator*

es for its destruction. A *baraita* contrasts the gratitude that a Jew must proclaim in the presence of Jewish dwelling places with the contempt he must express before dwelling places of idolaters: “Our rabbis taught: One who sees Jewish dwellings peacefully settled says, ‘Blessed be He who establishes the homestead of the widow’ [cf. Prov. 15:25]; one who sees them destroyed says ‘Blessed be the true Judge.’ [One who sees] dwellings of idolaters peacefully settled says, ‘The Lord will tear down the house of the proud’ [*id.*]; one who sees them destroyed says, ‘The Lord is a God of retribution; the God of retribution has appeared!’ [Ps. 94:1]” (*Berakhot* 58b). In the ensuing passage, the Talmud formulates the contempt that a Jew must articulate when in the presence of graves of idolaters: “[One who sees] graves of idolaters says ‘So your mother will be utterly shamed[; she who bore you will be disgraced] [Jer. 50:12].”

In this matter as well, the Me’iri distinguishes Christians and Christianity from the ancient idolatrous nations: “One who sees Jewish synagogues peacefully settled says, ‘Blessed be He who establishes the homestead of the widow’; one who sees them destroyed says, ‘Blessed be the true Judge.’ [One who sees] peacefully settled dwellings of idolaters and other believers in ancient faiths, who were not restricted by the ways of religion (and who are always referred to in the Talmud as ‘the nations of the world’), says, ‘The Lord will tear down the house of the proud’; [one who sees them] in their destruction says ‘The Lord is

a God of retribution.” With respect to one who sees graves of the nations of world, he continues: “One who sees graves of the nations of the world, that is, of idolaters of the sort we have described, says, ‘So your mother will be utterly shamed, etc.’” (*Beit Ha-Behirah Berakhot*, p.207).

This determination by the Me’iri has deep symbolic meaning, transcending all the distinctions he draws in other areas. When all is said and done, the verbal contempt that a Jew filtered through his lips on seeing Christian houses of worship was his only available form of expression in the face of a hostile Christian world whose might, compared to his own weakness, prevented him from disclosing his own hostility more bluntly and directly. Moreover, carefully nurtured verbal hostility can serve not only as a weakling’s weapon of last resort, but also as a force for accentuating the divide between the Jewish and Christian communities—a divide that might otherwise be overcome by the intricate array of economic relationships between them. The Me’iri’s annulling the idolatrous standing of Christian houses of worship shows that his purpose was to instill in the innermost layers of consciousness the distinction between the ancient and the “restricted” nations, and not merely to take advantage of that distinction as a way to avoid actions likely to anger the sovereign nation. Blessings and curses are matters of the lips and heart; and the Me’iri’s rulings on these issues far transcend the calculus of economic benefits that guided other medieval halakhic authorities.²⁸

²⁸ Another distinction uniquely drawn by the Me’iri between the ancient idolatrous nations and the gentiles of his time demonstrates how the change in the basic image of the gentile was internalized—a process not limited to demands of economic life. The *halakhah* at issue relates to a seller’s responsibility to compensate a purchaser of chattels in a case where a third party presents a persuasive claim that the purchased object had been stolen from him. The talmudic sage Ameimar (in accordance with whose view the *halakhah* was fixed) took the position view that in a case where the third-party claimant is a gentile, the seller is not obligated to compensate the buyer. The rationale for this ruling appears in the Talmud: “For any idol worshiper is presumed a malfesor, as is written [Ps. 144:8], ‘whose mouth speaks falsehood, and their right hand is a right hand of lying’” (*Bava Batra* 45a). Maimonides (*Hil. Mekhirah* 19:4) and other *rishonim* rule this way even where the gentile presses his claim against the purchaser in accordance with gentile law. But the Me’iri qualifies the rule as follows: “In all these cases [the seller must compensate the buyer] only when the sold item was taken away from the buyer by a Jewish court on the basis of Jewish testimony, but if it was taken from him in the courts and through the testimony of one of the ancient nations that worship idols and have no fear of religious punishment, the purchaser has no recourse against the seller” (*Beit Ha-Behirah Bava Batra*, p.256). Ameimar’s determination that any idol worshiper is presumed a malfesor applies in the Me’iri’s opinion only to the ancient nations that have no fear of religious punishment; but if it were proven in a gentile court of his day, under its law, that the object had been stolen from the gentile, the seller would bear the responsibility of compensating the buyer. The Me’iri is the only halakhic authority to qualify this talmudic *halakhah*, which shows that because it does not touch upon basic communal needs, the other *rishonim* were not impelled to qualify or circumvent it. The Me’iri’s qualification of the ruling derives from his unique stance, which adopts a different image of the gentile and effectuates that image in *halakhah*.

The Me'iri thus does not rest content with providing a sweeping, systematic explanation for permissive rulings related to economic and functional relationships. His concept is broader, reaching out to diminish inner hostility and effect a change in consciousness itself. This expansion is articulated in a further permissive ruling, also unique to the Me'iri among medieval halakhic authorities, related to extending greetings to a gentile. The Talmud permits extending greetings to a gentile for the sake of peaceful relationships, but it forbids expansive greetings to a gentile at any time as well as entering his house to greet him on his festival day, even if the greeting is not expansive. If a Jew happens to encounter a gentile on his festival day, he should greet him halfheartedly and gravely. Rashi notes that expansive greeting to a gentile is forbidden because “*Shalom*”²⁹ is a name of God and should not be associated with a gentile.³⁰ The prohibition on entering a gentile's house to greet him is explained by the argument that the gentile might thank his gods for having been honored by the greeting. But the Me'iri offers different explanations for the prohibitions on expansive greeting and on greeting on the gentile's festival day. In his view, the limitation on greeting is tied to the dangerous implications of social contact with pagans:

We do not refrain from greeting idolaters, but it is not proper to greet them at greater length than is usual and customary, which is what I term “expansive greeting.” For one who extends greetings at greater length than the norm shows greater affection and involvement, and you already know that idolatry was appealing to many...Accordingly, some of our great sages would initiate greeting to an idolater, for the one who initiates the greeting provides a basis for the other to respond in kind, and by initiating a greeting that is merely in accordance with the norm, one can invite a similar response and avoid excessive involvement. But if one were to await the other's

initial greeting, the latter might come forward with an affectionate and effusive greeting that would have to be reciprocated, leading the two to become unduly friendly and close, and forming a model that others might emulate. But expansive greeting in accordance with the norm is not suspect, even though it is expansive...And this relates to what we have already written concerning the Rabbis' ban on entering a gentile's home on his festival day to greet him, for he may recount the nature of the festival, being celebrated for the sake of some particular heavenly body or sacred figure, and [the Jew], through all the chattering about it, may be ensnared. But if he encounters the gentile in the marketplace he may greet him even on his festival day, albeit not in a manner that expresses affection or attachment, lest the gentile, having both the opportunity and the eagerness to recount the might of his idol, continue on to do so. But, in any event, none of this applies to nations restricted by the ways of religion and believing in the existence, unity, and power of God (may He be blessed), even if they go astray with respect to some matters according to our beliefs. (*Beit Ha-Behirah Gitin*, ed. by K. Schlesinger [Jerusalem: 5735], pp.257–258.)

The Me'iri determines that the prohibitions on greeting a gentile expansively and entering his home to greet him on his festival day do not apply to the Christians of his day but only to the ancient, idolatrous nations. This novel permissive ruling is all the more interesting because the Me'iri—contrary to Rashi's view—relates the origin and nature of the prohibitions to the limitations on affectionate or intimate relationships with gentiles that might bring about risky influences. The Me'iri understood the term, “expansive greeting” [*kefilat shalom*], not in its direct, literal sense of “repeatedly stating a greeting” but as an affable expression of affection and attachment. In his

²⁹ The word used in the greeting.—*Translator*

³⁰ See Rashi on *Gitin* 61a, *s.v.* “*Ve-Sho'alin Bi-Shelomam*”.

view, it would be permissible to extend expansive greeting in the merely literal sense even to ancient idolaters. But this understanding of the prohibition makes the meaning of his permissive ruling with respect to Christians all the more powerful. By permitting a Jew to greet a Christian expansively and enter a Christian's home on his festival day to greet him, the Me'iri allows for a range of affectionate social contacts that go far beyond the expedient relationships that other halakhic authorities wanted to make possible. The types of activity permitted by the Me'iri take away from Jewish-Christian relationships in this area the cold sense of estrangement that the *halakhab* sought to create by setting fixed forms for greeting a gentile.

The Me'iri defines people possessing religion to be Israel's partners in Torah and commandments, and he brings them into the circle of brotherhood for purposes of juridical standing.

Another halakhic area to which the Me'iri applied his general distinction, also not considered in the literature, pertains to the prohibition on preparing food for a gentile on a Jewish festival [*yom tov*]. Even though a Jew is permitted to prepare food for consumption on *yom tov*, the Talmud, following halakhic *midrashim*, limits that authority through a close reading of the verse "...only what every person is to eat, that alone may be prepared for you" (Ex. 12:16): "R. Akiva says, even food for a domestic animal is intended, so what is the significance of 'for you'? [It implies] for you—but not for idolaters.³¹ And why do you see fit to include dogs but exclude idolaters? I include dogs because you are responsible for their sustenance, but I exclude idolaters because you are not responsible for their sustenance" (*Beitsah* 21b). According to Rabbi Akiva's view, it is forbidden to prepare food for a gentile on *yom tov* because he is not within the category of "for you" referred to in the verse, and a Jew is not responsible for his

sustenance. Following that view, the Talmud determined, in the name of Rabbi Joshua ben Levi, that it is forbidden to invite a gentile to a meal on *yom tov*: "One may invite a gentile on the Sabbath, but one may not invite a gentile on a festival, lest he cook additional food" (*id.*). The Me'iri inquires into the meaning of the prohibition on preparing food for a gentile on *yom tov*:

The reason for the prohibition on preparing food for a gentile is that it is a forbidden labor and not within the exemption for food needed for consumption, inasmuch as we are not responsible for their sustenance, for the gentiles referred to in the Talmud are those who adhere to the ancient idolatrous beliefs. But, you may ask, does it not appear that we are responsible for their sustenance, given the statement, in the first chapter of tractate *Shabbat*, that one may place food before a gentile in a courtyard on the sabbath? The reason for that seems to be that we are responsible for their sustenance, in light of the statement that we support destitute gentiles along with destitute Jews, for if that were not the case, even placing food before them on the sabbath would be forbidden, as stated in the final chapter of tractate *Shabbat*: "One does not place food before a swine in a courtyard, because you are not responsible for its sustenance," thus showing that we are responsible for the sustenance of gentiles. But Tosafot answered that we are only somewhat responsible for their sustenance, for the sake of peaceful relations, and for that reason we may provide them on the sabbath food that had already been prepared, which entails only some extra effort [of the sort forbidden on the sabbath] only by the rabbis; but actual labor [forbidden by Torah law], such as preparing food for them on *yom tov* is forbidden, as we have written. (*Beit Ha-Behirah Beitsah*, ed. Y. S. Lange and K. Schlesinger (Jerusalem:5729), pp.117–118.)

³¹ The version available to the Me'iri was "for you, but not for gentiles [*goyim*]." Other versions read "for you, but not for gentiles [*nokhrim*]."

The Me'iri determines that the prohibition on preparing food for a gentile on *yom tov* applies not to the Christians of his day, but to “those who adhere to the ancient idolatrous beliefs.” This permissive ruling has ramifications in the daily lives of Jews, and it relates to a Torah law prohibition the violation of which is punishable by flogging! According to the Me'iri, a Christian is within “for you,” the class of people for whom food may be prepared on *yom tov*. He relies on the talmudic authorization to prepare food for those whose sustenance a Jew is responsible for, and in his judgment that includes the Christians of his time.

Having established the distinction between Christians and ancient idolaters with respect to the preparation of food for consumption on *yom tov*, the Me'iri turns to the question of why it was forbidden to prepare food on *yom tov* for ancient idolaters, inasmuch as Jews were responsible for their sustenance as well. He proves this by reference to the authorization, found in tractate *Shabbat*, to place food before a gentile in one's courtyard on the sabbath, such that the gentile will eat it there not take it out into a public domain. He quotes the Tosafot, who determine that the effort involved in placing the food before the gentile was permitted on the sabbath because a Jew is responsible for a gentile's sustenance, in light of the determination that “we sustain destitute gentiles together with destitute Jews for the sake of peaceful relations.” The Me'iri, who understands the principle of “for the sake of peaceful relations” as having been established with reference to the ancient idolatrous nations, wonders on this basis why it was not likewise permitted to prepare food for an idolater on *yom tov*. He bases his answer on the same passage in Tosafot, which claims that the pursuit of “peaceful relations” can waive a [rabbinic] prohibition on expending unwarranted extra effort on the sabbath but not a [Torah] prohibition relating to actual labor on *yom tov*. As Tosafot puts it: “Inasmuch as we sustain destitute gentiles along with destitute Jews for the sake of peaceful relations, it is as if you are responsible to some extent for the gentile's sustenance for purposes of expending on the

sabbath extra effort that would otherwise be rabbinically forbidden. But for purposes of performing actual labor on *yom tov*, which is prohibited by Torah law, you are not considered to be responsible for his sustenance.” (Tosafot, *Shabbat* 19a, *s.v. Notenin*). The Me'iri thus does not use the principle of peaceful relations with reference to the Christians of his day, for its force extends only to the authorization of expending extra effort. According to the Me'iri, the authorization to prepare food for a gentile on *yom tov* stems from the understanding as a matter of principle that the Christians of his day are within “for you,” the class for whom needed food may be prepared, and the Torah prohibition on other cooking and baking does not apply to them.

A comparison between the Me'iri's approach to the question of preparing food for a gentile on *yom tov* and that of other Ashkenazic halakhic authorities reveals the wide gulf between them. The other authorities consider the question primarily with respect to live-in gentile servants in Jewish homes. Rabbi Eliezer of Worms, author of *Ha-Roqeiah*, distinguishes between inviting a gentile to a Jew's home on *yom tov*—forbidden, lest the Jew put up an additional pot of food to cook—and allowing gentiles to eat from the pot of food intended for the Jewish household members and to which additional food had been added for the gentiles. Inasmuch as servants in Jewish homes eat from what has been added on their account to the food prepared for the household, there is no concern about feeding them on *yom tov*. As Rabbi Eliezer says:

A woman may fill a pot with meat [on *yom tov*] even if she needs only one piece. It is likewise permitted to cook for one's gentile servants in one's own pot, but it is forbidden to do so in another pot, given “for you, but not for gentiles,” and one does not invite a gentile on *yom tov* lest he prepare additional food for him in another pot, for it is forbidden to roast or cook or bake for idolaters or for dogs. (*Ha-Roqeiah, Hil. Yom Tov* 298.)

This move is typical of how Ashkenazic halakhic authorities treated relations with gentiles. The permissive ruling by Rabbi Eliezer of Worms is based not on any distinction in principle between Christians and the gentiles considered in the talmudic passage, and he in no way alters the Christian's standing as an idolater. Rather, in order to solve a problem in the day-to-day life of a Jewish household, he resorts to a different Talmudic ruling with respect to food preparation on *yom tov*, which permits cooking a full pot of meat on *yom tov* even if there is immediate need for only one piece. This permissive determination was made without any direct connection to the question of preparing food for gentiles, and it is invoked here with the help of the distinction between a visiting and a resident gentile.³²

Rabbi Eliezer ben Yoel Ha-Levi cites, in the name of Rabbi Samuel ben Rabbi Natronai, another rationale for the Ashkenazi practice of feeding Christian servants on *yom tov*: "And our teacher Rabbi Samuel ben Natronai explained that we are responsible for our maid-servants' sustenance just as we are for that of our dogs, and he ruled, in accordance with Rabbi Akiva, that it is permitted [to feed them]" (Rabbi Eliezer ben Yoel Ha-Levi, 3, p.755). According to Rabbi Samuel ben Natronai, food may be prepared for maid-servants even without recourse to the device of adding food to a pot that has been put up for Jews, inasmuch as Jews are responsible for their maid-servants' sustenance. This formulation bears a certain resemblance to the Me'iri's; and the Me'iri himself, in his *novellae* on *Beitsab*, cites this position.³³ But the Ashkenazi halakhic authorities limited the permissive ruling to servants in Jewish households and did not apply it to Christians in general; as was their wont in such mat-

ters, they did not adopt a sweeping permissive ruling based on a substantive distinction between the gentiles to whom the Talmud related and those of their own time. The permissive rulings they provided were localized, tailored to the circumstances of the community.

In contrast, the Me'iri applies the principle of "you are responsible for their sustenance," and issues a sweeping permissive ruling that encompasses all contemporary gentiles, not only servants. In his scheme, a Jew is not responsible for the sustenance of the ancient idolaters—the gentiles that the Talmud generally deals with—but the Christians of his time are encompassed within the reach of "for you." Beyond that, while the Ashkenazi halakhists permitted sending food to a gentile on *yom tov*, they did so on the basis of the principles of "peaceful relations" and "avoiding hatred." Accordingly, they permitted only the [rabbinically prohibited] exertion of extra effort and did even that only in time of need.³⁴ The Me'iri, who reserves the category of "peaceful relations" for the ancient nations, totally annuls the prohibition on preparing food for Christians.³⁵ There is a deep halakhic difference between the principled category postulated by the Me'iri and the pragmatic assessment of the risks of hatred conducted in the medieval halakhic literature; and it is made manifest in his permitting an activity that appears on face value to be prohibited by Torah law.

In the Me'iri's view, the authorization to prepare food for a gentile on *yom tov* rests on two premises: (1) that the prohibition from the outset was directed only toward idolaters; and, (2) that Christians of his time are not within the class of idolatrous nations. Beyond his innovation that Christians are not within the class of idolaters, one could

³² The Rosh (Rabbeinu Asher) reiterates the method of *Ha-Roqeiah* for reaching this result. See the Rosh on *Beitsab*, 14.

³³ See *Hidushei Ha-Meiri 'al Masekhet Beitsab*, Berlin, 5619, 41b, s.v. *Motsi ani et ha-goyim she-ain mezonotan 'alekha*.

³⁴ On that issue, see the comments of Rabbi Isaac ben Moses, author of *Ha-Or Zaru'a*, *Hil. Shabbat* 53. See also the *novellae* of the Rashba [Rabbi Solomon ben Adret] on *Shabbat* 19a, s.v. "*Mahu de-teima ha ramei aleih*" and the quotation there from the Rabad [Rabbi Abraham ben Daud].

³⁵ On the premise that the category of "for the sake of peaceful relations" is applied not with respect to nations restricted by the ways of religion but only to the ancient nations, see *Beit Ha-Behirah Gitin*: "For the sake of peaceful relations, one does not block poor gentiles, including those not restricted by the ways of religion, from gleaning [in Jewish-owned fields]; and in the *gemara* it likewise is said that we sustain destitute gentiles together with destitute Jews and tend to their ill together with the Jewish ill" (p.250).

quibble with the claim that the prohibition on preparing food for a gentile on *yom tov* is limited to idolaters. No limitation of that sort is to be found anywhere in the medieval interpretive or legal literature; and we indeed hear of no halakhic authority permitting the preparation of food on *yom tov* for a monotheistic Muslim. The Me'iri, on the other hand, uses this permissive ruling as a means for broadening the shared community. With respect to the preparation of food on *yom tov*, the group encompassed by the Torah's "for you" includes the non-idolatrous nations.

The Me'iri's consistency in implementing the distinction between the restricted and unrestricted nations, and his use of that distinction in a manner going far beyond addressing the community's pressing economic needs, appear pointedly in his treatment of the *halakhah* pertaining to the personal status of gentiles. The *halakhah* determines that gentile brothers from a common father who convert to Judaism are not bound by the law of *yibbum*,³⁶ inasmuch as there is no paternity for a gentile. The attachment requiring *yibbum* requires fraternity on the father's side, and even if the mother of twin brothers converted to Judaism while pregnant, the brothers are not bound by the *yibbum* requirements. The Talmud offers the following rationale for that *halakhah*: "We learn from this that the Merciful One made a gentile's progeny legally fatherless [lit., ownerless], as is written [Ezek. 23:20], 'whose flesh is as the flesh of asses, and whose issue is like the issue of horses'" (*Yevamot* 98a). The progeny of a gentile is ownerless and is like the progeny of an animal; the tie between father and offspring is biological only. This understanding has important halakhic ramifications related to family law, for it negates the paternal status of a gentile by regarding him as a beast-like creature lacking any family ties. The Me'iri comments as follows on this

passage in the Talmud: "The law is that anyone who is an idolater and not within the realm of religion is like a beast, as to which we are unconcerned about paternity" (*Beit Ha-Behirah Yevamot*, ed. S. Dikman, Jerusalem 5722, p.354). This comment means that the law negating paternity with respect to gentiles does not apply to the restricted nations of his time but only to the idolatrous nations. The link between the natural and the barbaric that defines the gentile as a beast applies only to ancient nations lacking law. The Me'iri is the only medieval halakhic authority to distinguish between contemporary and ancient nations in this regard, for his attitude toward the question is one of principle and is not caught up in the practical needs that flow from economic and political dependence on gentiles. The question of whether the *yibbum* requirements apply to the twin sons of a Christian mother who converted to Judaism while pregnant has nothing to do with the pressing matters of Jewish-gentile relations. Nevertheless, the Me'iri determines that these brothers are subject to the *yibbum* requirements; for from his perspective, if a gentile is possessed of religion, there is no justification for relating to him as to an animal.³⁷

The prohibition on desecrating the Sabbath to save the life of a gentile applies only to gentiles not possessing any religion.

A daring expansion of the community's boundaries appears as well in the Me'iri's interpretation of the principle of "Israel is not subject to the stars" (*ein mazal le-yisra'el*) (*Shabbat* 156a). The Me'iri, who opposes absolute astrological determinism, says: "And they declared the rule that 'Israel is not subject to the stars' and mean by the name 'Israel' those who are restricted by the ways of religion" (*Beit Ha-Behirah Shabbat*, p.615). And

³⁶ Levirate marriage, generally providing that if a married man dies childless, his surviving brother must either take his widow as a wife (*yibbum*) or release her (*halitsah*). For simplicity, the present translation uses the term "*yibbum* requirements" to refer generally to both courses of action.—*Translator*.

³⁷ The medieval *rishonim* applied this rule to gentiles in their time, and Rabbeinu Tam made broad halakhic use of this principle. See *Ketuvot* 3b, Tosafot s.v. "Ve-lidrosh leho."

in a parallel passage in *Hibbur Ha-Teshuvah*: “For inasmuch as the conclusion is prepared to be good or evil, every person possessed of religion will remove himself from preparation for evil by restricting himself with the restrictions of his ethical qualities, and that is what the sages of blessed memory refer to when they say ‘Israel is not subject to the stars,’ which is to say everyone restricted by religious ways, for his restrictions will free him from what might have been decreed for him by simple causation (p.637). One restricted by the ways of religion, whether Jew or gentile, is not given over to the arbitrariness of the astrological signs.³⁸ The Me’iri in this instance applies the distinction between “restricted” and “unrestricted” nations in a purely theological context, having nothing to do with compulsion or censorship. Beyond that, the basic commonality among all those of religion—Jews and non-Jews alike—turns them all into “Israel” for this purpose. The special status ascribed to Israel by this adage—that unlike other nations, is subject only to the direct providence of God and not to the rule of astrological signs—becomes the inheritance of all nations restricted by the ways of religion. In this way, the awareness of being chosen that inheres in being liberated from the rule of astrology is expanded to encompass not only Israel but all who are restricted by religion. These passages related to tractates *Yoma*, *Berakhot*, *Gitin*, *Beitsah*, and *Shabbat*, show the great disparity between the Me’iri and the areas considered by his predecessors, all of which had been

defined by economic pressures and the need for self-censorship.³⁹

The Me’iri thus employs two distinctions: first, between the ancient nations that worshipped idols and the nations of his day, who were not idolatrous; and, second, between nations not restricted by the ways of religion and nations that are so restricted, or, in his alternative formulation, between nations that do not possess religion and nations that possess it. He uses these two distinctions in a far more general and sweeping way than did his predecessors. When considering permissive rulings related to contacts with gentiles that might entail indirect ties to idolatry, he relies exclusively on the first distinction. It is no coincidence that the second distinction, between restricted and unrestricted nations, never appears in the context of revoking prohibitions involving indirect contact with idolatry. The claim that a particular nation is restricted by the ways of religion and avoids robbery or bloodshed or bestiality would not be enough to permit commerce with it if its worship ritual is idolatrous. To permit commerce, it is necessary to determine that the nation is not idolatrous. Indeed the Me’iri so maintains. Nevertheless he finds a causal connection between the two distinctions: The nations that are not idolatrous are those that are restricted by the ways of religion. This causal link appears in his comment that “all of these [nations], because they are possessed of no religion in the world and do not yield to

³⁸ The Me’iri’s interpretation of the adage “Israel is not subject to the stars” is based on the comments of Samuel Ibn Tibbon, who likewise takes it to mean that Israel has no astrological determination because they were given the Torah, through which they can change their inborn natures. But Samuel Ibn Tibbon does not extend the idea from Israel to all those possessed of religion: “And they all said ‘Israel is not subject to the stars,’ that is, the forces that God imparted to the stars to enable them to more or less determine human qualities are effective only with respect to the nations of the world, which lack Torah and commandments, as Scripture states [referring to celestial bodies], ‘which the Lord your God has allotted unto all the peoples’ [Deut. 4:19]. That is, [the nations] act in accordance with their natural qualities, which derive from their temperaments, which derive from the higher forces...but Israel does not tend to do so, for God gave it Torah and commandments through which an individual with bad qualities derived from the higher forces can overcome and change those qualities.” (Commentary on Ecclesiastes, MS Parma 272, p.74a.) Ibn Tibbon, who claims that the nations of the world follow their natural qualities, preserves the distinction between Israel and the nations. The Me’iri thus makes use of an idea that Ibn Tibbon articulates with respect to Israel but expands it to encompass all who are possessed of religion, regarding them all as, in effect, possessed of Torah and commandments.

³⁹ Regarding the prohibition on revealing the hidden aspects of the Torah to a gentile (*Hagigah* 13a), the Me’iri says: “And one does not hand over the hidden aspects of the Torah to a gentile, that is, one who worships idols and the heavenly host, for inasmuch as he denies the fundamental principle, how can he be taught Torah? And of this it is said [Ps. 147:19–20], ‘He declares his word to Jacob...He has not dealt so with any nation....’” (*Beit Ha-Behirah Hagigah*, p.28.) The Me’iri thus applies his rule as well to an area related not at all to trade or communal needs but to handing over the hidden aspects of Torah. Because he follows Maimonides and identifies *ma’aseh merqavah* with metaphysics, it appears that the Me’iri was interested in authorizing the exchange of ideas that was being carried on between Jewish and Christian intellectuals regarding creation mysticism (*ma’aseh bereshit*) and *merkavah* mysticism—i.e. physics and metaphysics.

fear of the Divinity and, instead, burn incense to the heavenly bodies and worship idols, pay no heed to any sin” (*Beit Ha-Behirah Avodah Zarah*, A. Sofer ed., p.39). I will analyze below the meaning of this determination in its broader context. For present purposes, we see the Me’iri’s view is that because idolaters uphold no concept of a divinity that exercises providence and imposes punishment, they lack all fear of the Divinity. Since they are unrestricted by the ways of religion, they fail to refrain from the most reprehensible acts.

The Me’iri’s rulings on these issues far transcend the calculus of economic benefits that guided other medieval halakhic authorities.

The Me’iri’s conception incorporates several important fundamental innovations. The first is the reason for his sweepingly permissive ruling with respect to the halakhic prohibitions on indirect contact with idolatrous ritual: the determination that idolatry is a phenomenon that has departed the world or been marginalized. The Me’iri extends this principle to areas unrelated to the economic interaction between the Jewish community and its Christian surroundings, permitting us to see in his view a broader conception of the historical progress made by faith.

The second innovation relates to the link between his permitting contacts with contemporary gentiles on the grounds that they are not idolaters, and the substantive change in how their juridical status is conceived. This link rests on the determination that idolatrous nations are nations lacking fear of the Divinity and, therefore, that they do not recognize the concept of sin or transgression. Thus there is a two-way causal connection between a nation’s idolatry and its lack of restrictions by the ways of religion.

The third innovation is the Me’iri’s concept that the Talmud’s inequality between Jew and gentile with respect to personal and property rights arises from the parallel

distinction between restricted nations and those unrestricted, not from any ontological distinction between Jew and gentile or even between idolaters and worshippers of the Divine. By establishing the inequality on this new basis, the Me’iri limits its application to the ancient idolatrous nations and also provides it an inner rationale. The inequality reflects a sort of measure-for-measure attitude toward the undisciplined nations: There is no obligation to treat lawless nations in accordance with legal constraints. The Me’iri applies this distinction between restricted and unrestricted nations to matters going beyond the constraints that vexed his predecessors, such as danger to life on the sabbath, as well as the preparation of food for a gentile (*Beit Ha-Behirah, Beitsab*, Linge ed., pp.117–118.) and the daring reading of “*Ein Mazal le-Yisrael*” as a statement granting direct divine concern to all who possess religion (*Beit Ha-Behirah, Shabbat*, p.615).

To examine the philosophical and theological origins of the Me’iri’s determination that idolatry no longer exists and his assumptions regarding the concept of “restricted by the ways of religion,” it is necessary to study his use of the terms “possessed of religion,” “ways of religion,” or “religious ways” in contexts independent of the halakhic standing of gentiles. These terms appear numerous times in such contexts throughout the Me’iri’s writings and those passages help illuminate his intention in coining the terms “nations restricted by the ways of religion” and nations “possessed of religion,” and enable us to understand the broader context of his position.

[C]

The concept “one possessed of religion” (*ba’al dat*) has its source in a distinction widely drawn by Maimonides’ philosophical heirs—Samuel Ibn Tibbon, Moses Ibn Tibbon, and Jacob Antoli. “Possessed of religion” denotes a person whose faith and actions are based not on inquiry (*iyyun*), but on an accepted belief in a divinity that exercises providence and imposes punishment. According to the philosophers, religion is a necessary condition to the existence of the social order, for in contrast to those

“possessed of wisdom” (*ba’alei hakbma*), the masses are motivated primarily by the hope of reward and the fear of punishment. Belief in *creatio ex nihilo* (*hidush*) is the central metaphysical premise that characterizes those possessed of religion and that makes religion possible. It is therefore fitting that a philosopher treat as esoteric everything connected with positions that negate *creatio ex nihilo*, providence, and recompense. A society lacking religion is a dangerous society, as stated by the philosopher whom the Me’iri quotes in his comments on those restricted by the ways of religion: “Put to death one who has no religion.” Here we can recognize the influence of the concept of religion that flourished in the philosophical tradition preceding the Me’iri, and it is not surprising that he refers to the philosophical statement in what is clearly a halakhic analysis.⁴⁰ The Me’iri differed from his predecessors in how he ranked one possessed of religion and one possessed of wisdom, yet he derived the concept of religion and its essential nature from the philosophical tradition that preceded him. For the Me’iri, the concepts “possessed of religion” and “ways of religion,” when considered in broad theological contexts, are always linked to a belief in *creatio ex nihilo*, providence, and recompense, or to actions intended to strengthen that belief.⁴¹ These constitute the central core of the realm of religion as defined by the Tibbonides. The Me’iri uses

these terms frequently, but for present purposes allow me cite only a few paradigmatic examples.

In the first part of his “Essay on Repentance” (*Hibbur Ha-Teshuvah*), the Me’iri describes the beliefs that allow for the existence and benefits of repentance as beliefs belonging to one possessed of religion:

But my intention in this chapter is only to caution the sinner not to give up on repentance, whether by failing to believe in it or by fearing that it will not be accepted because of the multitude of his sins. Both of those foreign and evil notions will lead their adherents to hold fast to their wickedness. For the belief in the benefits of repentance, as described by the rabbi, the guide of righteousness [i.e. Maimonides] in one of his chapters, is among the factors without which people possessed of religion cannot get along.... But by believing in the benefits of repentance and the damage caused by its absence, he will be strengthened in the true knowledge that God, may He be blessed, oversees our ways and has the power to punish us and cause us loss if we disobey Him and to do well by us if we serve Him; and he will then strive to mend his ways. (pp.22–23.)

⁴⁰ For the origin of the term, see *Otsar Nehmad*, B, (Vienna 1857), p.197. This text, which is part of the “Passages Copied from *Moznei Ha-Iyyun* of Abu Hemed Al-Gazali,” warns the philosopher of his obligation to belong to the normative community of a particular religion; for a man with no religion is worthy of being put to death. According to this source, religion is something apart from the rational beliefs of the philosophers. (The attribution of *Moznei Ha-Iyyun* to Al-Gazali is in doubt. See A. Altman “The Ladder of Ascension,” *Studies in Mysticism and Religion Presented to Gershom G. Scholem*, Jerusalem 1967, pp.8, n. 28.

⁴¹ The Me’iri wrote a tract called “*Ketav Ha-Dat*” [“Essay on Religion”], which was lost. He describes its purpose as follows: “It occurred to me to commit to writing, in this chapter, most of the Toraitic beliefs worthy of being taught to one’s children, so that the necessary faith in the reality of religion will be engraved on their hearts. I planned to pay no attention to philosophical views and opinions or to matters established by syllogism (*muqashim*) or proof (*moftiyyim*), but only to the received religious, Toraitic belief [...] and to make it a complete account of what one must believe in accordance with the religious ways, I planned a separate booklet, which I named “*Ketav Ha-Dat*” (*Beit Ha-Behirah Sanhedrin*, A. Sofer ed., p.327). “Religion” and “religious ways” thus refer to the beliefs that are received without inquiry or philosophical reasoning; and not for naught did the Me’iri entitle his essay “*Ketav Ha-Dat*.” In interpreting the statement in tractate *Qidushin* that “there is no this-worldly reward for observing the commandments,” the Me’iri observes: “even though the author of this statement is of the opinion that there is no this-worldly reward for the commandments, the principal point and basis of religion is for its adherents to come to accept that even in this world there is reward” (*Beit Ha-Behirah Qidushin*, A. Sofer ed., p.202). The Me’iri’s biting reaction against a talmudic expression of determinism that could impede repentance and prayer can be found in *Beit Ha-Behirah Mo’ed Qatan*: “one should never keep oneself from acts of compassion or from prayer, and one should understand and know that prayer and acts of righteousness will affect one’s fate (*mazal*) and the array of consequences in all situations. And one should pay no heed to their statement [in the Talmud] that ‘the welfare of my children and my sustenance depend not on merit but on fate,’ for it the statement of an individual only, and the ways of religion can in no way tolerate for it” (ed. by B.Z. Rabinowitz Teumim and S. Strelitz, Jerusalem 5728, p.153). See also *Beit Ha-Behirah Ta’anit*, A. Sofer ed., p.31; *Beit Ha-Behirah Sotah*, A. Lis ed., p.6, s.v. “*Mifnot Ha-Dat*”; *Beit Ha-Behirah Beitsah*, Linge ed., p.153.

The benefits of repentance assume a belief in providence and recompense, which are necessary conditions to the existence of people possessed of religion. These beliefs cannot be attained through reason, but must be received through a tradition. In his comments on the structure of the Book of Ecclesiastes, the Me'iri uses the expression "ways of religion" to describe the unprovable domain of belief, which cannot be contradicted by logic: "It is known that the intention of King Solomon, of blessed memory, in this book was to bolster the ways of religion and the received tradition and to teach that no proof can stand in its way nor any logical argument turn it aside" (p.669). The Me'iri thus uses the concepts, "possessed of religion" and "the ways of religion," i.e. his central concepts pertaining to gentiles, in the broader context of his system as well. From contexts independent of gentiles, we learn that these concepts clearly grow out of the Maimonidean philosophical tradition. Religion does not reflect the philosophical core common to intellectuals of all religions. Its concern is rather with the domain of religious *praxis*, which grows out of beliefs that inquiry cannot prove.

A clear example showing that religion is not part of the

philosophical/analytical stratum is Ibn Kaspi's usage of the adage, "Put to death one who has no religion." In describing his opposition to scholars (*me'ayyanim*) who disparage the commandments, Ibn Kaspi says:

My son, there are two types among our people who adopt contemporary traits. Do not walk their path and let your foot avoid their ways. The first type are the philosophizers among our people who have not served their full apprenticeship... yet cast scorn on the words of our sages of blessed memory and treat casually the commandments that call for action (*mitsvot ma'asiyyot*) ... I swear by the Eternal, that Aristotle and his associates and students all caution us to observe everything in the Torah and in the words of the prophets and especially to be careful with respect to the commandments calling for action. As Plato said: "Put to death one who has no religion." (*Sefer Ha-Musar*, p.67.)

The philosopher must participate in the domain of religion, which is encompassed not within the analytical core shared by those possessing wisdom, but within the dimension of religious *praxis*.⁴²

⁴² Instructive examples of the evolution of the concept "those possessed of religion" within the world of Provencal *halakhab* can be found in the works of two halakhists, Rabbi Meir ben Simeon, who preceded the Me'iri, and Rabbi David ben Samuel Ha-Kokhavi, the Me'iri's contemporary. Rabbi Meir ben Simeon, who polemicized against philosophers who denied *creatio ex nihilo*, describes them in this manner: "And this is the truth regarding the belief of some philosophers who adhere to no religion and fail to acknowledge *creatio ex nihilo*, or the providence of the creator with respect to good or evil acts, or reward and punishment, thereby destroying all of the proofs of the Torah in all respects and permitting to themselves all evil deeds, including adultery, robbery, and murder" (*Milhemet Mitzvah*, ms. Parma 155, 26a). In this passage, which predates the writings of the Me'iri, R. Meir ben Simeon employs motifs familiar from the Me'iri: religion is defined as belief in *creatio ex nihilo*, providence, and recompense, and one who lacks religion is one who permits all possible vile acts. But Rabbi Meir ben Simeon ascribes that position not to ancient idolatrous nations but to the philosopher, who is also amongst those who deny *creatio ex nihilo*. The Me'iri, as noted, associates the category with ancient nations, rather than with the philosopher; for, in his view, the philosopher recognizes that the masses need religion and the philosopher himself is disciplined by internally generated moral commands, rather than by fear of religion. Rabbi David Ha-Kokhavi, who approached the Me'iri's formulation but did not use it to bring about an interpretive change, writes as follows regarding the commandment to kill all males in a nation against which permissive war is waged: "And the true received tradition tells us that we do not make peace with them unless they have accepted the seven [Noahide] commandments; for they have already been commanded in that regard, and only if a man [accepts them] is he worthy to be called a man and to be the subject of mercy. But if they refuse to accept the seven commandments, it is commanded to kill all their males, for their refusal demonstrates the evil of their nature and their lack of any religion. And, similarly, the philosopher said 'Put to death one who has no religion'" (*Sefer Ha-Batim, Migdal David - Sefer Mitzvah*, ed. M. Hirshler, Jerusalem 5743, p.245). Ha-Kokhavi defines the nations that refuse to accept the seven commandments as those that have no religion, but he appears not to invoke the category to distinguish between the ancient nations and the gentiles of his time. This position is reflected in his treatment of the obligation to help unload a gentile's animal: "But there is no obligation to help with a gentile's animal other than 'because of hatred'" (*id.* p.252). Additional evidence for the similarity between Ha-Kokhavi and the Me'iri on this point can be found in Ha-Kokhavi's formulation that "everyone possessed of religion will believe in God's providence with respect to all his deeds, that is to say, in the material world, and the philosopher has already said, 'Put to death one who has no religion'" (*Migdal David - Sefer Emunah*, p.103).

The domain of religion forms the basic layer of beliefs on which the existence of a disciplined community is founded. This domain is the common province not of those possessed of wisdom but of religious believers as a whole, who have faith in a creating, overseeing, and recompensing God. The Me'iri's religious tolerance grows out of his recognition of a religious domain held in common by Jews, Christians, and Muslims, and from the fact that the value of the common domain is rooted in its necessary contribution to the creation of sound societies. The Me'iri occasionally portrays this realm in radical terminology, referring to the brotherhood of those possessing religion or to the applicability to all such people of the name "Israel." His conception of the common base of all religions is reflected most astonishingly in relation to an apostate (*mumar*) who moves from one religion to another. As Jacob Katz has pointed out, according to the Me'iri an apostate (*meshumad*) is not one who has changed his religion but one who lacks any religion.⁴³ A Jew who converts from Judaism to Christianity is not subject to the rule of, "one who is pushed down [into a pit to die] but is not taken out." By virtue of being a Christian, he remains within the core that is common to Judaism and Christianity: Both are possessed of religion. The apostate

who must be put to death is one who has thrown off the yoke of all religion in general:

Heretics (*minim*) and non-believers (*epiqorsim*) may be directly harmed; and informers (*masorot*) are permitted [to be harmed] though their property may not [be used]; and one who apostatizes to idolatry is within the class of the heretics. But all of this is so only when the rubric of "Israel" continues to apply to them, for anyone who is within that rubric and disavows and desecrates the religion is subject to severe punishment, for he has become a heretic and is as one who has no religion. But one who has completely left the rubric [of Israel] and become a member of another religion is considered by us to be the same as any other member of the religion he has joined. (*Beit Ha-Behirah Horayyot*, A. Sofer ed., p.275.)⁴⁴

Intolerance for idolaters has its source, therefore, not in their being members of another religion, but in their being members of no religion at all because they are not restricted by the ways of religion. The Me'iri is the first thinker to suggest a concept of inter-religious tolerance

⁴³ J. Katz, "Sovlanut Datit Be-Shitato Shel Rabbi Menahem Ha-Me'iri be-Halakhah U-Ve-Filosofiyah" ["Religious Tolerance in Rabbi Menahem Ha-Me'iri's Halakhic and Philosophical System"], *op.cit.*, p.27.

⁴⁴ In a non-halakhic context as well the Me'iri depicts an apostate not as a Jew who has gone over to another religion but as one who has left religion altogether and therefore resembles an idolater. He interprets the verse "lest there should be among you man or woman...that bless himself in his heart, saying 'I shall have peace...that the watered be swept away with the dry'" [Deut. 29:17-18] as dealing with an apostate: "the dry" refers to the assemblage of ancient nations, who had no tradition of religious ways but continued to follow their natures, distancing themselves from nothing that their eyes craved, which caused them to hunger and thirst, in the manner of 'hunger satiates him.' And he refers to one who leaves the bounds of religious ways and casts off the yoke of the commandments in that his mind does not cool in its pursuit of pleasures that he indulges through compulsive need...and of his leaving all religion and his participation with the nations of those days who lacked any tradition of the covenant of Torah" (Essay on Repentance, pp.597-598). A parallel formulation from the halakhic realm, concerning the attitude toward one who converts from Judaism, can be found in *Beit Ha-Behirah Avodah Zarah*, A. Sofer ed., "And these matters all [apply] only while he remains within the rubric 'Israel,' and because he denies and desecrates the religion, his punishment is very severe. But anyone who has left the Jewish religion and entered within a different religion is treated by us as any other member of that religion" (p.61). An interesting parallel to the definition of an apostate as one who has no religion at all can be found in a poem by Levi ben Abraham, "*Batei Ha-Nefesh Ve-Ha-Lehashim*": "It is proper to kill every heretic (*min*) without religion." The poet appends the halakhic concept of "heretic" to the philosophers' statement "put to death anyone who (*mi*) has no religion," thereby giving the heretic an identity strongly resembling the Me'iri's definition. By adding the letter *nun* to the word *mi*, he expresses the Me'iri's halakhic position. This poem was published by Y. Davidson, "Levi ben Avraham, *Batei Ha-Nefesh Ve-Ha-Lehashim*, Bulletin of the Institute for the Study of Hebrew Poetry (Berlin 5689), canto 1, line 131. The Me'iri attributes his position on the apostate to his teacher, Reuben ben Hayyim. It is reasonable to believe that the position was shared by the Me'iri and Levi ben Abraham, for the Me'iri's teacher was also the teacher (and uncle) of Levi ben Abraham.

built on the functional value common to all religion. His tolerance thus extends to other religions, but not to people lacking any religion whatsoever.⁴⁵

Creating a common core shared by religious people in general requires a mind-set different from the one that distinguishes between true and false religions, which is the distinction that underlies intolerant points of view. The ability to break free of the distinction between true and false religion and create a generic rubric of “religion” that encompasses various particular traditions (including the religion of Israel) grows out of a conception of the important functional role played by religion, or the “ways of religion,” in Judaism, Islam, and Christianity. This core, common to all those possessed of religion, is fundamentally independent of questions of truth and falsity. It does not arise out of any logical argument, but is distinguished primarily through its ability to create a disciplined society. It must be stressed that the Me’iri does not base his tolerance for other religions on a non-particularist core of philosophical truth, on which thinkers of all religions agree. Such a core does not engender religious tolerance, for it emphasizes the metaphysical truths of a conception of the Divine, such as the simple unity of God. Those are the possession of only a limited group, and are certainly not shared generally by Christian believers.⁴⁶ It is precisely the focus on the religious core shared by all believers that

enables the Me’iri to avoid detailed questions of metaphysical truth, which inevitably lead to intolerance of the sort manifested by Maimonides.⁴⁷ The Me’iri derived his conception of the functional importance of the religious core from the Provencal philosophical tradition that preceded him. Again, however, he was unique in applying it to the issue of the halakhic attitude to gentiles and in concluding that discrimination with respect to rights and responsibilities extends only to those gentiles not found within the category of those possessing religion. This progression in the Me’iri forms an instructive paradigm of the interaction of *halakhah* and philosophy.

[D]

The distinction between restricted and unrestricted nations is causally connected to the more fundamental distinction between the ancient nations that worshipped idols and the nations of the Me’iri’s time that did not do so. As we have seen, the latter distinction was the basis for permitting contacts with gentiles of the Meiri’s time that had been forbidden because they might entail indirect support for or benefit from idolatrous ritual and its apparatus. But how did the Me’iri understand the nature of idolatry? What is the source of his theory of progress that claims that idolatry has departed the world or is relegated to its margins? Just as the clarification of the concepts, “ways of religion” and “persons possessed of religion” is found in passages containing theological statements not

⁴⁵ Only hundreds of years after the Me’iri were the bounds of tolerance extended to encompass people without any religion at all. John Locke, perhaps the foremost thinker on tolerance, is intolerant in his statements about atheists. Even in relatively late stages of Western thought, societies without any religious belief whatsoever are considered endangered societies. See, for example, Spinoza’s concept of the beliefs that are necessary conditions for social order. (*Theological-Political Tractate*, trans. [Heb.] by H. Wirshovsky, Jerusalem 5722 [1961/62], pp.151–152.)

⁴⁶ In the area of absolute faith, the Me’iri regards the Torah of Israel as superior to the beliefs of Christianity, as he says: “But in any event, the nations that are restricted by the ways of religion and believe in the existence of God, may He be blessed, and in his unity and power, are not subject to these [rules applicable only to idolaters] even though they go astray with respect to some matters according to our beliefs” (*Beit Ha-Behirah Gitin*, K. Schlesinger ed., p.258); “Thus, all who are of nations that are restricted by the ways of religion and that worship the divinity in any manner are not within this rule [applicable only to idolaters], even though their faith is distant from ours” (*Beit Ha-Behirah Bava Qama*, K. Schlesinger ed., 330).

⁴⁷ Maimonides saw in Christianity an idolatrous religion. See *Mishneh Torah*, *Hil. Avodah Zarah* 9:3; Commentary on the *Mishnah*, Tractate *Avodah Zarah*, 1:3. A further essential difference between Maimonides and the Me’iri relates to whether there is room for a religion outside of the normative structure set by the Torah of Moses. Maimonides argues that gentiles are not permitted to create a religion for themselves. (*Hil. Melakhim*, 10:9.) In contrast, the Me’iri bases the status of gentiles on their being possessed of religion. Their difference of opinion finds expression in their opposing interpretations of the statement “a gentile who observed the sabbath is liable to be put to death” (*Beit Ha-Behirah Sanhedrin*, A. Sofer ed., p.229). For a broad treatment of this issue, see G. Blidstein, “Maimonides and Me’iri on the Legitimation of Non-Judaic Religion,” *Scholars and Scholarship: The Interaction Between Judaism and Other Cultures*, ed. L. Landman, New York 1990, pp.27–35.

dealing directly with prohibitions on commerce with gentiles, the Me'iri's concept of progress can be clarified by passages reflecting more general theological contexts.

In his "Essay on Repentance," the Me'iri identifies four stages of belief—the sensory (*murgash*), the self-evident (*mefursam*), the syllogistic or rationally derived (*muqash*), and the received through tradition (*mequbbal*). He identifies the ancient nations with the first two stages:

It is well known that in ancient times, false ideas were widespread, for they believed only in what was perceived by the senses or was self-evident or axiomatic; and this is the view attributed to generation of the Tower of Babel.⁴⁸ Because they did not conceive of the existence of anything non-corporeal (*nifrad, nivdal*), they denied the existence of God and instead worshipped the heavenly objects. Were they to see a ladder standing on the ground with its top reaching heavenward, they would not see the Lord of Hosts standing upon it, and they would not believe in His *sancta*. This is what the sages of blessed memory meant when they said that the intention of the Tower builders was to place an idol at its top with a sword in its hand to kill Him, as it were, for "killing" is the sages' way of portraying the absence of existence of something real.... It is an allegory meaning that the Babel generation lacked any notion of the existence of things that were neither perceived by the senses nor self-evident. However one who inquires (*ba'al mehqar*) will exert the effort to believe in what reasoning generates and proves, and will thereby come to a belief in some of the firm bases of the Torah, such as the existence of God and all non-corporeal objects. (Essay on Repentance, pp.255–256.)

Again, in his Commentary on Psalms, the Me'eri writes:

For beliefs must be arrived at through one of four ways: sense perception, self-evident claims, or received tradition [*sic*]. In ancient times, there were flawed opinions that believed only in what could be perceived through the senses or what was axiomatically self-evident ... and they accordingly denied the existence of God or anything non-corporeal as well as all the disciplines of religion; [only] a few such continue to inhabit some remote places. However the philosopher exerts through inquiry the effort to believe in what comes to him through syllogism and proof. Even so, man's beliefs could not be perfected until the Torah came. One who accepts it takes on the yoke of the kingdom of heaven, and believes, in addition to the foregoing, in everything that the ways of religion require him to believe in a comprehensive way that lacks nothing. (Commentary on Psalms, p.47).

The Me'iri's wording in the Commentary on Psalms ("They accordingly denied the existence of God or anything non-corporeal as well as all the disciplines of religion.") clearly identifies the ancient nations who believe only in what the senses can perceive as the "nations unrestricted by the ways of religion" that appear in his halakhic writings.

As is evident from the foregoing passages, these nations are situated at the first stage of cognition, where there is no belief in the existence of any independent non-corporeal entity. As the Me'iri puts it, they deny "the existence of anything non-corporeal." The stage going beyond beliefs dependent on sense perception begins with the rational philosopher who comes to recognize the existence of an

⁴⁸ The common Hebrew term actually used by the Me'iri is "the generation of the division" (*dor ha-pelagab*), i.e., the division of humanity into speakers of different languages, the outcome of the Tower of Babel enterprise. For ease of English expression, it will be rendered "the Babel generation." —Translator

independent, non-corporeal transcendental cause and therefore believes in the existence of God. The ancient nations were fetishists who failed to recognize the existence of a transcendent, non-corporeal cause in the universe. That is, they lacked a concept of God.

In Aristotelian terms that the Me'iri employs elsewhere, the ancient nations' physics reached the realm of the spheres, but they failed to recognize the realm of the non-corporeal forms and the first cause. In portraying the beliefs of the ancient nations that deny the existence of anything non-corporeal, the Me'iri occasionally uses an allegorical understanding of the story of the Tower of Babel, at whose summit the builders placed an idol brandishing a sword,⁴⁹ and he contrasts it with Jacob's ladder. Like the tower, the ladder describes the levels of existence; but unlike the fetishists of the Babel generation, Jacob saw God standing atop the ladder. The distinction between pagans and monotheists here is the distinction between materialist worldview and a metaphysical outlook that acknowledges the existence of non-corporeal forms. On the basis of this conception of idolatry, the Me'iri determined that idolatry has departed the world, since all [contemporary] religions recognize the existence of a non-material, transcendental cause that exercises providence and recompense. The distinction between paganism and its negation lies neither in the details of the various religions' concepts of God's unity, nor in the difference between polytheism and pure monotheism. Were that the distinction, Christianity would be considered an idolatrous religion. It is because the Me'iri identifies the ancient nations with materialism and fetishism that he can determine with certainty that Christianity is not an idolatrous religion, since it too recognizes a transcenden-

tal, non-material cause. The Me'iri then argues that the idolatrous nations, which deny the non-corporeal and lack any concept of God, lack as well any fear of God that forms the basis for "the restrictions of religion."

The concepts "possessed of religion" and "ways of religion," when considered in broad theological contexts, are always linked to a belief in creatio ex nihilo, providence, and recompense, or to actions intended to strengthen that belief.

A comparison of the Me'iri's comments on the ancient nations with those in Samuel Ibn Tibbon's essay, "*Ma'amar Yiqqawu Ha-Mayim*," reveals that the latter is the source of the Me'iri's concept of progress. One can readily enumerate their common basic elements: (1) the allegorical understanding of the Tower of Babel, whose summit reaches the heavens. This symbolizes the limit of the Babel generation's understanding, namely the world of the spheres that excludes non-corporeal forms; (2) the shared interpretation of the sword referred to in the *midrash*, and the explanation of "killing" as intellectual denial; (3) the contrasting parallelism between Jacob's ladder, on which angels ascend and descend and on whose summit God stands, and the Tower; and (4) the basic picture of a progression from a materialistic understanding to one that recognizes the existence of a transcendental reality. All of these show clearly that the Me'iri derived his concept of progress from the philosophical tradition of Provence. Samuel Ibn Tibbon used this concept to justify revealing the secrets of the Torah—an application that the Me'iri himself, as a follower of the moderate Maimonidean school, opposed. The Me'iri, however,

⁴⁹ The concept of progress is tied more than once in the Me'iri's writings to the allegorical interpretation of the Tower of Babel story: "as you know, the ancients denied the existence of the non-corporeal, as is hinted at in the belief of the Babel generation" (Introduction to *Beit Ha-Behirah*, p.12); "and we have already pointed, in some of our writings, to the Babel generation, who properly understood the lower world but erred in their understanding of the world of the spheres and of primordial material and were completely unaware of the non-corporeal world" (Commentary on Proverbs, p.281, and, in greater detail, Introduction to Tractate *Avot*, p.12). In his "Essay on Repentance," the Me'iri comments that the source of religion in general is in the Torah of Israel, from which it was transferred to the nations: "and this worthy knowledge is unique to us alone and not to other ancient nations would not have come to other nations except by their imitating the principles of our perfect Torah" (p.305). See also Commentary on Psalms 45:15 (p.96).

extended the same concept of progress to the halakhic problem of how to relate to gentiles, and used it to forge an absolute distinction between the ancient nations and those of his time.

Notwithstanding the concept of progress that he developed, the Me'iri was of the opinion that idolatry had not totally departed the world. It could still be found at the "extremities" of the inhabited world: "In my opinion, all those remote places in which idolatry remains are subject to the strict rulings applicable to the early [nations]" (*Beit Ha-Behirah Avodah Zarah*, p.214). He gave the distinction between restricted and unrestricted nations definitive geographic expression, with civilization found at the "center," and barbarian nations lacking any civilizing laws to be found at the margins.

Here, too, the Me'iri makes stunning halakhic use of a widespread medieval image. The concept that wild,

lawless nations exist on the fringes of the settled world is referred to in Jewish sources that pre-date the Me'iri,⁵⁰ and is tied to theories of climate that were widespread in the Muslim and Christian worlds during the Middle Ages.⁵¹ Until the Me'iri, however, no halakhist using the term had identified the gentile or idolater of the talmudic tradition with these fringe nations. After creating the juridical category of the brotherhood shared by Jews, Christians, and Muslims, the Me'iri drives the concept of the threatening "Other" away from the Jew's society. The enemy as defined in Jewish tradition continues to exist. Its existence may be required for the community's self-definition, but it is cast out to the margins of the settled world. The Me'iri's unique use of the concepts "possessed of religion" and "religious ways" and his idea of progress provide an instructive example of how a philosophical conception intertwined with halakhic analysis can lead to a changed interpretation of earlier halakhic sources.

⁵⁰ Maimonides mentions the fringe nations and even describes them as nations lacking religion (*'amim le-lo dat'*, a term that appears in Samuel Ibn Tibbon's [Hebrew] translation [of Maimonides' Guide for the Perplexed]). This description appears in the parable of the palace, in which human beings are ranked in terms of their proximity to the center, represented by the palace. Those who are totally outside the realm are described in these terms: "They are the people who have no belief of religion, either by way of inquiry or by way of received tradition—those wandering in the north at the ends of the Turkish realm and the Kushites wandering in the south, and those similar to them who are among us in these climes. They are in the same category as dumb creatures and do not attain, in my view, the status of human beings" (Guide for the Perplexed 3:51). See also Nachmanides' comments in the homily *Torat Ha-Shem Temimah*, in *Kitvei Ha-Ramban* (Chavel ed.), vol. 1, p.242.

⁵¹ On theories of climate in the Middle Ages see A. Melamed, "*Erets Yisra'el Ve-Ha-Tei'orah Ha-Aqlimit Bi-Yimei Ha-Beinayim*" ["The Land of Israel and the Medieval Theory of Climate"], *Erets Yisra'el Be-Hagut Ha-Yehudit Bi-Yemai Ha-Beinayim* [The Land of Israel in Medieval Jewish Thought], ed. M. Halamish and A. Ravitzky, Jerusalem 5751 [1990/91] pp.52–78, and *id.* n.1.

Reflections on the Possibilities of Interfaith Communication in our Day

Tamar Ross

Abstract: An examination of approaches to interfaith discussion with its long judgmental history of bitterness and strife that preclude tolerance and legitimate difference. While some believe that constructive interfaith dialogue is possible simply when the representatives of various faiths agree to listen to each other empathetically and understand the Other in his own terms, the author contends that this is insufficient when dealing with religions bearing claims to absolute truths. The solution lies in a more subtle understanding of the theological import of such claims.

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Reflections on the Possibilities of Interfaith Communication in our Day*

Tamar Ross

Having lived as an Orthodox Jewess all my life, I have not had the privilege of many ecumenical experiences. A life of *halakhab* is a life designed to delineate Jewish distinctiveness and set up barriers between ourselves and the rest of the world.

Two incidents that could qualify as ecumenical, however, do stick to my mind. One was occasioned by the birth of my first son in Jerusalem. The conditions at that time for giving birth in Israeli hospitals were quite primitive—none of the sophisticated midwifery and breathing exercises in private rooms that is common today. So there I was in a roomful of 16 women partitioned off simply by flimsy curtains, going through various stages of labor, each calling out to God for help in her native religious tongue—Allah, Jesus, or *Teiere Tate*. No woman in that state was in the mood to be picky about religious particulars. There we were all in this together, sympathizing to the extent we could. When we eventually delivered and spent the next few days in the maternity ward, stripped of our distinctive headgear or other garb down to the same identical nightgowns, all happily holding and nursing our babies, a tremendous feeling of sisterhood and religious bliss united us. Only when the variously dressed husbands came to visit did we feel the estranging constraints of the traditions that set us apart.

The second incident took place years later when I was on sabbatical in the department of Judaic Studies at the

University of Memphis, and made the acquaintance of the person appointed to serve as computer assistant of our departmental office. He was a young and extremely refined exchange student from India, the son of academically trained parents high up in the medical profession. To my amazement I learned during my first conversation with him that he had brought along his personal idol with him to the States, and that in his parents' home in India, they had a special room set up for worship of the family icons. This was my first meeting with a genuine idol worshipper, and nothing about him tallied with anything I had ever come to associate with paganism through my study of Torah. When I sounded him out as to how he, such a well-educated and refined young man, could possibly be engaged in so primitive a practice, the sophisticated explanations he gave me for his relationship to idols sounded disturbingly similar to various rationales offered in Jewish tradition for the holiness of physical sites such as the Wailing Wall or the graves of saints.

These two incidents corroborated for me a sense I have long harbored that all religions when approached on the lowest or crudest common denominator of brute feeling have much in common, as they also do on the highest level of theological sophistication. It sometimes seems as if it is only on the very broad intermediate realm of particularistic dogma and language that we are set apart. Indeed this realm is critical to the religious life. Bereft

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of particularistic formulations and rituals, our vague religious sentiments and faith orientations are generally short-lived and lacking of substance. Since it seems that most people cannot do without the distinctive particularities of their unique cult and creed, these do have religious significance, which we ignore at our peril. For this reason, there certainly is merit to the criticisms directed against the universalistic innocence of the rationalist theists of the Emancipation era, who came very close to Deism in their belittling of the importance of the methods of worship established by institutional religion.¹ This critique rests on the sound argument that vital religious activity is conducted on just that intermediate plain.

All religions when approached on the lowest or crudest common denominator of brute feeling have much in common, as they also do on the highest level of theological sophistication.

But it is precisely because I recognize the important influence of organized religion that I cannot share in the optimism of those who, despite their reservations about universalistic trends, nevertheless believe that diminishing the obstacle to interreligious communication posed by particularism is simply a matter of a reasonable measure of decency and sincere good will. In their opinion, standing ready to listen empathetically to the unfamiliar “Other,” sincerely aiming to understand him on his own terms, serves as a sufficient antidote to the divisive influence of religious sectarianism. We are especially likely to succeed, they believe, if we proceed from a personal stance of genuine humility and absolute trust in God. My skepticism stems from recognition that the principal difficulty we confront is not particularism *per se*, but the fact that particularistic religions often speak in morally reprehensible terms of triumphalism, exclusivism and demonizing of the other.

Make no mistake: the issue here is not a formal one of good manners and clean language. It is rather the fact that the very health of any religion which claims to possess ultimate truths seems to demand that it not be divorced from the passion that fuels such denigrating formulations. What complicates matters further is that in the inner terms of these religions such talk cannot be passed off as merely an unfortunate accretion to the core principles of the religion that are still “pure” and universalistic. The difficulty here lies in the fact that these same offensive terms that foster unethical attitudes and conduct toward religious outsiders are often embedded in forms and contexts that are integral to the belief system itself. Alongside the notion that all human beings were created equally in the image of God, the model of holy wars, favorite sons, and stereotypical divisions between the good guys and the bad guys are drawn—at least within the monotheistic tradition—from our foundational texts. As such these images militate against more nuanced or tolerant views of multiple religious expression.

So what we are facing ultimately is a theological, and not merely a moral, problem. In this context, the problem cannot be resolved simply through good intentions and an all around agreement to abandon accounts with the past. Since even some of the most negative aspects of particularism are part and parcel of the hallowed tradition, their expression poses a genuine impediment to any project of repentance and rebuilding. Such an obstacle cannot be sidestepped simply on the behavioral level without first being tackled directly in terms of the theology that forms its base. For this reason, ecumenical experience allowing us both to affect as well as to be affected by others is not just a question of good will. It also requires confronting the significance of our religious rhetoric, especially those statements that glorify our way of approaching God as against that of others as a matter of principle.

¹ Although Moses Mendelssohn exemplifies such theists, he nevertheless saw the Torah as a book of statutes that God revealed to the nation of Israel, embodying a unique way of life that simultaneously reflects the rational truths apparent to all humanity together with Israel’s unique, historical experience. He most likely was disappointed by Lessing’s exclusive emphasis on universalism and deprecation of the specifically Jewish way of life.

One way out of this dilemma is open to those who adopt an evolutionary religious view, along the lines of Rabbi A. I. Kook or the Catholic theologian Teilhard de Chardin. This position enables religious persons to regard the teachings of their canonical texts as necessary but only preliminary starting points for the development of higher formulations of the religious impulse.² Such a stance, which tends to draw analogies from its theological understanding of God as an entity continually bringing new possibilities into being to the developmental nature of His revelation, can generate promising new suggestions of ways of relating to the “Other” that are worthy of adoption. In the ancient world justice may have required war-like

The principal difficulty we confront is not particularism per se, but the fact that particularistic religions often speak in morally reprehensible terms of triumphalism, exclusivism and demonizing of the other.

confrontations between believers of various religions, but in our day we are happily permitted to progress to a point beyond those norms.³ This move, however, cannot by itself fully resolve the ecumenical conundrum, for it continues to leave us under the residual influence of the early formulations, which we encounter daily in our worship and study. To be truly effective, a theology conducive to inter-religious communication must give rise either to

conscious distancing from the literal meaning of language, or to intuitive communion with the gut experience to which it leads. But since most of us do not spend all our times in academia or in delivery wards, something more tangible is required in order to ensure freedom from the more harmful effects of our particularistic binds.

From the perspective of Judaism, it appears that the most concrete solution can be found in the sobriety and remedial effects of legal circumventions. When legal experts are given compelling circumstances and a supportive interpretive tradition, these often serve as a moderating influence in situations where a literal understanding of religious statements is likely to produce dangerous or inhumane results. Thus, for example, when halakhic authorities encounter norms that are blatantly immoral with respect to members of other religions, they sometimes adopt a “never-never” attitude towards such prescriptions as something to be reserved for the far-removed eschatological future, when true Jewish life will merit the proper conditions of power, virtue, and so forth. In this way, the pragmatic legal argument permits the community of believers to refrain from carrying out a religious command that appears to them to make no sense. One example of this process is the halakhic argument adduced by Rav Kook for setting aside, in his day, the commandment to admonish non-believers,⁴ and his reliance in this regard on R. Simeon bar Yohai’s, comment, in the *Yerushalmi*, that he “rejoiced over the

² Examples of this tendency in Rav Kook include his reservations regarding the view of religious worship as a matter of servitude (*Arpelei Tobar*, 44); or the Torah as a corpus of heteronomous commands externally imposed on man and contrary to his inner impulse (*Orot Ha-Emunah*, 25, 66–67); the Torah’s acceptance of the institution of slavery (*Iggerot Ra’AYaH* 1:103–104) and of the killing of animals (*Tallelei Orot*, Chapter 8; *Afiqim Ba-Negev*, Chapter 6); and the monotheistic understanding of God, in contrast to the pantheistic (*Orot Ha-Qodesh* 2:399–401). Also pertinent here is an aspect of what is termed “process theology,” which applies the thinking of Alfred North Whitehead (a British philosopher who spent his later years in the United States) in order to develop the concept of a God that is not an absolute entity but one that comes into existence through the world and its creative potential. Within Judaism, the kabbalistic tradition, especially its Lurianic component, adopted similar motifs, which infer by analogy from God’s constantly evolving nature the dynamic nature of the Torah as well, which reveals, in the course of history, the infinite layers of God Himself.

³ An instance of this course of reasoning in Rav Kook’s writings: “We left world politics by force of circumstance that (nevertheless) contains an inner desire, until a fortunate time will come, when it will be possible to conduct a nation without wickedness and barbarism—this is the time we hope for. It is understood that in order to achieve this, we must awaken with all of our powers to use all the media that time makes available ... However, the delay is a necessary one; we were repulsed by the awful sins of conducting a nation in an evil time. (*Orot, Ha-Milhamah*, 14; translation by Bezael Naor, *Orot* [Aronson: Northvale, 1993], p.96).

⁴ *Iggerot Ra’AYaH*, 1:21—“In order to carry out national governance as a practical matter, it is necessary that all the forces of the nation be as complete as possible.”

suspension of the laws in Israel in his day, for we are not wise enough to judge.”⁵ Another instance is circumvention of the Biblical injunction to wipe out every last remnant of Amalek, which is grounded on the premise that Sennacherib intermingled all the nations, thereby rendering it impossible for us to determine who are the genuine descendants of Amalek.⁶ Even the invocation of broad procedural principles, such as the obligation to avoid offending the Other “lest it generate hatred” or lest it cause “desecration of God’s name,” is more the expression of a moral concern that seeks to question a traditional norm without wreaking havoc, than the mere pragmatic assessment that it appears to be at first blush.⁷ Yet even these solutions relate only to how we act in relation to rival religions on the practical level, without touching upon deeper layers of respect and esteem.

For this reason I think it would be unfair to extend the criticisms raised against the naivete of deist universalism to attempts of the sort made by philosophers of religion such as John Hick to salvage a kernel of common spirituality out of its various particularistic prisms.⁸ Hick’s move of regarding particularistic truth claims metaphorically or mythically as alternative symbolic articulations of a common inner experience deserves to be more charitably regarded as a valiant effort at dealing with the harmful effects of morally problematic religious beliefs on the attitudinal level as well. According to this approach, the truth formulations of all religions could be viewed as incomplete attempts at expressing the ineffable, i.e.

“truths” only in a very weak sense of the term. Thus derogatory portrayals of rival religions cannot be understood as propositional statements to be measured primarily in terms of their literal import. It would perhaps be more accurate to relate to such portrayals as imperfect expression of the subjective feeling we all nurture regarding the urgency and importance of our particular method of worship in the eyes of God.

Another possible move is to relate to the function of various expressions of particularism, especially when clothed in garb offensive to other forms of religious worship, as instrumental rather than expressive. In other words, instead of viewing these statements as the necessarily imperfect products of religious expression, this approach will regard them as constitutive tools whose function is to indirectly shape a particular faith community’s identity and self-image, galvanize their parochial loyalties, or other such anthropological exercises. Obviously, this concept involves contentions that extend far beyond the issue of interfaith dialogue, touching upon the meaning of doctrine in general in an age characterized by the loss of faith in foundational truths.⁹ In any case, even when not immediately apparent, in its theological application such an approach is motivated by the need to resolve anomalies and bridge the inevitable gaps that develop between fixed dogmas and formulas on the one hand, and our contemporary perceptions of reality on the other, and to overcome the intellectual and religious traumas which develop in their wake.

⁵ *Ibid.*

⁶ For examples of halakhic usage of this type of escape clause, see Avi Sagi, *Judaism: Between Religion and Morality* [Heb.] (*Ha-Kibbutz Ha-Me’ubad*, 1988), Chapter 10: “The Punishment of Amalek: How the Jewish Tradition Confronted the Issue and the Standing of Morality in the Jewish Tradition,” p. 219.

⁷ For one pertinent example of this phenomenon, see Rabbi I. J. Untermann, “‘The Ways of Peace’ and Their Definition” [Heb.], *Qol Torah* (Nisan 5726); and Michael Farbowitz, “The Responsibility of the Jewish Physician in Jewish Law,” *The Pharos* (Spring 1994), pp. 28–33.

⁸ I refer here to the comments of the Christian theologian Prof. Franz Josef van Beeck, in his presentation at the conference in honor of the Pope’s visit. For Hick’s views, see John Hick, *An Interpretation of Religion: Human Responses to the Transcendent*, (New Haven/London: Yale University Press, 1989).

⁹ For clarification of the intellectual underpinnings of this approach, see George Lindbeck, *The Nature of Doctrine: Religion and Theology in a Postliberal Age* (Philadelphia: The Westminster Press, 1984); *Theology and Dialogue: Essays in Conversation with George Lindbeck*, ed. Bruce D. Marshall (South Bend: University of Notre Dame Press, 1990); John E. Thiel, *Nonfoundationalism* (Minneapolis: Fortress Press, 1991).

According to the instrumentalist approach, religious statements are idioms for construing reality and ordering life rather than conveying what is already there; they are statements *leading to* rather than *coming from*.¹⁰ On this view, the function of religious discourse is much more oblique than that of normal informative communication; it strives to create a certain mindset, via myth and drama, which will be conducive to a religious experience that may often be far removed or even contradictory to its declared moral purpose. Because the way such language works upon us is never straightforward, transparent and predictable, the project of evaluating its effectiveness could lead to conclusions that appear convoluted and even paradoxical. Exclusionary particularism directed to God may conceivably be the shortest road to universalism.¹¹ Delusions of grandeur may be required to achieve ultimate humility. Demonization of the other may be the grammar necessary, under certain circumstances, for developing a healthy sense of self. To complicate matters further we must bear in mind that much of the force of any religious system stems from the legacies of its past. Moreover, even if it were possible to eradicate previous traditions and start building a “clean” religious slate from scratch, no system can then be guaranteed as suitable for all times. It must take account of its prior identities and make use of the potential contribution of hermeneutics in overcoming discrepancies and contradictions.

Alongside the relative merits of their specific contributions to muting the harmful effect of problematic texts that on the face of it work against universal harmony, the choice between the various interpretive approaches that I have enumerated can have a much more profound and

far-reaching impact on the role and very possibility of ecumenical discussion. As long as religious truth statements are understood simply as propositional statements of objective reality, ecumenical discussion cannot really veer away from the contentious atmosphere of the disputations of medieval times. If my religion is absolutely true, then yours is absolutely false, and I must be fully committed to battling your falsehood, tolerating it at the very best out of prudential considerations.¹² However, if I follow Hick and adopt the line that all religions are diverse symbolic objectifications of the same basic spiritual experience and intimation of Ultimate Being, then my exposure to any rival religion can teach me something about our common core, thus increasing the potential for correction and refinement of my own particular truth. In that event, interfaith encounters become mutually enriching and the existence of diverse religious expressions mandates cooperation and mutual respect.

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Although this view is a significant step in the ecumenical direction, it cannot negate the tendency of bearers of a particular religion to view the multifarious religious expressions outside of their own as merely the lower levels of a graduating scale. True, all religions have some truth to them, we might say, but these can still be

¹⁰ For a formulation of a similar stance with respect to the meaning of religious doctrines, see Howard Wettstein. 1997. *Doctrine and Philosophy* 14/4, 428.

¹¹ This insight, which appears in the writings of Rabbi Judah Ha-Levi as an apologetic for the lowly state of the Jewish nation in his time, is a principal motif in the teachings of Rav Kook, who uses it in a more affirmative and positive manner not as an excuse for Jewish suffering but as a defense for their exclusionism.

¹² As one contemporary philosopher has put it: “If one shares the position, it makes no sense to speak of tolerating it, and if one disagrees with it, then one is committed to its repudiation.” P.F. Strawson, *Freedom and Resentment*, (London: Methuen, 1974), Chapter 4, “The Limits of Toleration,” p. 47.

positioned hierarchically in terms of their relative worth, for some expressions are more successful than others in leading to the ethical norms which are the common ideal of all the great religious traditions.¹³ On this view, the more inclusive a religion is of the truths of others, the greater its value and also its ability to co-exist with the rest.¹⁴ It is important to recognize that this residual vestige of exclusivism imposes certain limits on genuine ecumenism, since any religion categorized under the rubric of another one will not appreciate the distortion and relativising of its views in that context.

On the other hand, the understanding of religious truth statements as instrumental rather than expressive places ecumenical discussion in another context that is both less contentious and less urgent at the same time. Because we are now talking of religions as different cultural–linguistic systems, they are incommensurable, and cannot even be graded hierarchically as part of a common effort. Ecumenism here is valuable only in the sense that we learn from others the different scenery that can be glimpsed when using different maps for the spiritual terrain, but these are not maps that can be used simultaneously as correctives to our own. The varieties of religious particularism teach us the infinite range of possibilities open to the human spirit, rather than the wealth of the

one track to be taken by all. This understanding might appear as a great watering down of traditional religious intensity, replacing zealotry with a more moderate, relaxed mindset.

Yet given its great practical advantages in lowering the level of contentiousness, hatred, and even brutality associated with traditional religious polemics, believers may see the ability to understand religious statements in this manner as an act of Providence, perhaps the ultimate gift of God to a post-modernist age.

Then again, such an approach may be merely a preamble for the great day referred to by the prophet Zekhariah, when all nations will be gathered in Jerusalem. “On that day, God will be One and His Name will be One.”¹⁵ The *midrash* takes that unity between God and His Name to indicate a future state of affairs in which even the symbolic representation of God will be seen uniformly by all. However, even the instrumentalist interpreter who continues to remain faithful to the prophetic tradition is still left with the possibility of understanding the significance of this statement as well to be attitudinal rather than simply descriptive.

¹³ Hick, *op. cit.*, pp. 316–342.

¹⁴ This move is characteristic of Rav Kook’s religious tolerance, to the extent that it exists. See, for example, *Igrot Ra’AYaH*, 1:142-143; *Orot Ha-wQodesh*, 2:488–489. On his approach to tolerance in general, based on that same concept of truth, see my “Between Metaphysical and Liberal Pluralism: A Reappraisal of Rabbi A.I. Kook’s Espousal of Toleration,” *AJS Review* 21:1 (1996), pp. 61–110.

¹⁵ Zekhariah, 14.

“As Swords Thrust Through the Body”: The Neziv’s Rejection of Separatism

Howard S. Joseph

Abstract: An analysis of the views of Rabbi Naphtali Zvi Yehudah Berlin, known as the Neziv, one of the leading Orthodox rabbis of the 19th century. For communal and theological reasons, he opposed Orthodox separation from non-Orthodox Jews, advocating Jewish communal harmony and joint Torah study in the face of post-Enlightenment deviations and denominational movements.

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“As Swords Thrust Through The Body”: The Neziv’s Rejection of Separatism

Howard S. Joseph

The modern era presents Jews with many dilemmas. In responding to these challenges Jews have taken differing approaches and developed varying degrees of attachment to the traditional Jewish life guided by *halakhah*. Before modernity, it was assumed that the system of *halakhah* shaped every Jew’s life into a series of obligations and responsibilities that programmed daily life according to time, place and circumstance. Modernity shattered that assumption.

Those Jews who attempted to cling most intensely to the traditional lifestyle of *halakhah* became known as Orthodox, initially a derogatory term used by reformist elements of the Jewish community to describe its more conservative members. Since the Enlightenment, Orthodox and non-Orthodox tensions have become a permanent feature of modern Jewish life.

Orthodoxy can be understood as a resistance movement against the forces of dissolution Jews face in modern times. Reform also saw itself as resisting the enticements of conversion to Christianity. Today’s Conservative movement also claims that it resists the powers of assimilation. Seen in this perspective, Orthodoxy is the most radical of the resistance movements to the forces of assimilation and integration, displaying the highest degree of conscious rejection of modern values. As such, Orthodoxy is often characterized by its heightened sense of siege, while the other movements appear more at ease with modernity.

As there are varieties of non-Orthodox ideologies, so too there are varieties within Orthodoxy itself in the modern era. The nineteenth century saw these types crystallize

into various distinct elements: Hasidic, Lithuanian Yeshiva, Hungarian and German Neo-Orthodoxy associated with Rabbi Samson Raphael Hirsch. As constituents of Orthodoxy they share a common commitment to halakhic observance as a necessity of any authentic representation of Judaism. They disagree, however, on various attitudinal questions that shape their responses to the particular challenges of modern living. These are in the areas of general education, the role of women, and Zionism, to name but a few.

During the past decades intra-Orthodox tensions have escalated. Those who identify with the attitudes of Modern Orthodoxy have sometimes been overwhelmed by strident criticisms coming from the Ultra-Orthodox community. The latter have at times engaged in a campaign to delegitimize the positions of the former on a variety of subjects. Modern Orthodox have been portrayed as weak, compromising, and not truly committed to halakhic procedures and requirements.

Modern Orthodox representatives have sought models for their positions in earlier times. Many models have been found wanting, however, for they represent pre-modern views that purportedly fail to consider the new dangers that inhere in contemporary life. The question remains whether there are modern authorities who are aware of modern conditions and yet favor the positions that have come to be associated with Modern Orthodoxy.

One of the most intensely debated issues within Orthodoxy has been the question of the Orthodox relationships to non-observant Jews and to organizations

that advocate a non-Orthodox or secular form of Judaism. Should observant Jews disassociate from them or engage them in some areas of joint interest?

As one of leading Orthodox rabbis of the nineteenth century, Rabbi Naphtali Zvi Yehudah Berlin (1817–1893), known by his initials as ‘the Neziv’, confronted this issue in a number of his works. I will analyze his views on Jewish communal harmony, specifically the issue of the treatment of non-Orthodox individuals in the community. His writings can be divided into (I) the integrity and unity of Israel, (II) Jewish communal harmony, (III) his conception of the total community and its leadership, and, (IV) the limits of tolerance. These texts are located in his commentary on the Pentateuch entitled *Ha-Ameq Davar*, his super-commentary to the latter, *Harhev Davar*; his commentary to Song of Songs (*Shir HaShirim*) entitled *Metiv Shir*, his *responsa* entitled *Meshiv Davar*, and his attempt at a philosophy of Jewish history (*Shear Yisrael*).¹ A brief conclusion (V) follows these sections.

I. On the Integrity and Unity of Israel

For the Neziv, maintaining the integrity of Israel is a primary covenantal obligation. He derives this responsibility from his understanding of the covenant between God and Abraham, one that includes Abraham’s descendants as well. The Neziv considers the specific obligation for Jews to keep themselves separate from other nations to be Biblical in origin:

“And He said to Abraham, your children shall be strangers in a foreign land. They will be enslaved and persecuted for four hundred years. I will then judge the nation that enslaved them and they will

depart with great wealth,” (Genesis 15:13–14).

The Neziv expounds on the fundamental significance of this imperative: “In addition to being a prophecy that this will occur, it is an instructive warning for the future: your children shall be strangers, visitors among the nations and must not wish to mix with them, becoming similar to them in life-style and manners. Therefore, it is written of Jacob, ‘He visited there [Egypt]’ (Deuteronomy 26:5), which means that he did not go there with the intention to dwell permanently.”²

He also discusses this theme in *Harhev Davar* to Genesis 15:14:

“Your children shall be strangers”—This is also a promise. That is, because of all the troubles they will not have to assimilate, God forbid, into the nations they enter to be like them in order not to suffer any longer. Furthermore, this is a revelation of God’s will (*gilui da’at Ha-Shem*) that we be only strangers and not seek to better ourselves among the nations by being like them and as citizens.... Although to human judgment it appears to be the opposite in that if we become citizens and be considered part of them they will not harm us. Thus we learn from the case of Laban that this is not so....

The Neziv establishes the separate integrity of Israel that must be maintained for the future. He leaves open question of what to do about unity when confronted with those who are casual about the integrity of the nation through their lack of observance of the traditional covenantal

¹ I have translated *Shear Yisrael* and treated The Neziv’s ideas in it in my, [Why Antisemitism](#) (Northvale: Jason Aronson), 1996. It is the Neziv’s attempt at a philosophy of Jewish history, bringing together many of his ideas.

² See [Why Antisemitism](#), Ch. 3, and his commentary to the *baggadab*, “*Imrei Shefer*.”

mitzvo. We will address this specific question as we move along, but first it is important to observe how the Neziv addresses the obligation to maintain unity among Jews.³

Rabbi Berlin discusses the concept of Jewish unity in numerous places. One of the most vivid of his points is made in regard to Deuteronomy 32:9, “Indeed, the Lord’s portion is His people; Jacob is the rope of His allotment.” The Neziv seizes upon the image of the rope and comments:

The entire nation (*umah*) is here compared to a rope that is wound with many threads. In the *Sifre* the explanation is given: Just as the rope is composed of three strands so too Jacob is third of the Ancestors.... According to my understanding the simile is that Israel is likened to a thick rope composed of tens of thousands of strands. At the top the rope is tightly wound while at the bottom the strands are individually distinct. Similarly, the Holy Blessed One, as it were, is the Soul of Souls to whom all the souls of Israel are tightly bound above. Below each one has an individual soul. This is why Israel is called “*goy ehad*”, one nation, for they are united in their root above. (*Ha-Ameq Davar*, Deuteronomy 32:9)

In Genesis 49:24 he reiterates much the same point, but extends the image:

This is why the Sages teach (San. 84) that when an Israelite suffers the *Shekhinah* says ‘I have been disgraced.’ It is as if we moved one of the individual strands at the bottom of the rope. This would affect the top of the rope as well.... This is the great Strength of Jacob (*Avir Ya’akov*) [an expression

which the Neziv understands as a name of God.] For this reason it is forbidden to take vengeance against each other.

The Neziv also connects this idea to Leviticus 19:18 the ‘love’ commandment: “You shall not take vengeance or bear a grudge against your countrymen. You shall love your neighbor as yourself, I am the Lord.” On this verse he comments:

From the language of the *Yerushalmi* I learned another explanation for the juxtaposition in this verse (i.e. the connection between not taking vengeance and being loving.) The *Yerushalmi* explains (*Nedarim* 9:4) ‘You shall not take vengeance or bear a grudge against your countrymen.’ This is like one who while cutting meat his hand slips and cuts his other hand. Will he now cut his hand [that had slipped while holding the knife to avenge its error?] [No.] It says be loving to your neighbor as yourself. Rabbi Akiva says: “This is a great principle in the Torah.”

This means that vengeance is like one who is carelessly cutting meat. Would it enter his mind to now hit or cut the first hand in vengeance? This is why the obligation to be loving follows the prohibition of vengeance. Even though one’s own life and welfare have precedence over that of others the other is like oneself. It is improper for one limb to strike another. Even if one limb already did so no vengeance would be sought for it. So too one should not seek vengeance against someone who has hurt you. This is why it says ‘as yourself,’ for all Israel is one being (*kol yisrael nefesh ahat*).

³ The Neziv’s concept of Jewish integrity may be the inspiration of the concept of *Berit Avot*, the ancestral covenant that appears in the thought of Rabbi Joseph B. Soloveitchik, The Neziv’s great-great-grandson, as well as in the thought of Rabbi Abraham Isaac Kook who was a disciple of Rabbi Berlin. (See Introduction to *Why Antisemitism*) Rabbi Soloveitchik sometimes calls the ancestral covenant: The Covenant in Egypt. See “*Kol Dodi Dofek*”, in *Besod Ha-Yahid Veba-Yahad*, edited by Pinchas Peli, (Jerusalem: Orot, 5736), p. 331 (Hebrew). It has been translated by L. Kaplan, in *Theological and Halakhic Reflections on the Holocaust*, edited by Bernhard H. Rosenberg, co-edited by Fred Heuman, (Hoboken and New York: Ktav Publishing House and Rabbinical Council of America) 1992. See p.80.

Israel is God's rope that descends into the world from above. Israel's essence is derived from God in Heaven, her 'Soul of Souls.' As the rope descends its threads become more distinct, reflecting each Jew's individuality. Israel is God's portion, and as such the fate of the individual threads and the rope itself reflect the status of God's name and glory in the world. If a Jew is injured by another Jew or by a gentile, God's position in the world is diminished. That is, God suffers along with injured Israel.

This function served by Israel is not a voluntary one. Willy-nilly, every Jew belongs to this metaphysical category. All are part of the mystery. Just as we are human and cannot be otherwise, so too we are Jews bound in covenant with God and cannot be otherwise. Leviticus 19:18 serves as another metaphor for Jewish unity according to the Neziv. Israel is one being with distinct limbs. The limbs must never forget that they all belong to one being, and therefore vengeance upon another Jew constitutes an attack on one's own body. As such, it is self-destructive, irrational and unjustifiable.

II. On Jewish Communal Harmony

Rabbi Berlin often treats the question of Jewish communal harmony in the face of deep division of opinion on fundamental subjects. His comments often focus on the issue of *sinat hinam*, [gratuitous hatred] which the Talmud (*Yoma* 9a) maintains led to the destruction of the Temple and exile. The Neziv believes that excessive intra-Jewish friction brought about the great tragedies in Jewish history. However instructive talmudic comments may be, they

refer to an era safely removed from modern times. Nevertheless, the Neziv applied these talmudic teachings to his contemporary reality and the intense divisions brought about by the various Jewish responses to modernity.

An article in the journal *Mahazikei Ha-Dat* occasioned the Neziv's most thorough comments on the subject.⁴ In response to this article the Neziv wrote a lengthy essay that was later printed with his *responso*. It appears in *Meshiv Davar* as 1:44 entitled, "On Right and Left."⁵ The Neziv directly addresses the contemporary scene.

I saw an article entitled "Right and Left" in the journal *Mahazikei Ha-Dat*, Volume 3, by one of the editors in which an important question is raised. Since it is our responsibility to participate in efforts to strengthen the faith of Israel I could not desist from presenting my thoughts on this issue to the members of *Mahazikei Ha-Dat*, may *Ha-Shem* bless them. Anyone else who has anything to respond and clarify in these matters in another way let their words come and enlighten our lives. For although we are removed geographically from one another we are close to each other in our desire and willingness to arrive at the goal with the help of the knowing and guiding God.⁶

The author of the original article attempted to divide the Jewish community into three parts: the Right (the righteous or saintly), who remove themselves from all earthly matters not even benefiting to the extent of a small finger's worth;

⁴ An organization called *Mahazikei Ha-Dat* (Upholders of the Faith) was founded in Western Europe in 1879 and published a bi-monthly journal under the same name from 1879–1913. The founders were from hasidic groups and the Sofer family, the leaders of Hungarian Orthodoxy. It was the predecessor organization to Agudat Israel later founded in 1912 and including German Orthodoxy as well. A branch was established in England in 1891. *Mahazikei Ha-dat* represented what would be called today a *haredi* position on many issues. The Hebrew University library has some of the early issues of this short-lived journal. I was unable to locate the original essay which prompted The Neziv's response. [Email correspondence with Dr. Benjamin Richler.]

⁵ See the translation of this essay in the appendix to this article.

⁶ The Neziv dealt with these themes over many years. Yet one senses that he was waiting for an opportunity to publicly state his position without directly attacking some of the leading Orthodox scholars of the nineteenth century. Here he challenges an apparently lesser known advocate of the position. He is also aware that being in Lithuania he is somewhat removed geographically from the scene of greatest tensions in Central Europe. However, as we will see, he argues that the issues are important for all because they affect the destiny of the entire nation.

the Left (the wicked), who either out of ignorance or brazen willfulness throw off the yoke of Torah and religion; and the Center, who innocently follow the ways of the world without rejecting the Torah. The Neziv took exception to this division, finding it confused and unacceptable:

With all due respect, I believe that the author does not follow through on his initial question. He began with the question of whether there are three different trends in our religion and faith and concludes that the Left is equivalent to a rejection of the Torah and religion. In other words, the Left is outside of our faith.

Also confusing is the expression 'maybe' concerning the three trends. What kind of question is this? We have always had three trends: the completely righteous, the wicked and the intermediate. The question really should be whether among the followers of our faith and religion, among those who do not reject Torah, there are to be found three groups. This is the question that should be properly researched.

The Neziv moves the discussion towards the subjects of love of God and *devequt*, the intense connectedness to God. After all, these are the goals of Torah. If there are three trends in Judaism, they must be defined in terms of this over-arching objective. The Neziv's discussion of *ahavat Ha-Shem*—the love of God—also yields three trends, differently defined. The one who is on the Right is one whose mind is continually imbued with love and attachment (*devequt*) to God, and who closely approaches the *Shekhinah*. This is truly the way of piety (*hasidut*), which is impossible except for one who separates from the world. The one who stands on this exalted level finds it difficult to associate with other people even to teach them Torah and morals. Every interaction with others interrupts the intellectual connectedness that is impossible without isolation (*hitbodedut*).

Regarding the latter two categories, the Neziv writes:

There is a second God worshipper who observes all the details of Torah but who does not know the taste of love and *devequt*. This one does not separate at all to achieve this love. . . . These are called Leftists for they are removed from extreme closeness to the *Shekhinah* and the Spirit of Holiness (*Ruah Ha-Qodesh*).

There are also those who follow a middle path. During recital of *keriat shemah* and *tefillah* their minds approach love and *devequt* of God while the rest of the day they are occupied with worldly affairs. Those on this intermediate way are also called pious (*hasidim*), but in a different manner than the ones above: They are *hasidim* in deeds.

In this context he issues a warning on zealotry:

Now let us look at Levi and Phineas who both were zealous against sexual immorality and were totally devoted on this issue. Yet Phineas rose to the highest level, while Levi was rebuked by his father. There are many similar instances. The explanation is that [zealousness] requires great precision to evaluate the activity according to time and place. It is also necessary to understand many Torah principles that are not always clear. Thus it is impossible to be this type of *hasid* except through Torah study. The way of *hasidut* through love of God and *devequt*, which one imagines does not require Torah learning but only sincerity (*temimut*), isolation and intention for love of God, is not correct. Even the one who prepares for and clings to love of God requires at least being very careful not to deviate from the way of Torah. Holy desire and love 'more intense than death' should not lead away from reason.

The Neziv insists that any disrespect for the middle group is sinful. In the middle are many *hasidim*, pious followers of the way of Torah:

The result of our explanation is that not all of those who follow the middle path in the service of God are to be considered middling [in their commitment], for many of the Centrists can be considered as *hasidim*. Not in the sense of those immersed in isolation in love and *devequt*, but in the sense of *hasidim* in deeds as we explained above according to the words of our sages.... We might think that those in the center are the ones who neither reject the yoke [of Torah] but are not careful in observance. However, it is clear that in the middle category there are many gradations ranging between the two poles of righteous and wicked.

These three types are the constituents of the Torah community. There have always been these three trends in the Torah community, as they exist today. The Neziv demonstrates this point with a careful analysis of Isaiah 30:20–21.⁷

The Neziv continues his response to the author of the *Mahazikei Ha-Dat* article now focused on the question of those Jews outside the realm of commitment to one of the three trends. Should we disassociate ourselves from them? The original author is an advocate of separation, fearing that modern times threatens the middle *hasid* more than in the past.

The Neziv describes the siege attitude that has characterized much of Orthodoxy in modern times. It can be summarized as follows: Judaism is in greater danger than ever before. Since this is the worst generation in history, there is much about which to be afraid. Isolation and separation are, therefore, the strategies to adopt. These strategies have come to be defining qualities of what is now called Ultra-Orthodoxy. The Neziv strongly disagrees with this assessment of the historical reality:

We must realize that the facts are not as the writer reports, namely, that there has never been a generation

so rejecting as our own. This is not true at all. Even when we first entered our Holy Land and for many generations following thereafter the desire for idolatry was prevalent and, indeed, burned as intensely as an oven as the Talmud (*Sanhedrin* 102b) says. It was obvious that no one could be certain of avoiding this idolatrous trend unless one behaved in the way of *hasidut* continually turning one's mind to the way of God.

During the first Temple period idolatry was a major issue continuously addressed by the prophets, yet they never advocated separation from the idolaters. Since the passion for idolatry among Jews has long been overcome, those terrible times have passed. Today's problems are different:

In our generation, however, there has been an increase in unbelievers with faulty ideas concerning the authority of the Talmud, for example. Our sages have said (*Avodah Zarah* 27b) that a person should not engage in business with a heretic. The *gemara* explains that heretics attract others to follow them. For this reason one who is not cautious is in danger of being drawn to them after a while.

This is an obvious reference to the Reform movement, which questioned talmudic authority and is a different phenomenon than ordinary moral or spiritual weaknesses. It therefore requires a different response and a carefully well thought-out strategy. Thus the Neziv passionately disagrees with the writer's suggestion:

Now the author presents his thoughts and proposal to be careful of this generation and to separate completely from them as Abraham did from Lot. With the pardon of the writer, this advice is as harsh as swords thrust through the body and survival of the nation! When we were sovereign in our Holy Land—as during part of the Second Temple period—

⁷ See "On Left and Right" for his interpretation of these verses

the land was lost, the Temple was destroyed and Israel exiled because of the dispute between the Pharisees and Sadducees. This caused much gratuitous hatred (*sinat hinam*)⁸ leading to unjustified murder. Thus, when a Pharisee saw someone being lax in a certain matter—even though he was not a Sadducee but only sinning in this matter—because of tremendous *sinat hinam* he judged him to be a Sadducee who can be legitimately harmed. From this mistaken attitude numerous allegedly justified and holy murders multiplied.... It is not far-fetched to think that this can occur today. A member of *Mahazikei Ha-Dat* might see someone and imagine that he does not follow his way in proper worship of God. He will then judge him to be a heretic and separate from him. They will then chase (*rodef*) each other (with intent to harm) in the erroneous belief that this is justified, God forbid. The entire people of God will be destroyed, God forbid.

This consideration is critical in the Diaspora condition, for only if we stay together can we resist the dangers of assimilation:

All this would be true even if we were sovereign in our own land. How much more certain when we are downtrodden in exile scattered like sheep among the nations. In exile we are likened to the 'dust of the earth' as the Holy Blessed One told Jacob: your descendants shall be like the dust of the earth. The nations are likened to flood waters as is written in Isaiah (17:12): "Ah, the roar of many peoples that roar as roars the sea." There is no hope for a block of dust against floodwaters unless the dust becomes a solid rock. A flooding river would then only roll the stone from place to place but not altogether destroy

it. Israel among the nations has no hope unless it becomes the 'rock of Israel.' If we become united into one union no nation or culture can destroy us. So, therefore, how can anyone advise us to separate from our fellow Jews? The nations would then wash us away little by little, God forbid.

The Neziv thus offers various reasons why he rejects the separatist option. Most fundamentally, there is a *mitzvah* derived from *Berit Avot* commanding us to remain a distinct people. Peoplehood is derived from our common ancestry, not our common observance of *mitzvot*. This generates a moral and religious imperative to remain integrated with each other. Secondly, separation would weaken us in our exilic status. We would easily be washed away either by assimilation or destruction. Finally, it is abnormal for people to isolate themselves from their own kinsmen. In this case, Jews would be required isolate themselves even from family members, as Abraham did when he separated from Lot. This is too demanding for most people, and is therefore unadvisable as a national policy.

The Neziv extends his analysis of modern rebellion. Surprisingly, however, he does not cite any of the traditional categories of rabbinic discussion on the issue: those who rebel out of spite (*mumar lehakhis*) or out of uncontrollable desires (*mumar letayavon*). Nor does he see these modern rebels as children raised in a non-Torah environment (*tinogot shenishbu bein ha-aqum*). He draws instead on the story of the Assyrian siege of Jerusalem in Hezekiah's time, offering a new motive for these modern day rebels:

During the first Temple period there were also *mahazikei ha-dat* who refused to worship idols. But they sacrificed on the high places outside the Temple that is liable to a punishment of excision.

⁸ For a definition of the concept of *sinat hinam*, see Michael Zvi Nehorai, "Sinat Hinam", DAAT, No. 36, Winter 1996: "It is useless, purposeless contention that does not succeed in bringing the other closer to repentance." Only 'hatred' or rather, opposition, is allowed by the Torah if it is an effective tool in changing the sinner's behavior. If it fails or increases the distance between the parties it is not allowed by the Torah as part of the reproof one must offer to those who sin. Nehorai cites the Neziv's introduction to Genesis where the issue of *sinat hinam* is raised.

Nevertheless, they followed the priests of those places who were also great men who taught that this is a convenient way to achieve love and *devequt* for the Blessed Holy One without traveling all the way to Jerusalem. Because this transgression was misunderstood to be a *mitzvah*, even the righteous Judean kings such as Assa and Jehoshafat were unable to stop them, as it says, “the people were still offering at the *bamot*.” So entrenched was the view that indeed this was a good thing that when King Hezekiah abolished the *bamot* he was attacked by the Rabshakeh [the Assyrian officer] who said: And if you tell me that you are relying on the Lord your God, He is the very one whose shrines and altars Hezekiah did away with, telling Judah and Jerusalem, ‘You must worship only at this altar in Jerusalem.’ (2 Kings 18:22) We see that the Rabshakeh believed Hezekiah had grievously sinned. This is because he was a heretic who had learned in his parental home the mistaken notion that it was a sin to prevent the people from worshipping at the *bamot* with *devequt* and love of God while in reality it was a sin to do so.

The Neziv here shows his appreciation for another source of sin: convenience. In the modern context, it is argued that it is inconvenient to observe many *mitzvot*, for they conflict with a modern lifestyle in business, social activities and recreation. The appeal of some modern forms of non-traditional Judaism is in this very quality of trying to make Judaism more convenient for the masses. The Neziv suggests that those lax in observance because of convenience issues should not be considered heretics and deniers. Many *mahazikei ha-dat* were among those in ancient times who acted out of convenience.

Striking also is the Neziv’s understanding of the role of the leaders of these movements. He speaks of them as “the priests of those places who were also great men who taught that this is a convenient way to achieve love and *devequt* for the Blessed Holy One without traveling all the way to Jerusalem.” Because both the leaders and the misled are motivated by *devequt*, both are treated with forbearance.

They seem to be called *mahazikei ha-dat* as well, even though they worshipped at the ‘high places’ in contravention of Torah law.

Does The Neziv consider inconvenience to constitute a new halakhic category? Flagrant and spiteful rejection of observance falls under the category of ‘*mumar lebhakhis*.’ Violation of commandments due to desire overtaking human weakness fits into the class of ‘*mumar letayavon*.’ One raised in a totally non-Jewish environment and unaware of God’s commandments is subsumed under the rubric, ‘an infant captured among Gentiles’—‘*tinok shenishbah beyn hagoyim*.’ Here the Neziv speaks of another type: one who acts or fails to act because of inconvenience. Is there any halakhic precedent for this category?

In addition to the Biblical passage in 2 Kings, one could cite *Shulhan Arukh, Yoreh Deah* 340 concerning the laws of rending garments for the occasion of death and mourning. In *halakhah* 4 we read:

One who is present at the time of death ... must tear, even if occasionally [the deceased] sinned due to overwhelming desire or was *one who desisted from a mitzvah because it required too much effort*.
[author’s italics]

The Neziv did not quote this text, yet it supports his position. We do not know how common this phenomenon was in Jewish history. That it was not unknown is evidenced here. Neither tradition nor classic texts excluded from the community those subsumed under this category. Evidently their weakness was understood and they received due respect in the mourning process.

Rabbi Berlin applied this category to modern heterodox Jews. They may be numerous today and organize themselves into groups, constructing a Judaism of convenience. They may even rationalize their level of observance through various arguments of a theological or pragmatic nature, yet they are not to be excluded from the community. There is a tradition of understanding this phenomenon that should not be flouted or reversed.

It is critical to probe for the proper limits for this category of convenience. Would it include changes to liturgy and practice that are made in order to increase amity with non-Jews or at least to prevent hostility and preserve a secure place for Jews in the modern integrated nations? And after generations have passed and the original obligations are no longer remembered, are the current practitioners of these variants to be considered rebels at all? After all, they now follow the custom of their families and communities.⁹

Instead of lamenting the situation and attacking these convenience-oriented Jews, the Neziv believes that promoting intensive Torah study at all levels of the community is the effective and appropriate halakhic response. Torah raises everyone's level of understanding and helps recapture the knowledge that will lead to proper behavior. Rather than increasing hatred, Torah study leads to greater love of God, Torah and fellow Jews. The Neziv concludes "On Right and Left" with an impassioned and detailed program for Torah study as the solution to our current problems.

Rabbi Berlin adds to this line of thinking in his introduction to *Shir Ha-Shirim*.¹⁰

During Hezekiah's time was this [hatred] prevented only because Hezekiah promoted Torah study. From this they understood the seriousness of this prohibition. They also learned to achieve intense love of God through Torah study...

Also remarkable is the Neziv's introduction of the comparison of modern disputes with those of the ancient Pharisees and Sadducees. Nineteenth century Orthodox thinkers often compared the reformers to Sadducees, Boethusians and Karaites.¹¹ They suggested that these categories merited hatred and opposition. When they thought of *sinat hinam* leading to destruction and exile they would have thought about it as among the Pharisees and rabbis themselves. As deniers of the Oral Torah and the authority of the Talmud, Reform Jews could fit into these ancient categories, thus justifying hatred. Among those who used these categories were two of the halakhic luminaries of the early 19th century: Rabbi Moses Sofer (1762–1839)¹² and Rabbi Solomon Kluger (1785–1869)¹³. Despite the prominence of these scholars Rabbi Berlin opposes their point of view. For him, the dispute between Pharisees and Sadducees is an example of *sinat hinam*.

Rabbi Berlin returns to this point on numerous occasions. Here are his words in his introduction to Genesis in *Ha'amek Davar*:

The book known as *Bereishit* is called 'SeferHa-Yashar' (upright ones) by our prophets. Rabbi Yohanan explains the reason as being that it is the book of Abraham, Isaac and Jacob who were called *yesharim*... We must understand why our ancestors were called *yesharim* and not *tsadiqim* (righteous ones) or *hasidim* (pious ones). This is based on a justification of the destruction of the second Temple that took place in a 'perverse and crooked generation.' (Deut.

⁹ His position is similar to that of Maimonides in *Hilkhot Mamrim* 3:3: "However, the children of these errant ones ... just continue the ways of their errant ancestors. Therefore, it is fitting to try to help them return and to encourage them peacefully." My thanks to Eugene Korn and Michael Zvi Nehorai for reminding me of this source.

¹⁰ See *Metiv Shir*, Introduction. *Metiv Shir* is always found in a volume which the Neziv called *Rinah Shel Torah*, and includes the essay *Shear Yisrael* together with his commentary to *Shir Ha-Shirim*. A recent edition of *Rinah Shel Torah* has broken this latter unification he made and has printed *Metiv Shir* under the name of *Rinah Shel Torah*. See below, note 12.

¹¹ See the sources mentioned by Jacob Katz in "Polemics Over the Hamburg Temple and the Brunswick Assembly," in *Halakhah Be-Meitsar*, [Halakhah in Straits] (Jerusalem: Magnes Press, 1992) pp. 43–72.

¹² *Responsa Hatam Sofer* 6:89, end. My thanks to Chaim Steinmetz for reminding me of this reference.

¹³ *Ha-Elef Lekha Shelomo*, 14:257

32:3) I explained there that they were *tsadiqim* and *hasidim* and Torah scholars, but they were not upright in the ways of the world.

The Neziv sees the greatness of the ancestors in their avoidance of hatred even towards those who practiced idolatry. However, the sages at the end of the Second Temple were not *yesharim*, and did not avoid this terrible failing:

Out of *sinat hinam* in their hearts towards each other they suspected that those who disagreed with them on religious matters were Sadducees or heretics. This brought them to exaggerated levels of bloodshed and many other evils until the Temple was destroyed. This is the justification for the destruction: for God is *yashar* and God does not tolerate '*tsadiqim*' like these. God prefers people who are *yesharim* and not those who act crookedly even for the sake of Heaven, which brings about destruction of creation and desolation "of the earth.

The greatness of the ancestors was in their not only being *tsadiqim* and *hasidim* and lovers of God in the highest degree possible but they were also *yesharim*. Thus they behaved respectfully even towards the most despicable idol-worshippers. They treated them with love and cared about their well-being. This sustains the creation. We thus saw Abraham pray for Sodom even though he hated them for their wickedness as he explained to the King of Sodom. Nevertheless, he desired their well being.... Jacob, too, spoke gently with Laban even though he was justifiably angry with him for trying to destroy his entire family.... This is why Balaam prayed, "Let me die the death of *yesharim*." They are the upholders of the creation. Thus we have clearly explained why this book is called '*Sefer Ha-Yashar*,' for it is the book of creation.

There are even stronger words for the leading Torah scholars of ancient times:

The first Temple destruction was principally caused by idol worship as explained in *Parashah Nitzavim* and *Yoma*.⁹ It should be understood that the foremost promoters of sin were the leading Torah scholars (*hayu rashei ha-mabtiyyim gedolei Torah*). [The Neziv cites the talmudic view that the idolatrous kings Jeroboam, Ahab and Manasseh were great talmudic scholars.] So too in the second Temple destruction that was caused by gratuitous hatred (*sinat hinam*).... Here again the leading Torah scholars were the foremost promoters of sin. Of them the Torah lamented in the Song of *Ha'azinu*, "a foolish and unwise people," as I explain there. (*Harhev Davar*, Deut. 4:14)

He continues in his commentary on Deuteronomy 32:6, we find the following:

"O dull and witless people...." The wonder is that you are foolish for after all you received the Torah... which you study intensely and should prepare you to be an upright *tsadiq* (*tsadiq yashar*). However, you have not been wise enough to prevent improper behavior. This is I explained earlier [4:14] that the destruction of the second Temple came about through the failure of the leading torah scholars. (*Ha-Ameq Davar*, 32:6)

From these texts we see clearly that Rabbi Berlin was unalterably opposed to allowing an attitude of hatred towards other Jews, no matter how serious their deviations from tradition. He stood opposed to a policy of antagonism promoted by some of the leading scholars of his time and of which he was well aware. It is clear that for the Neziv Torah scholars are not immune from grievous errors in issues of community policy and strategy. Great Torah knowledge is no guarantor of insight into other issues. He uses the now contentious term '*daat Torah*' to mean knowledge of Torah or an opinion of the Torah on a subject, not knowledge of all human affairs. As those scholars who promoted hatred towards Sadducees were wrong, those who advocate ostracism of various

contemporary Jews and their groups similarly err. Clearly *sinat hinam* is not the answer to the problems of the age. It will indeed be *'hinam'*, not only being ineffective but even self-destructive and destroy creation. It is integrated Torah study by all Jews in all segments of Jewish society that promotes *teshuvah*.

III. The Total Community

We now turn to the question of the place of the non-Orthodox in Jewish communal affairs. Most relevant to this topic is Rabbi Berlin's commentary to *Shir Ha-Shirim*, known as *Metiv Shir*.¹⁴ He understands this book as a dialogue of love between God and Israel. Each party describes the virtues of the other. I will quote extensively from his commentary.

Shir Ha-Shirim 4:13 is God's praise of Israel: "Even your empty ones are like a grove of pomegranates with choice fruit, giving off the scent of *kofer* and *niradim*. The Neziv comments:

The Sages' comment in *Berakhot* 57a is well known: Even the empty ones among you are full of *mitzvot* like a pomegranate. The *mitzvot* referred to cannot be those that the Torah explicitly commands, for if that were the case, the people would not be referred to as being empty. Rather, the reference must be to mutual acts of kindness (*gemilut hasadim*) and charity We see that in this particular issue the 'empty ones' of Israel retain the essential quality of Israel by being compassionate and kindly....

The word *'shelahayikh'* ('empty') refers to the ones who are removed from you, who do not accept upon themselves the yoke of Torah and *mitzvot*. They are still like a grove of pomegranates in that they are full of acts of kindness and charity as a pomegranate is full of seeds.

'With choice fruit'—The *mitzvot* commanded by the Torah are like choice fruit.... The empty members of the community do not withhold these pleasant *mitzvot* from themselves. They do perform and enjoy these choice *mitzvot*.

'The scent of *kofer* and *niradim*'—*Kofer* is a viscous substance that has an unpleasant odor. *Nard* is a plant with a strong pleasant smell. The metaphor describes the empty members of the community who usually associate themselves with the scoffers whose scent is unpleasant. However, even this combination can bring forth goodness for if they are faced with a situation that requires mercy or kindness they will assist each other. Even though they sit together and seem to bring no benefit to anyone sometimes the fact that they are together can bring them benefit as well as to the entire world.

On verse 14: "*Nard* and *kharkom*, *kaneh* and cinnamon with all types of branches of *levonah*, myrrh and aloes with all types of perfumes," The Neziv explains:

There are many different types of perfumes and scents. Some of them can be easily collected; some give off their scent only after they are processed, and some attainable only after great effort. The same is true of acts of kindness. Some are easily performed while a person is walking or talking. Others entail considerable effort and others only result from a long series of events. In this verse, the author compares these acts to various perfumes and scents, pointing out that they are all evident even in the 'empty' sectors of Israel's population.

In other words, the allegedly empty sector of the community is not at all empty. Their good deeds of kindness and charity reflect their belonging to the garden and they

¹⁴ *Metiv Shir* is part of *Rinah Shel Torah* that includes *Metiv Shir* and *Shear Yisrael*. A new translation of *Metiv Shir* has appeared, erroneously called *Rinah Shel Torah* (The Jewish Educational Workshop, Kfar Chassidim) 1993. It also has omitted the Neziv's introduction. I have used this translation, but not followed it completely.

contribute to the fragrant smells of the community. He continues with commentary on verse 15 (“The springs that nourish the gardens are a well of fresh water and flow from Lebanon.”), assuming that the garden refers to the entire community of Israel:

The various types of vegetation that the author referred to cannot grow properly unless they have a fresh source of water that will prevent the sun from making them wilt. This water can be provided in one of two ways: 1) if the garden has a well or, 2) if irrigation canals are dug to bring water from another source.

Similarly, even those who are kind need a source of reinforcement so that their acts of kindness continue to be performed in the optimal manner. This reinforcement can come about in one of two ways: 1) through Torah study that one internalizes and leading to honesty and genuine helpfulness to others, or, 2) if one does not study Torah the reinforcement can be provided by being part of the community, for within the community there are those who preach and teach about the importance of ethical behavior. I explained this in Deut. 33:28 as well.

This is the meaning of God’s praise of Israel. ‘The springs that nourish the gardens’—the reinforcement provided for the various acts of kindness that are performed even by the empty ones—‘are a well of fresh water and flow from Lebanon.’ Their source is either the Torah (a well of fresh water) or the community (the flow from the Lebanon).

Indeed, here is the proper attitude of the observant community towards others. The former must nourish the latter so that they will continue to remain as a living force within the garden.

The Neziv seizes upon various comments in *Midrash Shir Ha-Shirim* Chapter 4 that describe Israel as the army of God, struggling through history to promote Torah

teachings in the world. Each sector of the nation, therefore, has a role to play—even the alleged ‘empty’ ones who are far from the disciplines of observance. They are like the advance troops sent into battle to frighten the enemy (*Qidushin* 76a). Although they serve a purpose the chief officers of the army must try to not let them influence the more disciplined segments of the army with their loose and unruly ways.

In truth, the empty ones are not empty. They exhibit the virtues of kindness and are ready to respond to the needs of others. They retain the essential compassion that characterizes Israel, working for the community and its needs. They establish and run magnificent institutions to dispense charity and welfare services. While they often associate with the scoffers who completely reject the special destiny of Israel, they also can influence them and help them in times of need. So while they are ‘empty’ and removed from full observance of *mitzvot*, they still function within *kelal yisrael*.

Those fully committed to Torah cannot abandon these other Jews. Not being students of Torah, the latter will lose their virtues of kindness and charity if they are not sustained and reinforced by those who can teach them Torah. The learned ones in the community must relate and interact with those less observant and less knowledgeable lest they be totally lost from Israel. They should be exposed as much as possible to the message of Torah, not ignored nor dismissed. As part of the *kelal*, they must be addressed and engaged in the public affairs of the nation.

As the ‘eyes’ of the community, learned Jews must also protect the committed elements from being influenced by the unruly. The Torah solution is neither total separation nor total integration. It requires a carefully guided program of interaction and guidance. Only in this way can the nation continue to function in history according to its divine destiny.

The ‘empty’ ones operate on the assumptions of convenience and choice, two very modern attitudes. While these are

far from the acceptance and obedience to the yoke of Torah and *mitzvot*, they are not removed and do not wish to be removed from *kelal yisrael*. If they can be reached through Torah study they can be influenced to maintain their attachments to Israel and be strengthened to function as a part of Israel's role in history. The learned leaders should not mislabel them as Sadducees or worse, in effect reading them out of the community. This is neither effective in maintaining their reduced level of commitments nor in influencing their return to a fuller involvement with Torah.

The Neziv believes that Torah study is the better corrective for their behavior. Torah study avoids personal attacks that inflame passions and increase tensions:

“Mass Torah study will also serve another beneficial purpose. We, the upholders of faith, will know how to behave more precisely according to the teachings of our Sages as expressed in the Talmud and *Shulhan Arukh*. The masses will not be misled to make changes according to the imagination of some [allegedly] great and holy person who thinks there are better ways to worship God. ... Those who will study Torah will understand that the lax ones are not heretics and deniers, God forbid. They will stay united with them in one group to deliberate upon how to strengthen our faith and triumph over the deniers of talmudic authority. The larger will be the group, the stronger it will be and more likely to find good counsel from each other. God will listen and pay attention to their efforts and help to preserve their children from total heresy.” (“On Left and Right”)

Engaging the ‘empty’ ones in discussion could take many forms. They too are aware of Jewish history and the decline and disappearance of the great community of

Spain. There is much to suggest that many Spanish Jews took the way of convenience long before conversionary pressure was leveled against them. When that pressure finally did come, they were ill prepared to stand against it. They had lost the commitment to stand out, be different and make the necessary sacrifices. Can the learned and observant elements convince their more unruly and lax colleagues that a serious Jewish commitment is threatened by the deleterious effects of convenience and choice as guiding principles of behavior? Studying Torah together was the preferred and more peaceful strategy suggested by Rabbi Berlin.

IV. Limits of Relations

Although hatred is not halakhically justified according to the Neziv, limits do exist regarding connections with modern day deviationists. The Neziv enthusiastically supported the pre-Zionist movements of the late nineteenth century. He encouraged Zionists and deliberated with them, despite recognizing that most of these pioneers were not observant. Nevertheless, in the ‘domain of holiness’ he believed cooperation was impossible.

There is a brief *responsum* in *Meshiv Davar* (I: 9) concerning cooperation with *Beit Yaakov*¹⁵ in which the Neziv hints about cooperation with other non-traditional groups:

Concerning associating with those who are called *Beit Yaakov* who publicly violate the sabbath, it is forbidden to join with them in any matter that concerns worship of God. This is so even though we find in *Shulhan Arukh* (55:11) that a sinner is counted in the *minyan*, [for] this is only someone who sins in one particular matter. For even though it says “The offering of the wicked is an abomination,” we still accept sacrifices offered by sinners as stated in *Hullin* [5] in order to encourage their repentance. If this be the case for sacrifices, then

¹⁵ The reference is probably to the *Biluim*, (‘BILU’ is the acronym for *Beit Yaakov Lekhu Venelekhah*) pre-Zionist pioneers of a strong secular orientation. While The Neziv cooperated with the early *Hibbat Zion* movement he still expressed dismay towards those who were secularist.

certainly in prayer circumstances which are less weighty than sacrifices we accept the sinner. However, we do not accept an offering from one who worships idols or publicly violates the sabbath, who is presumed not to have the potential for repentance. Therefore, the prayer would also be in category of an “abomination”. If this be so, then how can we join together for prayer, for in a situation in which the prayer is considered an abomination one does not fulfill the obligation to pray even *post facto* as we find in *Berakhot* 22b?

The Neziv then adds:

It is written in Proverbs (1:15) concerning those who lie in wait for people to shed their blood and loot their belongings: “My son, do not walk on the way with them, keep your feet from their path.” ‘Way’ here means a public road while ‘path’ refers to a private path. We are being taught that even though we cannot avoid going along the public roads we should not go with them hand in hand. However, on their private path we should not even walk at all. This is the way to behave with those who are trying to ambush the Israelite spirit, trying to destroy it and remove it from the way of eternal life. As far as the public road is concerned it is impossible not to interact with them in business and the like. However, we should not engage in partnerships or friendship with them as we learn in *Avot*, “Do not become friends with the wicked.” In 2 Chronicles it is written (20:37) that the prophet “Eliezer son of Dodavahu of Mareshah prophesied against Jehoshaphat, “As you have made a partnership with Ahaziah, the Lord will break up your work”. Jehoshaphat was fortunate in that God broke his alliance with the evil Ahaziah with whom he collaborated no further. Who is worthy of this?

All this concerns the public sphere. However, concerning their own private path, their House of Worship and the like, actually keep your feet away for their lawlessness is attractive to people. Even though we should not engage them in dispute for it says,¹⁶ “Do not argue with evildoers”, we must be very careful not to stumble into their group for they are, “a root sprouting poison weed and wormwood.” (Deut. 29:17). See my comments there in my work *Ha-ameq Davar*.

Hence we arrive at a nuanced and dialectical response. Despite his desire to keep us away from those who are a danger to Jewish tradition, there are certain situations which are unavoidable: “It is impossible not to interact with them in business and the like.” There are situations that demand interaction in the public sphere. It is obvious from his own practice that ‘and the like’ included issues that affect the public, the community of Israel. In other words, these Jews remain part of the community and must be included in any discussion on important community affairs.

V. Conclusion

We have looked at numerous comments of Rabbi Naphtali Zvi Yehudah Berlin regarding Jewish communal harmony. He was clearly aware of the various kinds of deviation from tradition and new Jewish ideologies that were developing in the nineteenth century. He reacted with an overwhelming confidence that Torah learning will properly address all these issues. His emphasis on unity is very typical of this era. It is a somewhat standard appeal to the community not to weaken itself through fragmentation.

Unique to Rabbi Berlin is his direct address to each type of deviation. Since he considers love of God and *devekut* to be the essential goals of Jewish life, he is most under-

¹⁶ This phrase is found both in Psalms 37:1 and Proverbs 24:19.

standing of those who maintain this focus. Even if they reject the halakhic system for reasons of inconvenience, they can still focus on *devequt* in their own way similar to the ancient Israelites who worshipped God on the high places. Even the leaders of such groups can be considered to be genuinely searching for *devequt* and not to be rejected. Ordinary Jews who drift away from strict observance are to be accepted and challenged through Torah study. The Neziv calls upon the observant community to interact with them and keep them within a Torah framework.

In the late nineteenth century, after the pogroms of the 1880's, many Jews began moving towards secular national ideologies. Some rabbis took a more generous view towards these Jews than they did towards Reform groups. They believed that the strong emphasis on the national spirit of the Jewish people would lead to a return to

authentic Torah commitment. Unlike many of his contemporaries, The Neziv took a harsher view towards secular national groups. They had abandoned the central ideal of love of God and replaced it with new values. Observant Jews can deal with these types only on matters of general community policy, not on matters of faith. The public welfare requires cooperation whenever possible.¹⁷

Finally, the Neziv strongly disassociated himself from any views that would lead towards hatred. Although, some of the leading Orthodox figures of the century were exponents of this hostile attitude, he directly rejects this approach. *Ahavat Yisrael*, love for Israel, includes all Jews. Principled tolerant interaction and joint Torah study are the correct Torah responses to the breakdown of consensus on Jewish identity and the pluralistic condition of the Jewish people since the Enlightenment.

¹⁷ I obviously disagree with the assessment of Ehud Luz that, "Orthodox rabbis were unequivocally negative toward Reform Jews but they were ambivalent about nonobservant Zionists." See his "The Limits of Toleration" in *Zionism and Religion*, Shmuel Almog, Jehuda Reinharz and Anita Shapira, eds. (Hanover and London, Brandeis University Press) 1998. Luz speaks about Rabbi Berlin, but incorrectly puts him together with others. The Neziv had actually reversed the position that Luz attributes to other Orthodox rabbis who were involved with *Hibbat Zion*.

Appendix

Responsa Meshiv Davar I:44 “On Right and Left”

Rabbi Naphtali Zvi Yehuda Berlin
Translated by Howard S. Joseph

With the help and in the Blessed Name of *Hashem*-God

I. Three Authentic Trends Within Judaism.¹⁸

I saw an article entitled Right and Left in the journal *Mahazikei Ha-Dat*, Volume 3, by one of the editors in which an important question is raised. Since it is our responsibility to participate in efforts to strengthen the faith of Israel I could not desist from presenting my thoughts on this issue to the members of *Mahazikei Ha-Dat*, may *Ha-Shem* bless them. Anyone else who has anything to respond and clarify in these matters in another way let their words come and enlighten our lives. For although we are removed geographically from one another we are close to each other in our desire and willingness to arrive at the goal with the help of The Knowing and Guiding God.

The author suggested inquiring into the following questions:
a) Can the faith of Israel be divided into three parts? and
b) Are left, right and center to be found in our faith? He declared that left, right and center were present in ancient times and that maybe these trends continue today:

- [On the Right], the Righteous (or, Saintly) who remove themselves from all earthly matters not even benefiting to the extent of a small finger's worth;
- opposite them [on the Left], the Wicked who either out of ignorance or brazen willfulness throw off the yoke of Torah and Religion;

- the Centrists, who innocently follow the ways of the world without rejecting the Torah.

With all due respect, I believe that the author does not follow through on his initial question. He began with the question of whether there are three different trends in our religion and faith and concludes that the Left is equivalent to a rejection of the Torah and religion. In other words, the Left is outside of our faith.

Also confusing is the expression ‘maybe’ concerning the three trends. What kind of question is this? We have always had three trends: the Completely Righteous, the Wicked and the Intermediate. The question really should be whether among the followers of our faith and religion, among those who do not reject Torah, there are to be found three groups. This is the question that should be properly researched. There are definitely three groups in Israel. According to our humble explanation they are, first of all, the ones referred to in scripture as the Rightists (*mayeminim*) and the Leftists (*masemilim*).

In the beginning, we should understand that there are two meanings to the commandment “to love the Lord your God....” which we read each day which are explained by Maimonides: One meaning of this commandment is that one should be prepared to sacrifice body, spirit and will for the will of God just as one who

¹⁸ I have broken the *responsum* into sections and given titles to each. I have also made paragraphs out of large blocks of material.

loves an only child would renounce all possessions for the life of the child; this is what any normal person would do. Similarly, it is a commandment to give oneself for the sanctification of God's name in a dangerous situation (*Piskei Ha-Rambam*).¹⁹ Maimonides also wrote (*Yesodei Ha-Torah* 5:7): How do we know that even in a dangerous situation we must not violate one of the three cardinal sins? It says (Deut. 6:5), "You shall love the Lord your God...." This meaning is, therefore, obligatory upon every Israelite.

The second meaning is that one should be connected in thought and desire to apprehend the Spirit of Holiness whenever possible or, at least, in some transcendent moment. In everyday speech [Yiddish] this love is called *die libe*. This is what Maimonides wrote (*ibid.* 2:1): "This God, honored and revered, it is our duty to love, as it is said "You shall love the Lord your God". (2:2) And what is the way that will lead to the love of Him...? [When a person contemplates His great and wondrous works and creatures and from them obtains a glimpse of His wisdom which is incomparable and infinite, he will straightaway love Him, praise Him, glorify Him and long with an exceeding longing to know His great Name...."

Similarly, we learn in the Jerusalem Talmud (*Berakhot*, Chapter *Haroeb*) that Rabbi Akivah explained this verse [of "you shall love"] using the verse "I have loved you (*rehamtikh*) with all my heart I have loved you will all my soul". The meaning of *rehimah* is from the verse (*arahamekh Ha-Shem hizki*). It is also written, "Will a mother forget to love her young ones the fruit of her womb?" This refers to a connection of the intellect in an intense love. This second meaning is obviously not for everyone as we see from Maimonides words above concerning how to achieve love of God. It is understood that not everyone reaches this level. The *Siphre* questions the link between our verse [you shall love] with the subsequent verse, "these words that I command you today should be upon your heart...." "How should one love

God? By keeping these words close to your heart; from this you will come to know the One who speech produced the world."

Thus, the one who is on the Right is one whose mind is continually imbued with love and attachment (*devequt*) to God, and who closely approaches the *Shekhinah*. This is truly the way of piety (*hasidut*), which is impossible except for one who separates from the world. The one who stands on this exalted level finds it difficult to associate with other people even to teach them Torah and morals. Every interaction with others interrupts the intellectual connectedness that is impossible without isolation (*hitbodedut*).

Only Moses our Rabbi remained on this level even while he addressed the people. Immediately following his address he again covered his face with the mask and rose in his thoughts to his proper level. No other prophets or important people—even Abraham our Father—could do this. When they taught Torah and God's ways to the people they could not sustain their elevated level of *devequt* as in their times of isolation. (Our Rabbi the Gaon Hatam Sofer, may his merit protect us, has already treated this question at length in his introduction in a very illuminating and proper fashion.) Thus the one whose soul desires continual attachment with God is referred to as a Rightist as we will further explain.

There is a second God worshipper who observes all the details of Torah but who does not know the taste of love and *devequt*. This one does not separate at all to achieve this love. This was the way of the early [Jewish] philosophers who never departed from the way of God and Torah, God forbid, and who taught others the greatness of God and Torah. However, they did not know how to love God with *devequt*. These are called Leftists for they are removed from extreme closeness to the *Shekhinah* and the Spirit of Holiness (*Ruah Ha-Kodesh*).

¹⁹ I cannot locate this source.

There are also those who follow a middle path. During recital of *Keriat Shemah* and *tefillah* their minds approach love and *devequt* of God while the rest of the day they are occupied with worldly affairs. Those on this intermediate way are also called pious (*hasidim*) but in a different manner than the ones above: they are *hasidim* in deeds.

In this category there are two types who are called *hasidim*. One benefits the community as explained in *Yoma* (87a) concerning whom it is written (Ps. 16) “You will not allow your devoted one (*hasidekhab*) to see the pit.” The second type includes those who strictly perform the commandments beyond the normal human capacity, as is known through the chapters on the pious ones (*pirkei dehasidei*) in tractate *Ta’anit*.

Thus there are three types of *hasidim* in Israel: the Rightists (*mayeminim*) who are totally connected to love of God, as well as the two types of practical *hasidut*. All three types are mentioned in one verse in the Ten Commandments, “showing hesed to the thousandth generation of those who love Me (*ohavay*) and keep my commandments (*shomrei mitsvotai*).” In the *Mekhilta* this is explained: “those who love—this refers to Abraham our Father and those like him; those who keep the commandments—are the prophets and elders.” This means that ‘lovers’ refers to those such as Abraham who were greatly immersed in *devequt* and love of God. ‘Keepers of the commandments’ refers to the prophets who benefited the community through their admonishments and the elders who strictly obeyed the commandments.

It is obvious that the one who displays *hasidut* through *mitzvah* observance should of necessity be a scholar (*talmid hakham*) and continually learn and study how to properly observe the commandments according to correct Torah opinion (*da’at Torah*), and not come to perform strange acts not in accord with Torah knowledge, God forbid. [This forms part of the standard mitnaggedic critique of *hasidism*. Neziv expresses this critique in other places, as well such as his commentary on *tzitzit* (see below) and the story of Korah. He also presents here a

variety of models for Jewish piety. Not only the Rightists are the pious, but the others as well. –*translator*]

Now let us look at Levi and Phineas who both were zealous against sexual immorality and were totally devoted on this issue. Yet Phineas rose to the highest level while Levi was rebuked by his father (Jacob). There are many similar instances. The explanation is that this (zealousness) requires great precision to evaluate the activity according to time and place. It is also necessary to understand many Torah principles that are not always clear. Thus it is impossible to be this type of *hasid* except through Torah study. The way of *hasidut* through love of God and *devequt* which one imagines does not require Torah learning but only sincerity (*temimut*), isolation and intention for love of God is not correct. Even the one who prepares for and clings to love of God requires at least being very careful not to deviate from the way of Torah. Holy desire and love ‘more intense than death’ should not lead away from reason.

The Torah warned about this through the observance of *tzitzit* that is a symbol of the six hundred and thirteen commandments. The Blessed Holy One commanded us to make threads of blue and white to represent two types of behavior in Israel. One type follows the majority way of being occupied in worldly matters; the white thread of the fringe is a reminder of all the commandments. The second type is one separated for the purpose of service to God, isolated and immersed in love of God. The blue thread is a reminder for this one for it resembles the Heavenly Throne to which this one clings. Despite this attachment one must remember to interrupt *devequt* and perform the commandments as their obligatory times appear. Two verses address these two types of Judaism (Nu. 15). “You shall see them (the fringes) and remember all the commandments of God and do them and not stray....” refers to the masses of God’s people who are Centrists or Leftists. The verse “So you may remember and do all My commandments and be holy for your God,” is addressed to the Rightists, the *hasidim* in holiness and love of God who also must be careful to observe the commandments according to Torah knowledge (*da’at*

Torah). Then they will indeed be “holy unto your God.” They will be pleasing to God who will emanate to them a holy emanation and the Spirit of Holiness. In all manners of *hasidut* the words of *Avot* (2:45) apply: “The ignorant cannot be a *hasid*.”

I will now explain Isaiah’s words: The Lord will provide for you meager bread and scant water. Your teacher will not be hidden but your eyes shall see your teacher. Whenever you deviate to the right or left you will hear a voice from behind you: “This is the road: Follow it” (30:20–21). The meaning is that the three groups existed in Isaiah’s days. Firstly, the group that behaved in holiness and *devequt* who are a chariot for the *Shekhinah*. The leaders of this group would hide in their rooms so as not to have people interrupt their spiritual devotions. These are the Rightists.

Then there was the group that followed the ways of natural wisdom (*hokhmat ha-tevah*) removed from spiritual thought whose leaders did not hide at all. Their disciples made no effort to see them face to face for they could understand their teachings through written form even more than through direct communication. This is not true of Torah learning whose treasures are expressed through disciples seeing the face of their master. This is why Moses removed his mask when addressing Torah messages to Israel: so they could see his face.

The prophet Isaiah spoke this way in his time for Torah study was necessary in the struggle against Sanneherib as we learned in the chapter *Heleq* (*Sanhedrin*) when the Sages explain the verse “the yoke will be broken because of oil”. The yoke of Sanneherib will be broken because of the oil of King Hezekiah who stuck a sword in the *bet midrash* door and declared that whoever does not study Torah will be thrust with a sword. The prophet said of this: God will provide you with little bread and water. Thus we know the way of Torah study is through “a morsel of bread and salt to eat and rationed water to drink” (*Avot* 6:4). “Your teacher will not hide” suggests that they will not be like the first group whose teachers

hide in their rooms. “Your eyes shall behold your teacher” suggests that you will be unlike the second group’s disciples who do not seek to see their masters’ faces. “You will hear a voice from behind you: “This is the road: follow it”— you will know and understand that only this way of intense Torah study will protect and save Israel in time of war. Only this way will lead to national survival. “For if you deviate to the right”, that is among the Rightists, “or to the left” among the Leftists, all will understand that only intense Torah study is the fundamental for protection of the Jews. We have now explained Right and Left in the way of our faith.

The result of our explanation is that not all of those who follow the middle path in the service of God are to be considered middling [in their commitment] for many of the Centrists can be considered as *hasidim*. Not in the sense of those immersed in isolation in love and *devequt*, but in the sense of *hasidim* in deeds as we explained above according to the words of our sages in the Talmud and the *Mekhilta* in the explanation of the Ten Commandments and further supported by what is said in Deuteronomy [of God] who “keeps the loyal covenant to the thousandth generation for those who love Him and follow His commandments.”

We might think that those in the center are the ones who neither reject the yoke [of Torah] but are not careful in observance. However, it is clear that in the middle category there are many gradations ranging between the two poles of righteous and wicked.

Despite the fact that I have been lengthy and expansive I hope that my words will not prove burdensome to the editors or to the members of *Mahazikei Ha-Dat* for my purpose is to heal. Now I will continue to the rest of the article in question. May God be with us.

II. On Heretics, Fanatics and Communal Harmony

The author writes about what he sees and claims that our generations are unlike those of earlier times. In earlier times those in the center were not in such danger from

those in the community who rejected the yoke of Torah and commandments who always existed among us. In our times, an Israelite who has no intention to deviate from Torah will be more vulnerable to the loss of his destiny and Torah inspired purpose unless he places God close to himself continuously. The author cannot deny what he sees. However, we must analyze why this has happened.

We must realize that the facts are not as the writer reports, namely, that there has never been a generation so rejecting as our own. This is not true at all. Even when we first entered our Holy Land and for many generations following thereafter the desire for idolatry was prevalent and, indeed, burned as intensely as an oven as the Talmud says (*San.* 102b). It was obvious that no one could be certain of avoiding this idolatrous trend unless one behaved in the way of *hasidut* continually turning one's mind to the way of God.

We see this from the words of Joshua to Israel [before his death] (Js. 24). Joshua presents the alternative of worship of God or worship of the Amorites' gods. He then warns them that they cannot worship both. He also warns them that they cannot worship God for He is a Holy God. They [seem to] answer properly that they will worship God.

Joshua continues saying that you are witnesses to yourselves that you have chosen to worship God and they answered, "Yes, we are witnesses." Joshua now adds that they should remove all foreign gods from their midst and turn their hearts to the God of Israel. The people respond that 'we will worship the Lord our God and obey His voice.'

It is not clear what Joshua was adding in his last statement nor in what the people responded. Joshua knew the power of the idolatrous instinct that prevailed in the Holy Land. This is expressed in the *Midrash Shir Ha-Shirim* on the verse "I have washed my feet how can I now dirty them." The sages explain that this refers to the time of Ezra when many [Babylonian Jews] refused to return to Israel. In Babylon they had 'washed their feet' and removed the desire for idolatry. How can they now return

to the land and risk dirtying them again for the land arouses idolatry? Therefore, Joshua advises them not to be rely on their willingness today to worship God unless they also are willing to immediately remove the idols from their midst in the land. That means even the idols worshipped by the Canaanite inhabitants among them should be removed so that they will not be tempted towards them. Also, turn your hearts to God. This means that they cannot rely only on removing idols and hoping that without a serious turning towards God somehow they will not slip into idolatry once again. Therefore, turn your hearts to God, placing God always before you.

This was Joshua's advice for he had prophetic knowledge of the powerful idolatrous desire in the Holy Land. But Israel did not fully understand Joshua's warning. They answered again that they would worship God, meaning: We do not really have to be afraid [of the idolatrous instinct]. Even without turning to full and continual attention to God that is the way of *hasidut* we will not worship idols but only God.

Those generations failed to follow the advice of Joshua and many stumbled until the Prophet Samuel came and began to confront them once again. (I Sam. 7) "Samuel said to the entire House of Israel, if you turn to God with all your heart then remove the foreign gods from your midst ... and straighten your hearts to God and serve Him alone." It is written there that they did remove the Baalim and Ashtarot and worshipped God alone. 'Alone' refers not to each Israelite alone, but to God alone following Samuel's advice of 'straightening your hearts.' This is a high level above ordinary human nature. It is the way of *hasidut*. For this reason many generations were well established until the sinful kings of Israel and Judah came—as well as for other reasons we shall explain—and they returned to the idolatrous instinct until they were exiled.

In our commentary to Torah called *Ha-ameq Davar* we explained that the Torah also warned us concerning idolatry through the moral teaching of Moses our Rabbi at the end of *Nitsavim* (Deut.): Behold I have placed before you

today.... This is not the place for lengthy explanations. However, all this was in a generation in which the idolatrous instinct burned in Israel and it was almost impossible to withstand this power unless one chose the way of *hasidut*. This was not the case when the members of the Great Assembly prayed concerning the idolatrous instinct as found in *Yoma* 69b. Subsequently, even though every generation had rejecters of the Torah way, nevertheless this came about only through succumbing to overwhelming desire or other weak moral qualities. Those without these weaknesses were not tempted to follow the sinners. In our generation, however, there has been an increase in unbelievers with faulty ideas concerning the authority of the Talmud, for example. [This is an obvious reference to the Reform movement. This is a different phenomenon than ordinary weaknesses. —*translator*] Our sages have said (*Avodah Zarah* 27b) that a person should not engage in business with a heretic. The *gemara* explains that heretics attract others to follow them. For this reason one who is not cautious is in danger of being drawn to them after a while.

Now the author presents his thoughts and proposal to be careful of this generation and to separate completely from them as Abraham did from Lot. With the pardon of the writer, this advice is as harsh as swords thrust through the body and survival of the nation! When we were sovereign in our Holy Land—as during part of the Second Temple period—the land was lost, the Temple was destroyed and Israel exiled because of the dispute between the Pharisees and Sadducees. This caused much gratuitous hatred (*sinat hinam*) leading to unjustified murder. Thus, when a Pharisee saw someone being lax in a certain matter—even though he was not a Sadducee but only sinning in this matter—because of tremendous *sinat hinam* he judged him to be a Sadducee who can be legitimately harmed. From this mistaken attitude numerous allegedly justified and holy murders multiplied. As I explained in *Ha-ameq Davar* and *Harhev Davar* the Torah already hinted at this matter (Nu. 36:34). It is not far-fetched to think that this can occur today. A member of *Mahazikei HaDat* might see someone and imagine that he does not follow his way in proper worship of God. He will then judge

him to be a heretic and separate from him. They will then chase (*rodef*) each other (with intent to harm) in the erroneous belief that this is justified, God forbid. The entire people of God will be destroyed, God forbid.

All this would be true even if we were sovereign in our own land. How much more certain when we are down-trodden in exile scattered like sheep among the nations. In exile we are likened to the ‘dust of the earth’ as the Holy Blessed One told Jacob: your descendants shall be like the dust of the earth. The nations are likened to flood waters, as is written in Isaiah: Ah, the roar of many peoples that roar as roars the sea (17:12). There is no hope for a block of dust against floodwaters unless the dust becomes a solid rock. A flooding river would then only roll the stone from place to place but not altogether destroy it. Israel among the nations has no hope unless it becomes the ‘rock of Israel.’ If we become united into one union no nation or culture can destroy us. So, therefore, how can anyone advise us to separate from our fellow Jews? The nations would then wash us away little by little, God forbid.

Furthermore, it is even difficult to separate ourselves from the nations of the world even though God wishes us to do so, as it is said, ‘God leads them alone’ (Deut. 32:12). Balaam said, ‘There is a people that dwells apart not reckoned among the nations’ (Nu. 23:9). This means that Israel will dwell in peace when they dwell apart. But when they attempt to integrate among the nations’ they will then not be reckoned as an independent nation. ‘Israel dwells safely alone—[according to] the vision of Jacob (*ein Ya’akov*).’ This is Jacob’s passionate hope that Israel live securely among the nations by not competing with them; and separately, alone, without integrating into them. All this was of no avail to keep us separate from the idol-worshipping nations.

The Rabbis comment (*Sanhedrin* 104a) on the verse (Lamentations 1:1) “How she dwelled alone,” as follows: Rabbah in the name of Rabbi Yohanan says, “I (God) said, Israel dwelt separate and secure...” now they will

indeed be separated and alone,” for the nations distance themselves from them.

Similarly, the Talmud (*Pesachim* 118b) interprets the verse “He scattered the nations that desired war (*keravot*)” (Ps. 68:31) as “what prompted Israel to be scattered among the nations? Their desire to become close (*kereivut*) to the nations.” This means that because of this desire the nations do not permit Israel to live a long time among them.

From the beginning the Holy Blessed One commanded Abraham, “your children shall be strangers in a foreign land.” (Genesis 15:13) In addition to being a prophecy that this will occur, it is an instructive warning for the future: your children shall be strangers, visitors among the nations and must not wish to mix with them. Therefore, it is written of Jacob, “he visited there (in Egypt)” (Deuteronomy 26:5), which is explained by our Sages to mean that he did not go there with the intention to dwell permanently. Jacob, indeed, said this to Pharaoh, “we have come to visit the land” (Genesis 47:4). This does not mean that Jacob did not come to Egypt to dwell there for the rest of his life, but only visit there until the end of the famine. We cannot draw this conclusion because Jacob had already heard from God that in Egypt, “I will make you into a great nation.” So Jacob knew that they would be there for many years. This would be the fulfillment of the word of God to Abraham: “Your children shall be strangers in a foreign land.” They will be enslaved and persecuted for four hundred years. Thus, the meaning of Jacob’s not descending to Egypt to dwell there is that as far as Pharaoh was concerned, Jacob could be a citizen of the state. However, Jacob does not wish that. He would rather be a visitor following God’s word to Abraham, “your children shall be strangers” (i.e., remain as visitors) so that the word of God would be established forever. Therefore, God who turns the hearts of the nations against us to remove us and render us alone thwarts our attempts in the exile to imitate and integrate with the nations.

In the Haggadah, we recite the verse, ‘And He said to Abraham, your children shall be strangers in a foreign land. They will be enslaved and persecuted for four hundred years. I will then judge the nation that enslaved them and they will depart with great wealth.’ (Genesis 15:13–14) We then say, “It is this which has stood for our ancestors and for us. For more than once have they risen against us to destroy us. Indeed, in every generation they rise against us to destroy us. However, the Blessed Holy One saves us from their hands.”

We should not explain the expression ‘It is this’ as referring to the promise that we would leave with great wealth. This was only for the Egyptian situation and not meant to be for all circumstances. It refers, rather, to the expression ‘your children shall be strangers in a foreign land.’ This is what has stood for our ancestors and us for in every generation that they tried to destroy us because we fail to fulfill God’s word that we remain strangers and be a unique nation. We rather try to come close and integrate with them. This inevitably leads to their attempt to destroy us. However, the Blessed Holy One saves us from their hands.

Concerning this we say: “Go and learn from what Laban the Aramean attempted to do to our ancestor Jacob....” This prevents some enlightened person from claiming the opposite: that if we were completely assimilated into the nations they would cease hating us and would cease their attempts to destroy us. Our response is to learn from Laban. For we were close to him since, in effect, we are all his children. Nevertheless, he tried to destroy everything. “Everything” does not mean just Jacob for otherwise we would say that he tried to kill our Father Jacob. It means he tried to destroy Judaism. We learn this from the very precise expression—an Aramean destroying my ancestor,—which is in the present tense. [That is, continually trying to destroy what my ancestor stood for.] We see that it was not only at that moment that he tried to do so but even after it was clear that Jacob had not stolen from him he still wished to destroy him. This is clear from Laban’s

statement: I have it in my power to do you harm; but the God of your father said to me last night, “Beware of attempting anything with Jacob, good or bad”(Gen. 31:29). It is unclear, initially, to whom Laban was speaking in using the plural ‘you’ for he was speaking to Jacob alone. Is it possible that he would wish to kill his children and grandchildren? We thus see that his intention was to destroy all Jacob’s followers who had converted to Judaism. Thus, later on Jacob says, “place it here before my brethren” (v.37) for it was them he had wished to harm, to kill all of them even though they had done nothing to him. His desire was to destroy Judaism. Even though they had not segregated themselves from Laban and his family in Aram he still wished to destroy Judaism. This is because they were close and mixed in with Laban’s household and not like strangers in their city. From this we learn that as much as we try to come close to the nations they increase their distancing us from them and seek to destroy us.

We see how difficult it is to remove ourselves from the nations, for it is against the natural human instinct which is to be friendly with neighbors whether they are good or bad. So how can we now advise our children to distance ourselves from our fellow Jews in all worldly matters? Secondly, there is a *mitzvah* derived from *Berit Avot* commanding us to remain a distinct people. This peoplehood is derived from our common ancestry and not our common observance of *mitzvot*.

Finally, it is abnormal for people to isolate themselves from their neighbors. In this case, they would have to isolate themselves even from family members as Abraham did when he separated from Lot. This is too demanding for most people.

III. Torah Study Is The Solution

If we wish to strengthen our religion and prevent its deterioration among us and our children, we must look to earlier generations for understanding as is written, “from the elders I will learn.” What did Hezekiah the righteous king do when he saw that our religion had weakened

during the time of Ahaz? He stuck a sword in the door of the *Bet Midrash* and declared: Those who do not occupy themselves with Torah study will be thrust with a sword. Even though this measure would not lead to Torah study for its own sake (*lishmah*) nor for the sake of the love of God but only to avoid destruction, nevertheless, this measure strengthened our religion in the best way possible.

The pious king Josiah saw the possible destruction and exile of Israel and the loss of Torah from Israel. What did he do? “He said to the Levites, consecrated to the Lord, who taught all Israel, “Put the Holy Ark in the House that Solomon son of David, king of Israel, built; as you no longer carry it on your shoulders, see now to the service of the Lord your God and His people Israel”” (2 Ch. 35:3).

Our Sages explained that Josiah hid the Ark (*Yoma* 52b). However, it is unclear what he meant when he said: see now to the service of the Lord your God and His people Israel. Why should their service be different from now on? It is also difficult to understand why he said: as you no longer carry it on your shoulders. Had they been carrying the Ark until now? (The Sages already discussed this in the Jerusalem Talmud, tractate *Shekalim*, but this is not the place to expand on this matter.)

The matter is to be understood in that until now the High Priests were immersed in isolation for the love of God and *devequt*. This was the way of the consecrated Levites. Thus, they were unable to teach Torah among the masses and increase the number of scholars for this would interfere with their personal spiritual efforts. Their heretofore sacred service is called a Chariot of the *Shekhinah*, and is said to be “carried on the shoulders” the place in which Knowledge (*Da’at*) dwells. Josiah is now commanding them to stop their isolationist practices for the purpose of *devequt*. From now on serve both God and the nation together by teaching Torah to the masses. Following the king’s command one thousand “craftsmen and smiths’ rose up, all of them warriors” (2 Kings 24:14). Our sages understand them to be warriors for Torah (*Siphre, Ha-Azinu*). Following them there arose the

Members of the Great Assembly who advocated ‘raising many disciples.’ (*Avot* 1:1) This led to the survival of Torah Judaism in Israel.

It is our responsibility at this time to strengthen our faith (*lehahazik ha-dat*) and increase Torah study in all *batei midrashim* (*sic*), programming for all types of public study. People should not worry that some might study Torah not for its own sake (*shelo lishmah*). We learn [not to be concerned over] this from the story of Rabban Gamaliel and Rabbi Elazar ben Azariah [who disagreed on this issue] (*Berakhot* 28a). We do not follow Rabban Gamaliel’s stated policy that “any student whose inside is unlike his outside should not enter the study hall.” We also see that Rabban Gamaliel was greatly disturbed, rethought his view and said, “Perhaps, God forbid, I have withheld Torah from Israel!” In a dream, he was shown white casks filled with ashes [to indicate that he had acted correctly]. But that was not [the case]. He was shown that just to calm his mind.”

We should not really care if one studies *shelo lishmah*. The ordinary person who studies Torah without love of God and *devequt* studies for the purpose of fulfilling the obligation to study Torah and avoid the severe punishment for ignoring Torah study. This is like all *mitzvah* obligations such as *tefillin* and the like. If they are done for love and *devequt* it is wonderful. However, not every person reaches this status. Yet the *mitzvah* is accomplished. Studying in a public setting is much better than in private. We learned in *Avot* (3): If ten study the *Shekhinah* is among them.... Even five too.... And one studying as well. Nevertheless, it is obvious the more the better. This is true even when walking in the street. In *Ta’anit* (10) we learn: If two disciples walk along the way and do not speak words of Torah they deserve to be burned.

Thus, even if one really studies to proudly show off there is no sin, God forbid; there is only no spiritual benefit or reward. Rashi (*Berakhot* 17) explains that if one studies the commandments in order to be honored then the following verse applies: “Your mercy is as great unto the

heavens.” It is as any *mitzvah* done not for its own sake, even one that requires an act [unlike study which is not considered an act.] Nevertheless, it is certainly not deserving of any punishment, God forbid. This is similar to what is taught in Tractate *Nazir* (23) concerning one who eats the Passover sacrifice gluttonously: even though it is not a preferable way the obligation has been fulfilled.

In Tractate *Yoma* (70) we are told of a Jerusalem custom that on Yom Kippur everyone would bring a Torah scroll home to read from it in order to show off its beauty to others. Rashi explains that by showing the beauty to others the owners were promoting their own glory in that it favorably reflected their endeavors to prepare a religious object in a beautiful manner.

In our situation, therefore, one who studies Torah to find glory in it does fulfill the goal of studying but not in the most elevated manner. Moreover, if we compare Torah study not for its own sake to acceptance of pious strictures for their own sake it is clear that the former is preferable. This follows from what is taught in Tractate *Arakhin* (16b): Rabbi Yehudah son of Rabbi Shimon was asked which is superior, chastising *lishmah* or humility *shelo lishmah*? He answered: we must acknowledge that humility *shelo lishmah* is superior, for Mar taught that humility is the greatest of all virtues. This shows that even *shelo lishmah* is superior for Rabbi Yehudah said in the name of Rav: One should always occupy oneself with Torah and commandments even *shelo lishmah*.... From this it is clear that Torah study even *shelo lishmah* is superior to pious strictures *lishmah* [for nowhere is it said that one should occupy oneself with strictures].

In the Jerusalem Talmud (*Rosh Hashanah*, chapter 2) and in the opening of Lamentations *Rabbah* the Sages interpreted, “Israel rejected what is good” (Hosea 8:3) to refer to the Torah, [for it says, “I have given you a good portion, do not abandon My Torah.”] We have explained the flow of the verses as follows: Israel cries out to Me, ‘O my God, we are devoted to you.’ Israel rejects what is good; an enemy shall pursue him. “Israel cries out to Me”

—during public prayer, concerning their troubles; “O my God, Israel are devoted to you”—we have loved you, why have you not helped us. To this the prophet replies, “Israel rejects what is good”—they did not uphold Torah study and, therefore, the merit of their loving devotion will not help them. “An enemy shall pursue them”—for only the merit of intensive Torah study can protect them from any enemy.

Also in [Lamentations] *Rabbah* we find the statement of Rav Huna and Rabbi Yehudah in the name of Rehava explaining the verse “they have abandoned Me and kept My Torah.” [God is, in effect, saying] since they are occupied with the Torah it will lead them back to God. There is also the very well known statement: One should always be occupied with Torah and commandments even when not *lishmah* for *lishmah* will develop from *shelo lishmah*. Now most people explain this as referring to the same person [who will grow from one to the other.] However, this implies that if the person does not develop that way God does not accept the *shelo lishmah* acts. However, in Tractate *Sanhedrin* (105b) we learned a different explanation: Rav Judah said in the name of Rav, one should always be occupied with Torah and commandments even when not *lishmah* for *lishmah* will develop from *shelo lishmah*, for because of the forty-two offerings made by Balaam he merited to have Ruth as a descendant. This shows us that there is merit in *lo lishmah* itself which can lead to *lishmah* in a subsequent generation.

From all this we see that we, the upholders of the faith (*mahazikei ha-dat*), are obliged to engage in strong efforts to occupy ourselves with Torah study. The rabbis and communal leaders must ensure that teachers should be scholars. If we are required by the state to teach secular subjects in our schools these should be taught by pious people. This will not be possible if people are only concerned for their own children and cannot always find a proper teacher for the secular material. This will drive away the children. They will rebel against their parents and follow some perverse path in order to properly study

the secular subjects. Only if the community and its leaders accept this responsibility can it succeed. The proper teacher will make sure that they do not depart from the way of Torah and that there will be sufficient time for Torah study. Both studies will prosper. However, scholars capable of Halakhic decision-making (*horaah*) will not be produced by such a system. True Torah scholarship results only from total dedication to it. One’s total dedication to study helps merit true scholarship. One cannot be a great Torah scholar while being occupied with other matters. The great Torah scholars who are scholars in secular studies either studied secular studies before or after their Torah studies. It is not possible to do them together. Nevertheless, even though those who study both together will not reach *horaah*, Torah study for any amount of time is precious and leads to piety (*yirat Ha-Shem*).

Communal Torah study among householders (*baale batim*) will reduce communal conflict and increase the upholders of the faith. Without doubt there are many who have not rejected the authority of the Talmud, our early rabbis (*rishonim*) and that which is explained in the *Shulhan Arukh* but may still be unlearned in Torah. This leads to laxity in observance of customs and duties found in our ethical literature. However, those who will study Torah will understand that the lax ones are not heretics and deniers, God forbid. They will stay united with them in one group to deliberate upon how to strengthen our faith and triumph over the deniers of Talmudic authority. The larger will be the group the stronger it will be and more likely to find good counsel from each other. God will listen and pay attention to their efforts and help to preserve their children from total heresy.

Mass Torah study will also serve another beneficial purpose. We, the upholders of faith, will know how to behave more precisely according to the teachings of our Sages as expressed in the Talmud and *Shulhan Arukh*. The masses will not be misled to make changes according to the imagination of some [allegedly] great and holy person who thinks there are better ways to worship God.

During the first Temple period there were also *mahazikei ha-dat* who refused to worship idols. But they sacrificed on the high places outside the Temple which is liable to a punishment of excision. Nevertheless, they followed the priests of those places who were also great men who taught that this is a convenient way to achieve love and *devequt* for the Blessed Holy One without traveling all the way to Jerusalem. Because this transgression was misunderstood to be a *mitzvah* even the righteous Judean kings such as Assa and Jehoshafat were unable to stop them, as it says, “the people were still offering at the *bamot*.” So entrenched was the view that indeed this was a good thing that when King Hezekiah abolished the *bamot* he was attacked by the Rabshakeh [the Assyrian officer] who said: And if you tell me that you are relying on the Lord your God, He is the very one whose shrines and altars Hezekiah did away with, telling Judah and Jerusalem, ‘You must worship only at this altar in Jerusalem.’ (2 Kings 18:22) We see that the Rabshakeh believed Hezekiah had grievously sinned. This is because he was a heretic who had learned in his parental home the mistaken notion that it was a sin to prevent the people from worshipping at the *bamot* with *devequt* and love of God while in reality it was a sin to do so.

If we inquire as to what power Hezekiah had that made him more successful than Assa or Jehoshafat in overcoming this practice we realize that it was his promotion of Torah

study among the masses even though it was *shelo lishmah* but out of fear of the sword. Still it helped to prevent sinfulness and behavior against the Torah as well as against human reason.

In our times we have many pious *mahazikei ha-dat* who behave according to their own thoughts in order to achieve love of God even though these practices are against the views of the Talmud and *Shulhan Arukh*. They rely on a statement of our Sages: “The Merciful One desires the heart” (*Sanhedrin* 106b). This leads them to many transgressions all done for the sake of heaven in order to reach the love of God securely in their mouths. However, if they were to habituate themselves to regular Torah study in order to be able to properly obey the Torah they would be protected from faulty views. Nor would each one have his own Torah, God forbid. Everything would then follow according to the Talmud.

To sum up: If we truly and sincerely wish to strengthen our faith there is no way other than through Torah study. There is no difference whether this is *lishmah* or *shelo lishmah*. Only God knows the interior motives of the student; we should not be concerned with it at all. In this manner we will promote an increase in Torah study among all types of people. Even the men of Enlightenment will then have to admit that Talmud study is our great protection.

Why Can't We All Just Get Along? An Orthodox Rabbi's Perspective on Pluralism

Shmuel Goldin

Abstract: A transcript of a lecture delivered at the Jewish Theological Seminary of America by a prominent Orthodox rabbi, who maintains that divisions within the Jewish community can be addressed through creative approaches. Dialogue should be established between the denominations based upon (1) recognition and respect of each other's boundaries, (2) identification of and management of differences, (3) willingness to engage in self-analysis and critique, and (4) making decisions and taking actions within each denomination with an eye toward benefiting Judaism and the Jewish people.

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Why Can't We All Just Get Along?

An Orthodox Rabbi's Perspective on Pluralism*

Shmuel Goldin

I am most pleased and honored to be here today, and grateful to the Jewish Theological Seminary of America for affording me the opportunity to speak with you from the heart about issues that are certainly of concern to us all. I would like to begin by reframing our discussion.

The word 'pluralism' is a little too ambiguous and antiseptic for my tastes. What we are really asking about today is family dynamics. What is the state of affairs within our global Jewish family? How do we get along with each other? How do we deal with each other and each other's beliefs and, what affect does the quality of our relationships have upon our nation as a whole?

Because we are dealing with family dynamics I thought we would begin with some shared textual study of a Torah portion that chronicles a scene of family relationships early in Jewish history. It's a tragic scene, appropriate for our attention in the shadow of the holiday of *Pesach* because it describes the sale of Joseph, the event that eventually leads to our descent into Egypt. Consider the text of Genesis Chapter 37 verses 18–36 as we attempt to answer one simple question. Who sold Joseph into slavery?

I know what some of you might be thinking. Who sold Joseph into slavery? We learned that in fourth grade. Simple: his brothers. Yet I would share with you an observation that I often share with my congregants and with my students at Yeshiva University. It is most

unfortunate that we learn biblical text in fourth grade and never return to it critically as adults. The fact is that the text is often extremely and unexpectedly complex as this narrative will show us. The complex messages, in this case, speak to us directly.

In Chapter 37, verses 18–20, the event does begin as we well remember it from fourth grade. Joseph has been sent by his father to look for his brothers:

Vayiru oto marachok... Vayomru ish el achiv, "Hinei ba'al ha-chalomot ha-lazeh ba."

(They see him from afar... And they say one to another, "Behold this dreamer is coming.")

In verses 20–21 the brothers plot to kill Joseph but instead accede to Reuven's suggestion that he be thrown into a pit. Upon throwing Joseph into the pit, however, the brothers spy an approaching caravan, and in verse 26, Judah turns to the brothers and says:

Mah betza im naharog et ahinu v'kisinu et damo?

(What benefit will there be if we kill him or allow him to die? Let us sell him to these Ishmaelites.)

Then, all of a sudden something startling happens: A caravan of Midianite merchants appears, seemingly out of nowhere, and "they" reach down and "they" pull Joseph from the pit (verse 28). "They" sell Joseph to the Ishmaelites for 20 pieces of silver.

This essay is an edited transcript of the Henry N. Rapaport Memorial Lecture given at the Jewish Theological Seminary of America on April 9, 2000.

Who sold Joseph into slavery? The question is not clearly answered in the text and therefore a variety of different interpretations are offered by the commentaries. Rashi, in his classical commentary, says that the phrase, “They reached down and they pulled Joseph from the pit,” refers to the brothers. The brothers were the ones who pulled Joseph out and they sold him to the Ishmaelites, who again sold him to the Midianites. Rashi chronicles a series of sales. The Rashbam, Rashi’s grandson and *pashtan par excellence* who always sticks to the simple explanation of the text, says, “No, it was not the brothers who pulled Joseph out. It was the Midianites....Read the text!”

Who sold Joseph? I don’t know. But that brings us to the real question—why at this particular moment in Jewish history is the Torah text suddenly not clear? Why is the normally painstakingly detailed Torah text deliberately ambiguous concerning the sale of Joseph? I would contend that the answer is simple. The Torah is teaching us through omission that it really doesn’t matter. It simply does not matter who actually reached down to pull Joseph from that pit. Perhaps the brothers did not personally hand him over. But, you know what? They are as culpable as if they did. The brothers sold Joseph either because they reached down and sold him or because they created the environment in which the sale could take place. The culpability of the brothers remains intact. Through ambiguity, the Torah teaches us a lesson of overarching significance: If you are indifferent to your brothers’ pain, you are responsible for causing that pain.

Ladies and gentlemen, you and I and others like us, members of the affiliated Jewish community in America, are presiding over a tragedy of monumental proportions. Outside of our walls, in fact, even within our communities, Jews are disappearing from Judaism in droves through intermarriage, assimilation and indifference. Yet, how do we, within the affiliated Jewish community, choose to respond to that ongoing tragedy? We respond by compounding the tragedy, by fragmenting ourselves into denominations moving further and further apart with each passing day. We expend our energies on issues that

divide us and that are of little or no concern to the vast wasteland of American Jewry disappearing into the mist. So preoccupied are we with our particular concerns that we are content to continue down paths that could lead to our total and irrevocable fragmentation, while everyone else disappears.

The question before us is not simply whether we can learn to talk to each other—There is much more at stake. The real question is. “What role will we play, or not play, in shaping the story of the Jewish people at this critical juncture?” If we can’t get along, then we cannot make the kind of difference that we should.

I suppose that we could all react to this challenge in usual fashion, by blaming each other and saying, “Well, it’s really the fault of the Orthodox or the Conservative or the Reform.” After all, it’s always the ‘other’s’ fault. But the Torah teaches us otherwise, that, *like the brothers, we are all at fault*. If we allow this to go on, if we continue to move apart and do not find ways to act together, we will all be held culpable for the unfolding, potentially tragic fate of the American Jewish community. Clearly, we need to rethink our relationships.

The real question is, ‘What role will we play, or not play, in shaping the story of the Jewish people at this critical juncture?’

I suppose the easiest solution—the utopian solution—to the problem would be to move into that post denominational era which people like to speak about. That should be easy. After all, you could all become Orthodox and everything would be fine. Alternatively, I suppose I could become Reform and we would all be happy. But that’s not going to happen, and barring those eventualities the relationships we need to build will require a great deal of thought and a great deal of understanding across the board.

We must reshape our relationships in a fashion that allows us to live together and work together for our nation’s

good. I'm not talking about platitudes, but an honest eyes-open ongoing effort. I'd like to suggest that there are four steps that are absolutely essential to the creation of this new relationship. These four steps will allow us to move past the platitudes and stop claiming that we really are one, while we act as if we're not. These four steps will allow us to create a new workable reality.

Step #1: *We must learn to recognize and respect each other's boundaries. If we can do that, we will stop asking each other for things we simply cannot give.*

To explain this step I return to the word that I avoided at the onset: 'pluralism'. What does it mean? If pluralism means that I, as an Orthodox Jew, have to agree that everyone is right, then by definition the enterprise is a non-starter. There is nothing to talk about. There are certain beliefs and principles fundamental to my religious system. I interpret the phrase, "*Torah min ha-shamayim*" (Torah from the heavens), in a particular way. I believe in the divine sanctity of every single word of the Torah text. I interpret the phrase, "*Torah sheba'al peh*" (the oral law), and the halakhic process in the way that I learned in yeshiva and that interpretation is critical to the way that I understand the unfolding of Jewish law. If you do not agree with those foundations or if you interpret them differently, then from my perspective, you can't be right because if you're right than I'm wrong. It doesn't work for all of us to be right. Moral relativism robs society of any kind of ethical standard. Religious relativism robs us of the ability to believe in anything at all.

Please understand: I am not simply staking out my own turf here. I expect no less from you. If you are a Conservative Jew committed to Conservative theology, then that means you believe in certain things that I don't. If you're a Reform Jew, and you are committed to Reform theology, then that means that you believe in certain things that I do not and from your perspective I am not right.

If this is the case, if pluralism doesn't mean that we are all right, is there a possibility for a pluralistic model? I believe

the answer is, 'Yes.' We just have to define what the word means. 'Pluralism' from my perspective does not mean that we're all right; it means that we all *have a right*. *Behirah hafshit*, free will, is the essential pillar upon which Jewish belief is built. I can disagree vehemently with your choice, but I cannot disagree with your right to choose. Religious coercion is antithetical to Jewish thought and counterproductive as a strategy. It simply does not work.

If we can come to understand that each of us has our own belief system and a right to that system, and that each of us will have boundaries created by those systems that we will be unwilling to cross, then I believe we can create a religious world where we will be able to value without validating. Please hear carefully, for this is a construct central to my presentation. I repeat, we can and must learn to value without validating. We must learn to value each other as Jews and value each other's contributions to the fabric of Jewish life without feeling that by doing so we are validating each other's belief systems and thereby compromising our own.

If pluralism means that I, as an Orthodox Jew, have to agree that everyone is right, then by definition the enterprise is a non-starter.

This may sound easy, but it's not. This approach does not create an easy world. As long as our boundaries are intact there are going to be points of conflict, and even more, there are going to be points of deep personal pain. Consider the following scenario: I have a dear friend, who is a Reform rabbi. I have come to respect and admire him as a person and as a Jew. We spend time talking and learning together. However, when it comes to the point when I am going to be *mesader qiddushin*, when I am going to officiate at a wedding, I will not accept him as an *ayd*, a formal witness to the wedding ceremony. It's not a personal issue; it has to do with the fact that I, as an Orthodox rabbi officiating at that wedding, believe that the witnesses are the most important people at the

wedding aside from the *hatan* (groom) and the *kallah* (bride). These witnesses are more important than the rabbi, for they halakhically validate the proceedings. Further, my halakhic parameters mandate that one can only serve in this pivotal role of witness if he buys into the halakhic process. Therefore, someone who is not *shomer shabbat*, for example—and this Reform rabbi may not be, based upon my understanding of *shmirat shabbat*—cannot serve as an witness at a wedding.

I know that it's going to take a tremendous amount of understanding on my friend's part to be able to comprehend and accept this decision, to not allow it to hurt our personal relationship and to realize that we have reached a boundary over which I cannot cross. I don't know if I would have that understanding in his place, but that's what I'm asking of him.

At the opposite end of the spectrum, to reach this point of valuing without validating my own Orthodox community is going to have to make major changes. It is going to have to learn not to be afraid of the non-Orthodox and to stop seeing the Conservative and Reform movements as a threat to its own existence. Sometimes in my own frustration I feel that the Orthodox community is living in the past. Decades ago sociologists were predicting the demise of Orthodoxy in America. The Orthodox community was told that we were not going to last and that we were soon going to be a mere memory, while the Conservative and Reform would inherit the mantle of leadership and existence in America. Because those were the predictions, we within the Orthodox community hunkered down behind the barricades. We said, "We've got to defend our turf; we can't do anything that might appear as legitimizing anyone else. We can't in any way legitimize the Conservative movement. We can't legitimize the Reform movement because otherwise we're going to lose." Well, things have changed. The Orthodox community is strong. It's not perfect—take my word for it—but it is thriving and self-perpetuating. The Conservative and Reform movements are no longer a threat to our

existence. Yet, we are still acting as if we are afraid of you. As far as I'm concerned, we within the Orthodox community have to reach the point where not only are we not afraid, but where we are confident enough in ourselves to admit that we have something to learn from you. Most importantly we must learn that this admission does not entail legitimization of all your religious views. Just as I believe you have much to learn from us. If we can become confident enough to say this without feeling that we are threatening our own existence, we will have moved much closer to the position of valuing without validating.

We are past the point where I, as an Orthodox rabbi, should to be afraid of appearing at the Jewish Theological Seminary or appearing on a panel with heterodox rabbis simply because others will say that by doing so I am legitimizing what I should not legitimize. I don't see it that way. We are all who we are, and we do not need, nor should we ask for, each other's legitimization. We can agree to disagree and learn to move on. In this way we will be able to come to a point where we value each other without validating each other's beliefs and without compromising our own. We will be able to accept each other's boundaries without crossing our own.

Step #2: *We must identify and deal with our differences.* Again, it sounds simple, but I want you to understand that it is a difficult and important step, because the truth is that the slogans do not work. "We are one," sounds lovely. "That which unites us is greater than which divides us," is a wonderful slogan and it's probably true. But as long as our minds are focused on that which divides us, our 'oneness' doesn't matter—and our minds *are* focused on those dividing issues. Issues do exist and we have to deal with them directly and openly from the outset. Three things must occur if we are to be successful: identification, solution and selective disengagement.

First, we must clearly identify the issues between us rationally and calmly, without personalization and dehumanization. Unfortunately, we don't often do that. Instead we slip immediately into the attack mode. I

cannot tell you how many times I have heard from the non-Orthodox community: ‘The Orthodox don’t see us as Jews’. I know that this message is periodically preached from the pulpits. It’s not true. You are as Jewish as I am.

However, there are areas of Jewish identity that are problematic between us—for example, conversion and specifically the definition of an important aspect of the conversion process, *qabalat ol mitzvot*, the acceptance of *mitzvot*. How do I define this acceptance? How do you define it? This issue is complex and must be dealt with. Another is patrilineal descent. It is a problem not just for the Orthodox community, even though we are the ones who are painted as uncompromising. Patrilineal descent is a problem for the Conservative community as well, a problem that strikes the very core of Jewish identity and who is a Jew.

It’s very easy to paint the Orthodox community as uncompromising, unwilling to bend; but when we begin to understand each other, I hope you will come to realize that we see it a bit differently from our perspective. We in the Orthodox community see ourselves as keeping the rules intact over the years. Suddenly, others are changing the rules on us, and then demanding that we agree to these changes in the rules. Religious coercion works both ways. We feel that we shouldn’t be coerced into accepting something that we cannot accept. Knee-jerk attacks are easy, but damaging. It is much harder, yet so necessary to understand each other’s point of view.

I don’t want you to think that I’m not being balanced in my approach. While I clearly believe that the non-Orthodox community must stop its attacks against the Orthodox, my Orthodox community has a lot of *teshuvah* to do concerning the demonization that we practice, as well. One would have thought that we would have learned after the tragic assassination of Yitzchak Rabin what verbal attacks can lead to, both here and in Israel. We must calmly and coherently identify the issues between us without descending into acrimony.

Second, after defining the issues between us, we must then identify those issues that can be addressed. We have to sort them out, asking, ‘What are the problems that we can really begin to solve?’ They are many. For example, we can address the issue of dialogue and discourse. We can find the proper forums in which Orthodox, Conservative and Reform leaders can meet and discuss issues—and these forums that can be structured to answer everyone’s concerns. We can address the problem of funding the different streams of Judaism and not get caught up as to whether the money I give to UJA will go to x, y or z. We can begin to understand that each of the streams within the Jewish community can do good. Who knows? Perhaps my Orthodox community will even come to the radical conclusion that it is better for a Jewish child to gain some Jewish learning than no Jewish learning at all.

We are past the point where I, as an Orthodox rabbi, should to be afraid of appearing at the Jewish Theological Seminary or appearing on a panel with heterodox rabbis.

We can even begin to solve some of the nettlesome issues that bog us down, such as who’s going to *daven* at the *Kotel*, in what fashion and when. I firmly believe that with understanding on all sides and a little creativity, that problem could be solved. This is not to suggest that the problem is not complex. I’ll share with you a conversation that was an eye opener for me. It occurred during one of those interdenominational meeting which *Shvil Hazahav* initiated. The agenda included the issue of *tefillah* at the *Kotel*. During the discussion someone turned to me and said, ‘To whom does the *Kotel* belong? It belongs to all Jews throughout the world.’ I responded in line with my usual thinking that the Diaspora Jews are only limited partners when it comes to policy in Israel: ‘No, the *Kotel* belongs to the Israelis who fought to free it. They should be the ones to decide and deal with the issue of which prayer services are allowed at the *Kotel*. It’s their *Kotel*—to which the individual responded: ‘If that’s the case, then

the *haredim* certainly should not have a say, because they didn't fight the wars.' Suddenly, I was caught off guard by new layers of complexity I had never thought of. Although not simple, this and other issues can be solved with a little creativity and shared good-will. We simply have to be aggressive in identifying the issues that can and should be tackled now.

Finally—and this might sound strange in light of everything else I have said—we must disengage from our preoccupation on a popular level with those issues which will not be readily solved today. If every time we get together to talk, we insist on discussing problems which defy immediate solution, we will end up banging our heads (and each others' heads) against the wall and we will not move on. As in any relationship, there are issues that we should agree to avoid for a little while because we are not going to solve them today. With time and the building of trust and mutual understanding, these issues can later be revisited more productively. Meanwhile, behind the scenes, scholars, rabbis and academicians can quietly and actively work to lay the groundwork for such future discussion. Nothing should be ignored, yet not everything has to be addressed in the marketplace right now.

For example, conversion is an issue that needs time, thought, scholarship and leadership, so we should urge our leaders to work on it behind the scenes. When we get together in public meetings, forums and discussions, perhaps we should not talk about it all the time. By practicing selective disengagement we will give ourselves the space necessary to find common ground in other areas of concern. We will also buy the time necessary for sober thought and analysis without the rancor created by constant open debate and argument.

Step #3: *Each of us within our own denominations must stop dismissing and externalizing the criticisms that are thrust upon us by others, and we have to be willing to engage in very clear, often painful self-analysis and critique.* There is a *mitzvah* in the Torah known as, "*Hokhayah tokheah et amitekhab.*" (You are obligated to rebuke your

friend.) If you see someone doing something wrong, your responsibility for that individual is so great that you must rebuke him. However, already in the time of the *mishna*, the rabbis were very clear about the difficulty of this task. The *breita* quoted in the *gemara Erkin* (16b) reads as follows:

Rabbi Tarfon said: "I wonder whether there is anyone in our generation who really knows how to receive rebuke."

If someone says to another, "Take out the splinter from your teeth," the other responds, "Take out the beam between your eyes."

Rabbi Elazar Ben Azariah turned to Rabbi Tarfon and said, "I wonder if there is anyone in our generation who knows how to properly rebuke."

If they didn't know how to do it, we certainly don't. We're not very good at giving or receiving criticism. Yet just because we're not good at the art of rebuke does not mean that the criticisms are invalid. As they say, "Just because you're paranoid doesn't mean they're not out to get you." We can't assume that criticisms are invalid because they're coming from outside our particular movement. Too often we escape looking at ourselves by criticizing each other and then by expending all our remaining energy shielding ourselves against the attacks against us.

Each one of us in each of our groups must be willing to take a clear and careful look at the things that need to change within our movements. We must be willing to ask the difficult questions in order to move forward ourselves and help us recognize the way others perceive us. If we can understand ourselves honestly, we will be able to understand each other better. This goes across the board. The fact is that there are serious internal issues that we each need to deal with.

My own Orthodox community, for example, would well be served by asking itself some very difficult questions. We are so concerned with the perpetuation of Judaism that I sometimes wonder whether to stop and consider

the quality of the Judaism that we are perpetuating and whether it's really Judaism. To cite a few concerns: How do we feel about the non-Jew? How do we deal with those Jews outside of our walls? What about our sense of triumphalism—a sense that I find too often within the Orthodox community: “Rabbi, what are you *hokkin’* us a *chaynik* about everyone else? We’re fine. Our shuls are filled. Our kids are here. Why do we need to worry about anyone outside our own walls?” That’s not Judaism. Judaism means you have to care about the world.

I traveled last year during the height of the bombing of Serbia, with a group of volunteers from my congregation and elsewhere to Kosovar refugee camps. We were moved to do so by a member of my community who is the child of Holocaust survivors, and who said to me one day, “Rabbi, how can we stand and watch without doing something?” The experience was incredibly moving, worthwhile and productive. We joined with Israelis who were doing monumental work in those camps. However, the questions that came from my own synagogue were profound and disturbing. “Rabbi, why do we have to worry about other people, don’t we have enough to do here?” “Rabbi, why don’t we worry about Jewish issues?”—to which I responded, “You know what? This is a Jewish issue.” How can we talk about righteous gentiles if we are not willing to be ‘righteous Jews’? How can we ask the world to assume a degree of responsibility for us if we are not going to assume that same degree of responsibility for others? How can we be an, ‘*or la-goyim*’, a light unto the nations, if we remain unmoved by the tears of a child?

The Orthodox community also has to ask itself whether it is dealing with issues well enough, from *agunah* and woman’s religious role to the interface between Zionism and democracy. Finally, the Orthodox community, particularly the Modern Orthodox community, has to take a good look at the children we’re raising. Are they living the values that we really feel are appropriate within the context of Jewish thought? These are the kinds of questions that we need to ask ourselves.

There are questions that you need to ask yourselves. Here I hesitate, for I’m not much of an expert. You could probably do a better job. My questions for the Conservative community would humbly include: What is the definition of Conservative Judaism today, and is your laity aware of that definition? Are there Conservative Jews (knowledgeable of and committed to Conservative theology) or just Conservative rabbis? What are your boundaries? What’s in and what’s out? What standards does a community have to exhibit to be part of the Conservative movement? What’s the impact of some of the decisions you have made?

There are issues that we should agree to avoid for a little while because we are not going to solve them today.

I remember a number of years ago when a Conservative rabbi moved into Englewood from Maryland. He said to me, “You know, Shmuel, I’m jealous of you because you have community around your *shul*. You’ve got people who live around the synagogue. I have a synagogue in Englewood and everybody’s living in Closter and Demarest and Alpine.” It was then that I realized that the decision of the Conservative movement to allow driving to the synagogue on shabbat, a decision originally intended to strengthen the synagogue community by making attendance possible for all, has had another far-reaching, deleterious effect. In many cases, the physical ‘synagogue neighborhood’ has been largely, if not totally destroyed. Why pay top dollar to live near the synagogue if you can drive from farther away? What is the impact of decisions like these, and do those decisions have to be reviewed and re-analyzed? Are you holding on inter-generationally? Are you producing other Conservative Jews?

Don’t worry. I have a list of questions for the Reform movement as well. What are the limits of your theology? What defines your philosophy as Jewish and what are the basic parameters of that definition? By drawing larger circles of acceptance in terms of intermarriage, patrilineal

descent and now gay unions, are you being more inclusive as you had hoped, or are you encouraging more people to move to the perimeter? What is the impact of decisions you have made, not only on your world, but on the Jewish world as a whole? Again, are you holding on inter-generationally? Not only are you producing more Reform Jews, but are you producing Jews? These are the kinds of questions that I humbly suggest each movement needs to ask itself. We should not dismiss these questions simply because they are often raised by others. When we begin to challenge ourselves, we will begin to understand what others see in us as well.

Step #4: *The decisions and actions that we make within each denomination must be made with an eye towards benefiting Judaism and the Jewish people—not towards furthering our own agenda.*

Many of you may recall from a number of years ago, the famous case of Baby M. Debate raged as to whether a particular baby should be given to the custody of her host mother or to the adoptive parents. I decided to give a *shiur* on the question to my community and during my research discovered something fascinating about Jewish law. I found that while American law was preoccupied with the issue of parental rights, Jewish law considered one thing: what is best for the child? Parental rights were not the issue. What was the best for Baby M would have been the sole determinant of a decision under Jewish law.

We are so concerned with the perpetuation of Judaism that I sometimes wonder whether to stop and consider the quality of the Judaism that we are perpetuating and whether it's really Judaism.

Judaism is our baby and none of us has ownership over it. We need to make sure that the decisions we make are best for Judaism, even though they may not necessarily always be best for the agenda of our own movement. Here I would just issue a couple of challenges to get the juices flowing, to inspire some thought, or perhaps, comment. I understand that the Reform movement finds the acceptance

of patrilineal descent to be within its theological boundaries. But does that make such acceptance a *mitzvah*? Was it necessary to enact such legislation? And what effect did that legislation have upon the Jewish nation as a whole? In reality, that movement took the core issue of Jewish identity and created a wedge within the Jewish people that leads to irreconcilable division at the most basic level.

What about an issue that certainly will strike closer to home at the Seminary? What should our approach be to religious pluralism in Israel? I will be the first to admit, within my own community and beyond, the abject failure of Israel's Orthodox leadership to impact in any positive way upon the secular Israeli community at large. That's putting it mildly. Not only have we not impacted, we seem to have done everything possible to push them away. It sickens and saddens me. One of my heroes in Israel is *Ha-Rav* Yehuda Amital, *Rosh Yeshivah* at *Yeshivat Har Etzion*. He has said on numerous occasions, "If I were a secular Israeli, I would hate the Orthodox." Yet I wonder, "Is the solution to export the denominational fragmentation that exists here to Israel? Is that the right way to deal with the problem?" I don't think so. Should we not instead sit down and put our heads together to say, "Okay, rather than creating Orthodox, Conservative and Reform movements in Israel, what can we do together to create something new that does not fragment us there the way we are fragmented here? What can we do together to help Israel get back on the track religiously?" This would take a tremendous amount of creative thinking. You would have to do steps 1, 2, and 3 right away so we could talk to each other. Yet what is the alternative? Do we want to export the differences of conversion that we have here there? Do we want to export patrilineal descent to Israel? I raise the questions with full cognizance that we must also consider the potential impact upon the American Jewish community if the Conservative and Reform movements are not officially represented in Israel. Let's really think carefully.

What about other areas where we have made decisions and that require rethinking? Regarding *gittin* (the

break-up of marriages, G-d forbid), for example: Are we best served in the Jewish community to have different *batei dinim* from the different denominations issuing *gittin*? The results are that now we not only have a problem with conversions, but we have a problem with acceptance of marriages and non-marriages? Aren't we best served by trying to talk to each other and figure out a way to create a universal procedure for the dissolution of marriages?

These are difficult issues. We cannot succeed if we attack them by each denomination saying, "I'm going to stake out my place, and I have to have my way and my theology must be clearly represented in every facet of every decision." If we look at our agendas rather than at the total picture, then we will be doing our world a terrible disservice. Every decision we make, Orthodox, Conservative and Reform, must be made for the benefit of Judaism as a whole and we have to find a way to make those decisions.

Every day I receive the daily fax report from the Israeli consulate. I was struck recently by two news items that followed one another. One paragraph said that the Reform movement (I am not quoting exactly) is urging the acceptance in Israeli hospitals and elsewhere of non-traditional *brit milah*, non-traditional circumcision ceremonies. In this way, all Jews will have a choice. If they don't want to have traditional circumcision ceremonies, they can have non-traditional ones. Then, the next paragraph said that the divisions between the religious and non-religious are growing greater each day. You look at these paragraphs, one right after the other and say, "My

goodness, what are we doing?" Are we making the decisions that need to be made for our benefit as a whole, or are we being particularistic in our concerns?

In summary, these are what I consider to be four difficult essential steps to the creation of a relationship that can cross-denominational lines. Step #1: Learn more about each other and to respect each other's boundaries. Step #2: Define and deal with differences between us coherently and clearly. Step #3: Engage in self-evaluation in our own denominations. Step #4: Find ways to make decisions together that benefit the Jewish community at large.

The Torah has a way of communicating messages to us, things beneath the surface that are profound beyond measure. We began with a scene of terrible sibling hatred that led to our exile and our eventual enslavement in Egypt. In stark contrast, our redemption begins with the brotherly embrace of Aaron and Moses, the first brothers to fully embrace since the time of Cain and Abel. That embrace could not have been easy for either Moses or Aaron. To Moses it meant he was going to have to relinquish certain aspects of his leadership to his brother. To Aaron, it meant that his younger brother was going to take the lead. It could not have been an easy embrace, and yet it was that act which formed the partnership that led the Jewish people to redemption. Maybe it is time that we begin to form our embrace so that together we can lead the Jewish people through difficult times.

Playing Ball on *Shabbat* and *Yom Tov*

Saul J. Berman

Abstract: A review of the halakhic opinions from talmudic to contemporary authorities regarding the permissibility of playing ball on *shabbat* and *yom tov*. The author concludes that while contemporary custom is to refrain from playing ball on those days, normative legal opinion holds that such activity is permitted. He advances the idea that creative ways need to be found to utilize time more spiritually on *shabbat* and *yom tov*, perhaps through the permitted activity of ball playing.

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Playing Ball On *Shabbat* And *Yom Tov*

Saul J. Berman

From earliest times the Jewish people apparently had great difficulty in utilizing the holy time of *shabbat* in a manner consistent with God's purposes for that day. The fact that Ezra introduced a special reading of the Torah for *shabbat* afternoon¹, and that various traditions of homiletical teachings being focused on *shabbat* afternoon emerged², are themselves indications of the struggle. The unfortunately common practice of taking long naps on *shabbat* is just one further indication that many people are totally baffled by the question of how to use time in a spiritually uplifting fashion.

The issue of the propriety of playing ball on *shabbat* and *yom tov*, is both important in and of itself as a halakhic question, and is vital as a barometer of the general relationship of our community to the use of spiritual time.

I. The Halakhic Issues

A. *The Talmudic Period*

It is not surprising that *tannaim* and *amoraim* were quite aware of various forms of ball playing. The *mishna* already debates the question of whether the leather outer shell of a ball is a vessel that is capable of becoming *tameh*.³ The *gemara* discusses the question of liability for homicide in a situation in which death occurred when the victim was struck by a rebounding ball during a sport similar to handball.⁴

The reason that such awareness is not surprising is that ball playing was one of the most common athletic activities in Hellenistic culture⁵ and had apparently been introduced into Judea by the Hellenizing High Priest Jason around the year 175 B.C.E., when he tried to reconstitute Jerusalem as a Greek *polis* and initiated a Greek "gymnasium" and its attendant athletic activities.⁶

What is surprising is rather the absence of any express condemnation of ball playing in either *tannaitic* literature or in *Talmud Bavli*. This, in contrast to the mishnaic

¹ *Bava Qama* 82a. See Moses Bloch, *Shaarei Torat Ha-Taqanot*, vol 1, pp. 107–112, Makor Press, Jerusalem, 1971.

² See A.Z. Idelsohn, *Jewish Liturgy*, p. 145, Schocken Books, New York, 1967.

³ *Mishna Qelim* 28:1. For other *tum'ah* issues related to balls see *Mishna Qelim* 10:4, and 23:1.

⁴ *Sanhedrin* 77b.

⁵ Oskar Seyffert, *Dictionary of Classical Antiquities*, revised edition, p. 91, Meridian Books, N.Y., 1957.

⁶ Victor Tcherikover, *Hellenistic Civilization and The Jews*, pp. 161–165, Atheneum Press, N.Y., 1974.

prohibition against mud wrestling on *shabbat*,⁷ an activity which had previously been condemned in the Maccabean period, together with discus throwing.⁸ The sole condemnatory passage related to ball playing in the Talmudic period, appears in the *Talmud Yerushalmi*,⁹ and in slightly different form in *Midrash Eikhah Rabbati*,¹⁰ passages to which we will now turn.

The relevant passage in the *Talmud Yerushalmi* arises in the midst of a discussion of the fall of Betar, to which the *mishna* had referred as one of the events commemorated on *Tisha B'Av*. The *gemara* then records:

“Tur Shimon¹¹ used to provide three hundred loaves of bread (for the poor) every eve of *shabbat*. Why then was it destroyed? One says, due to licentiousness. Another says, because they used to play ball.”

The *Talmud Yerushalmi* provides us with no further clarification on this matter. What was the nature of the sin of playing ball? Why was that act of such severity as to warrant the destruction of an otherwise extremely righteous city? What is the nature of the balance between the two proposed reasons—licentiousness and playing ball?

The simplest solution to all of these problems would be to suggest that the wrongfulness of ball playing had to do with the idolatrous context of Hellenistic athletic activities. General Rabbinic opposition to athletics never had to do with the activity itself, but with the fact that the activity usually took place either in the nude, and or within

the context of worship of some foreign deity.¹² This explanation would certainly account for the gravity of the crime, and for the particular association with licentiousness. The combination of idolatry and licentiousness is a common combination in explaining destruction.¹³

However, the second version of this *aggadah*, found in *Midrash Rabbah* to the Book of Lamentations, seems to propound an alternative solution to the disparity between the crime and the punishment. The account has other interesting variants and is therefore worth looking at in its entirety.

Mount Simeon used to distribute three hundred barrels [of thin cakes among the poor every Friday]. Why were these places destroyed? If you answer that it was on account of the harlots, is it not a fact that there was only one girl there [who was a harlot] and they expelled her? R. Huna said: The reason was because they used to play a game with ball on the sabbath.¹⁴

This reworking of the *aggadah* contains two prominent elements. Firstly, the sexual integrity of the town is defended by the fascinating proposal that there had only been one prostitute to begin with and that she had been driven out. This sustains the credibility of the original accusation, but credits the town with having dealt with the problem in an appropriate fashion. Which however, leaves only a single explanation for the destruction, and the weaker one at that. The second element of the reworking, in the name of Rav Huna, then proposed that

⁷ *Mishna Shabbat* 22:6. See the treatment of this issue by Saul Lieberman in *Greek In Jewish Palestine*, pp. 92–97, Phillip Feldheim Inc., N.Y., 1965.

⁸ II Maccabees 4:12–17.

⁹ *Talmud Yerushalmi* (Venice edition) *Ta'anivot* 4:8, 69a, lines 38–39; (Vilna edition, *Mif'al Yerushalayim*, 1960) *Ta'anit* 4:5, 24b, lines 44–46.

¹⁰ *Midrash Eikhah Rabbati* 2:5, Lewin-Epstein edition, Israel, 1962, vol. 2, part 2 (*Meggilot*), p. 92a, end of second column.

¹¹ Mount Simon was the name of a town approximately 25 kilometers north of Jerusalem, two thirds of the way to Mount Gerizim. Michael Avi-Yonah, *Atlas Carta of the Periods of The Second Temple, the Mishna and the Talmud* (Hebrew), p. 82, map # 123, Carta, Jerusalem, 1966.

¹² Tcherikover, *op cit.*, at p. 28. See also, Norman Bentwich, *Hellenism*, pp. 95–96, Jewish Publication Society, Philadelphia, 1919; and Lawrence H. Schiffman, *From Text To Tradition*, p. 144, Ktav, Hoboken, N.J., 1991.

¹³ See, for example, *Yoma* 9a–9b, and *Midrash Rabbah* Numbers 7.

¹⁴ *Midrash Rabbah*, Lamentations II, 2, 4, p. 162, Soncino Press, London, 1951.

the sin of playing ball had to do with the activity taking place on the sabbath.

The *midrash* offers no further explanation as to the nature of the sabbath violation that was involved. However, the reference to sabbath violation in and of itself was sufficient, since in the rabbinic mind there was already a powerful awareness of the connection between violation of *shabbat* and destruction. The Talmud had already asserted that “Jerusalem was destroyed because of the violation of the *shabbat*.”¹⁵ Secondly, there had always been a powerful connection between violation of *shabbat* and idolatry,¹⁶ so that the mere suggestion of *shabbat* violation would be sufficient grounds for punishment even in the absence of detailed indication of sinfulness.¹⁷

So the matter apparently remained for hundreds of years. No specific indication existed of the impermissible nature of the act of playing ball on *shabbat*. Yet some hesitancy about the activity had clearly existed, either related to the association with idolatry and licentiousness, or related to some amorphous notion of breach of *shabbat* spirit sufficient to warrant Divine retribution. No more detailed deliberation on the question seems to have been offered until the period of the *rishonim*.

B. The Period of The Rishonim

The first direct reference to playing ball during the period of the *rishonim*, appears in *Tosefot* to *Beitsah* 12a.¹⁸ The *mishna* there had recorded the following debate between

the Schools of Shammai and Hillel.

The School of Shammai say, one may not carry out a child, or a *lulav*, or a scroll of the law into the public domain [on *yom tov*]; but the School of Hillel permit it.¹⁹

The *gemara* attempts to ascertain the basis for this debate. It arrives at the conclusion that the debate hinges on the extent to which “carrying” was permitted on *yom tov* as contrasted to *shabbat*. According to the School of Shammai, only such carrying was permitted as was directly necessary for the preparation of food or other bodily needs. Therefore, by their opinion, since the carrying of a *lulav*, a child or a scroll of the Torah serve no bodily need, they are prohibited on *yom tov* as on *shabbat*. By contrast, according to the School of Hillel, the principle of “*mitokh*” applies, that is, since the prohibition against carrying was lifted for purposes of “need”, it was lifted also for instances in which there was “no need”.²⁰

While the *halakhah* was determined to be in accordance with the position of the School of Hillel, a debate arose amongst the *rishonim* as to the proper understanding of that position. Rashi maintained that according to *Beit Hillel*, carrying on *yom tov* was permissible even as to objects which had no utility whatsoever, that is, “no need” literally. However, Rashi agrees, there may be a separate Rabbinic prohibition, unrelated to carrying, in regard to objects like rocks, where the absence of utility is combined with the burdensome nature of the act,

¹⁵ *Shabbat* 119b. A more general indication that violation of *shabbat* may cause a variety of forms of human suffering is found in *Shabbat* 33a.

¹⁶ The explicit equation is made in *Eruvin* 69b. An alternative form of the equation is found in *Shabbat* 118a where the *gemara* suggests that the observance of *shabbat* is sufficient grounds for divine forgiveness for the crime of idolatry.

¹⁷ In the light of this one can better understand the reaction of the Sages to horseback riding on *shabbat* in *Yevamot* 90b.

¹⁸ *S.v. Hach Garis Rashi*

¹⁹ *Mishna Beitsah* 1:5.

²⁰ *Betza* 12a.

²¹ Rashi to *Beitsah* 12a, *s.v. ela midelo iflug be'anim*.

²² Rambam, *Mishneh Torah, Sefer Zemanim, Hilkhhot Yom Tov* 1:4. See particularly analysis of *Magid Mishna ad loc.*

resulting in restriction.²¹ This position was likewise the position of Rambam,²² and through him that of all of *hakhmei sefarad*.

By contrast, the *Ba'alei Ha-Tosefot* contended that even according to Beit Hillel, carrying for literally “no need” would be prohibited *m'deoraita*, by revealed law. All that was permissible was carrying for even “slight need.” The notion of “slight need” would then go far beyond the limits of bodily need insisted upon by Beit Shammai, and would therefore allow the carrying of a child, for the sheer parental pleasure involved; the carrying of a *lulav*, for the pleasure in doing of a *mitzvah*; and the carrying of a *Sefer Torah*, for the *yom tov* pleasure achieved in study on that day. However, according to the *Ba'alei Hatosefot*, the carrying of articles such as rocks, for which there is no need at all, would remain proscribed as part of the residual *d'oraita* prohibition against unnecessary carrying on *yom tov*.²³

A third position in *Ashkenaz* was that of Rabbenu Hananel. He maintained that the illustrations of the *mishna* indicated that even according to Beit Hillel the form of “need” necessary to achieve permissibility on *yom tov* was only that of *mitzvah*. He contended that even the instance in the *mishna* of taking out a child, referred only to carrying the child to his own circumcision.²⁴

The *Ba'alei Ha-Tosefot* explicitly reject both the more permissive position of Rashi, and the more restrictive posi-

tion of Rabbenu Hananel. In rejecting the latter, they contend that the *mishna's* permission, according to Beit Hillel, to carry a child, refers not only to taking him to his own circumcision, but even just to take a pleasure stroll (*tiyul*) on *yom tov*. Likewise, Tosefot then comments, “we find that people play with a ball on *yom tov* in the public domain even though it is only for simple pleasure (*tiyul*).”²⁵

The position of the *Ba'alei Ha-Tosefot* was uniformly accepted by Franco-German *rishonim*, to whom it was clear that activities involving carrying on *yom tov* did not need “*mitzvah*” purpose to justify them. The sufficient justification was “*tiyul*”, simple personal pleasure, such as playing ball.²⁶ This permissibility was even more obvious within the position of Rashi and Rambam for whom carrying on *yom tov* was deemed permissible with “no need” whatsoever.

An alternative position in regard to ball playing did, however, develop in Italy in the 13th century. R. Zedekiah ben Abraham Anav, author of *Shibalei Ha-Leqet Ha-Shalem*, prohibited the handling of balls on shabbat and *yom tov*.²⁷ As a student of *Ashkenaz*, possibly even a student of Rabbi Meir of Rothenberg, the *Shibalei Ha-Leqet* clearly would not reject the dominant position of the *Ba'alei Ha-Tosefot* deeming simple pleasure to be sufficient to allow carrying on *yom tov*.²⁸ Indeed, his explicit combination of “*shabbat*” with *yom tov* in the proscription indicates that he is not basing his proscription on a reinterpretation of the principle of “*mitokh*”.

²³ *Tosefot* to *Beitsah* 12a, s.v. *Hakhi garis Rashi*.

²⁴ Rabbenu Hananel to *Beitsah* 12a, as per *Tosefot op cit*.

²⁵ *Tosefot op cit*. at note 23.

²⁶ See Rabbenu Asher to *Beitsah* 12a, Ch. 1, sec. 18. Also see Mordecai to *Bezah* 12a, Chapter 1, sec. 658 (albeit, the *responsum* there quoted in the name of R. Meir of Rothenberg might be read more in consonance with the position of Rabbenu Hananel.) See also Rabbenu Nissim to *Rif Beitsah* Ch. 1, 5b–6a, s.v. *aval avanim*.

²⁷ *Shibolei Haleket Hashalem*, sec. 121, ed. by Samuel K. Mirsky, Philipp Feldheim Inc., N.Y. 1966, page 404. Our text is identical in the earlier edition edited by Solomon Buber, Vilna 1886, reprinted by Menorah, N.Y., 1959.

²⁸ He begins that passage by quoting R. Eliezer of Touques, who was the editor of our *Tosefot* to *Bezah*, based on the *Tosefot* of Sens and Evreux. See Mirsky, *op cit*, p. 403, note 1; Ephraim Ohrbach, *Baalei Ha-Tosefot*, at p. 480; and M. Kasher, *Sarei Ha'eleph*, 2nd edition, vol. 1, p. 209, *Beit Torah Shelemah*, Jerusalem, 1978.

The issue for him is not carrying. It is the fact that the ball would be filthy from prior use in the mud and dirt, and therefore would fall under the category of “disgusting” objects that are rabbinically prohibited from being handled on *shabbat* and *yom tov* under the principles of *muktsab*. This approach to banning the use of the ball not on the grounds of carrying, but on the grounds of *muktsab*, would work both according to the approach of the *Ba’alei Ha-Tosefot*, and also according to the approach of Rashi and the Rambam. It would be dependent solely on the reality, whether the balls in fact became muddied and filthy in their prior use.

Was this simply an end run around a clearly permissive law motivated by social circumstances? The particular form of ball playing to which *Shibalei Ha-Leqet* was addressing himself was probably an early form of tennis, which was common in France and Italy during those centuries.²⁹ However, in Italy, it appears that the game became particularly obnoxious to rabbinic authorities because the competition was held for gambling purposes.³⁰ Not able to ban the activity on the direct legal grounds of carrying, it is possible that *Shibalei Ha-Leqet* turned to the subsidiary grounds of *muktsab* as a way of deterring the activity, apparently to no avail.

Indication that this might have been the motivation of R. Zedekiah is enhanced by the fact that he is the first, and only, *rishon* to cite the passage of the *Midrash Eikhah* in discussion of the law of playing ball.³¹ Whether he was aware that the passage also appeared in the *Yerushalmi* is

not known, but it would, in any case, only be the version of the *midrash* that would be useful to him since only that version associates the wrongful ball playing with *shabbat*.

The passage in the *Shibalei Ha-Leqet* is cited subsequently, again in Italy, by R. Jacob ben Judah Landau, author of the *Aggur*, in the late 15th century. The *Aggur* indicates clearly that the issue at stake in playing with balls on *shabbat* and *yom tov* is definitely not the question of carrying. Citing the *Shibalei Ha-Leqet* approvingly, he bases the prohibition on the fact that the balls are “disgusting, having become filthy due to the mud and dirt.”³² The prohibition then is not the activity but is the *muktsab* character of the balls.

It is worth noting at this point that none of the sources mentioned heretofore attended to the question of who was playing. In contrast to other games that were apparently commonly played only by children and women,³³ ball playing appears to have been common to adult men as well.

C. *The Shulhan Arukh and Its Aftermath*

We are now able to understand the positions of R. Joseph Caro and R. Moshe Isserlis as they appear in the *Shulhan Arukh* and the *Mapa*.

In *Shulhan Arukh, Orach Hayim, Hilkhhot Yom Tov, siman 518, par. 4*, the *Mehaber* presents the law of carrying on *yom tov*. In the face of the debate between Rambam and

²⁹ Israel Abrahams, *Jewish Life In The Middle Ages*, p. 379, Jewish Publications Society, Phila., 1958. (In note no. 1 on that page Abrahams misquotes the *Midrash Eikhah Rabbah* as having considered ball playing on *shabbat* to have been one of the causes of the destruction of the Temple, rather than of the town of Mount Shimon.)

³⁰ Cecil Roth, *The Jews in The Renaissance*, pp. 28–29 and footnotes on p. 342, Jewish Publications Society, Phila., 1959. The *responsa* cited by Roth in this regard serve as powerful evidence of the persistent nature of this *shabbat* practice.

³¹ *Shibolei Ha-leqet Ha-Shalem, op cit.*, at end of sec. 121, at p. 404.

³² Jacob ben Judah Landau, *Sefer Ha-Agur Ha-Shalem, Hilhot Shabbat*, sec. 521, edited by Moshe Hirschler, Moznayim, Jerusalem, 1960.

³³ An enlightening treatment of the issue of childhood playing is to be found in an article by Ephraim Kanarfogel, “Attitudes Toward Childhood and Children In Medieval Jewish Society,” especially at note 55, in *Approaches To Judaism In Medieval Times*, vol. 2, edited by David R. Blumenthal, Scholars Press, Chico, California, 1990.

the *Ba'alei Ha-Tosefot*, and in the light of the fact that he considered it possible that Rambam actually agreed with *Ba'alei Ha-Tosefot*,³⁴ The *Mehaber* chose language that could accommodate to either position. He indicates that carrying a child, a *lulav* or a *sefer Torah* would be permissible. He says further that carrying rocks would be prohibited, but does not indicate whether the prohibition would be *m'deoraita*, in accordance with the *Ba'alei Ha-Tosefot*, or *mid'rabbanan*, in accordance with the position of Rambam.

In *siman* 518, the *Mehaber* makes no explicit reference to carrying a ball since it raises no possibility of prohibition. According to Rambam there is certainly no carrying problem on *yom tov* at all, and according to the *Ba'alei Ha-Tosefot* there was explicit and universal agreement that no carrying problem existed.

The Rama, in elaborating the position of *Ashkenaz* as notations to the text of the *Mehaber*, adds two comments. Firstly he makes explicit that “slight need” is necessary in order for any carrying on *yom tov* to be permissible. Secondly, he distinguishes balls from rocks, indicating that, “It is permissible to play with a ball, even in public domain, even though the sole purpose is personal pleasure (*tiyul be'alma*).” While the first of these points is typical only of the *Ba'alei Ha-Tosefot*, the latter was true according to all positions on “*mitokh*” except for the rejected position of Rabbenu Hananel.³⁵

To these notations, R. Moshe Isserlis adds one other, “If he had placed an *eruv*, then it is permissible to carry and take out any utensil whatsoever, even if there is no need for it that day at all.” Without entering into the broad

debate surrounding this separate question of whether and how laws of *eruv* in apply to *yom tov*, let us just note that, according to Rama, even were there a limit on the handling of balls which derived from the law of carrying, such a constraint would be eliminated by the presence of an *eruv hatzerot*.

In contrast to *siman* 518, Rabbi Yosef Caro does directly address a halakhic issue relating to playing with a ball in *Orach Hayim, Hilkhhot Shabbat, siman* 308. That lengthy chapter deals extensively with the laws of *muktsab*, and therein, in paragraph 45, the *Mehaber* says simply, “It is prohibited to play on *shabbat* and *yom tov* with a ball.” His source for this conclusion is spelled out in detail in his Beit Yosef to the *Tur*. The *Tur* himself had been totally silent on the question of the use of balls on *shabbat*, even within the context of the laws of *muktsab*. In his commentary, Rabbi Caro cites the *Aggur* in the name of *Shibbolei Ha-Leqet* as contending that playing with a ball is prohibited on the grounds of its being “disgusting” due to the mud and filth encrusted on it.³⁶

Caro properly understood *Aggur* as basing the prohibition solely on the principle of *muktsab*,³⁷ since there had been no dissent whatsoever on the “carrying” question. Therefore, he could only record the constraint in *siman* 308, not in *siman* 518.

The Rama immediately responds by recording the dominant position of *Ashkenaz* even in relation to the *muktsab* issue. He says, “There are those who permit this, and the practice is to permit it.” Indeed, why the *Mehaber* himself had chosen in this instance to decide in accordance with a minority position in *Ashkenaz*, against both the

³⁴ See his comments in Beit Yosef to *Tur Orach Chayim, siman* 518, *s.v. Ule'inyan halakhah*.

³⁵ Rama to *Shulhan Arukh, Orach Hayim, siman* 518, par. 4.

³⁶ Beit Yosef to *Tur Orach Hayim, Hilkhhot Shabbat, siman* 308, *s.v. Katav be'Aggur*, at end of the *siman*.

³⁷ Samuel K. Mirsky in his notes to *Shibbolei Ha-Leqet* points out that Rabbi Caro clearly had not seen the *Shibbolei Ha-Leqet* itself, but had only quoted his opinion from the *Sefer Ha-Aggur*. This is indicated when the Beit Yosef quotes the earlier part of this same passage in his comments to *Tur, Orach Chayim, siman* 318, *s.v. katav Rabbenu Yerucham*. There, he speculates about why certain other games are prohibited on *shabbat* according to *Shibbolei Ha-Leqet*, when the latter explicitly indicates his own reasons, reasons which were omitted by *Sefer Ha-Aggur*.

majority of *Ashkenaz* and the silence of Sephardic decisors, remains an interesting question. But, despite the *Mehaber*, the law for *Ashkenaz* was clear—playing ball was permissible on both *shabbat* and *yom tov*; on *shabbat* of course, only within private domain or the confines of an *eruv*.³⁸

A sharp attack on the permissive position of the Rama was launched by his contemporary and relative, Rabbi Shlomo ben Jehiel Luria. In his *Yam Shel Shlomo*, Luria differs with the commonly accepted interpretation of the position of the *Ba'alei Ha-Tosefot* as to the principle of “mitokh”. He argues that the Tosafists are really closer to the position of Rabbenu Hananel. While preserving the language of “slight need”, he insists that the need must be of a *mitzvah* nature. Thus, carrying a child on *yom tov* would be permissible even as “*tiyul*”, that is, for personal pleasure that would fuel one’s sense of joy on the holy day. By contrast, he sees no redeeming *mitzvah* purpose in playing ball.

“It is astonishing that anyone would permit playing with a ball on *yom tov*. It has no utility at all related to the day (of *yom tov* itself). It is only a game for children who are not yet obligated (in *mitzvot*)—let them be. As for adults, it appears to me to be an evil custom, not like “*tiyul*” (personal pleasure), but child’s play and levity. As for the ascription by Rabbenu Yerucham of this (permissive) position to Rabbenu (Jacob) Tam, this seems to me unlikely. But, perhaps he only desired to reconcile (the law) to existing practice, for they engaged in this practice.

If I had the power to do so, I would nullify this (practice).³⁹

A number of significant elements of the position of the MaHaRSHaL need to be noted carefully. Firstly, he offers us an important description of the reality. Apparently from the time of the earliest *Ba'alei Ha-Tosefot* until the late 16th century, ballplaying on *shabbat* and holy days was common for adults as well as for children in Franco-Germany as well as now in Poland.⁴⁰ The fact that Luria bemoans his inability to eliminate the practice is a certain indication of the rootedness of the activity. Purely coincidentally we have a contemporaneous report from Italy of the persistence of the practice in that country as well, despite the prior opposition of the *Shibalei Ha-Leqet* and the *Sefer Ha-Aggur*.⁴¹

Secondly, the halakhic objection by Luria bears no relationship whatsoever to the prior objection by *Shibalei Ha-Leqet* and *Sefer Ha-Aggur*. Luria makes absolutely no reference to the issue of *muktsah*. Is it possible that the realities of playing balls changed in the intervening centuries, or was Luria simply unwilling to follow a minority position against the majority of the Tosafists, against common practice and against the utter silence of the Talmud?

Thirdly, Luria bases his entire objection to ball playing on his novel interpretation of the principle of “*mitokh*”, and his ascription of that position to the Tosafists. Thus the grounds of his objection are solely that the activity of ball playing has no purpose related to a *mitzvah* relevant to

³⁸ So indicated explicitly by Rabbi Moshe Isserlis in his *Darkhei Moshe* to *Tur, Orach Chayim, siman* 308, sec. 11.

³⁹ Rabbi Shlomo ben Jehiel Luria, *Yam Shel Shlomo, Beitsab* Ch. 1, sec. 34, Goldman Press, N.Y., 1953 (The heading on page 8b erroneously reads *Gittin* Chapter 8.)

⁴⁰ See Israel Abrahams, *op cit.*, and Cecil Roth, *op cit.* See also Myer S. Lew, *The Jews of Poland*, p. 132, Edward Goldston Press, London, 1944.

⁴¹ Cecil Roth, *op cit.*, at pp.28–29 refers to a series of *responsa*, the first by Rabbi Moses Provenzal of Mantua in 1560, who permitted playing a form of tennis by hand but not with strung rackets. A further *responsum* by his grandson, Rabbi Eliezer Provenzal, sustained both the laxity and the severity of the earlier holding. Roth, at p. 342, note 28, cites I. Rivkind in *Tarbits*, vol. 55, pp. 366–376 (actually in Vol. 4, 1933 at those pages). See also Robert W. Henderson, “Moses Provenzal on Tennis,” *J.Q.R.* vol. 26, no.1, July 1935, pp. 1–6, also cited by Roth.

the day of *yom tov* itself. For this reason, Luria speaks only of ball playing on *yom tov*. It is striking that he offers no discussion at all of the same activity on *shabbat*. The reason is that on *shabbat* the elements are perfectly clear—the object is not *muktsah*, and the question of carrying is solely dependent upon the character of the location.

Based on this latter point, Luria makes it abundantly clear at the very end of this passage that if the location is such that no “carrying” problem can exist, such as within private domain or within an *eruv*, that no further legal objection to the activity would remain. He, in closing, quotes Rabbenu Nissim approvingly as having said that even on *yom tov* an *eruv* would make permissible the carrying of objects for which there is “no need” whatsoever. He himself therefore recommends as common practice the inclusion of a reference to *yom tov* in the declaration made at the time that an *eruv* is established and the food for it set aside.⁴²

D. Period of The Aharonim

The early *aharonim* in their commentaries to the *Shulhan Arukh* address the position of the MaHaRSHaL. Rabbi David ben Samuel haLevi (1586–1667), author of the *Turei Zahav* (Taz), and of the Magen David to *Shulhan Arukh Orach Hayim*, appropriately omits any reference to Luria in his comments to *siman* 308. After all, Luria did not agree with *Shibbolei Ha-Leqet* that a ball was *muktsah*. Therefore, he could be presumed to have agreed with Rama in his dissent from the restrictive position of the *Mehaber*.

In reference to *siman* 518, the Taz does cite the position of Luria contending that ball playing on *yom tov* should

be viewed as equivalent to a “no need” activity, and therefore subject to the prohibition against “carrying” on *yom tov*. However, the Taz then goes on to say, as did Luria himself, that the problem is really ephemeral since the standard form of our *eruv* formula includes reference to *yom tov*, and that even “no need” objects can therefore be carried.⁴³ Thus, while the Taz pays lip service to the additional severity of the position of Luria, in practice he actually sustains the permissive position of the Rama.

Rabbi Abraham Abele Gombiner (c. 1637–1683), in his Magen Avraham to *Shulhan Arukh Orach Hayim*, likewise cites Luria in his comments to *siman* 518. He too, like the Taz, explicitly recognized that in regard to this particular game there would be a difference between *shabbat* and *yom tov*, since the basis of any prohibition would be the prohibition against carrying, which differs on *yom tov* from on *shabbat*.⁴⁴ Likewise, he cited the language of Luria suggesting that only children should be allowed to engage in ball playing on *yom tov*, since for adults there is no sufficient “need”. However, he too, like the Taz before him, recognized that in the reality no restriction existed due to the operation of the laws of *eruv* on *yom tov*.⁴⁵ *Machatzit Ha-Shekel* to Magen Avraham notes immediately that Rabbi Gombiner himself insisted that the formula for *eruv* include reference to *yom tov*.⁴⁶

Rabbi Gombiner’s treatment of the *muktsah* issue in *siman* 308 is of particular interest. He initially presents a position that argues that even the Tosafists permitted the use of a ball only on *yom tov* but not on *shabbat*, thus explaining why the *Mehaber* had indicated restriction only on *shabbat*. Rabbi Gombiner, however, rejects that position and contends that as far as *muktsah* restrictions are concerned, *yom tov* is even more severe than *shabbat*,

⁴² *Yam Shel Shlomo*, *Beitsah* end of sec. 34.

⁴³ Taz-Magen David to *Shulhan Arukh Orach Hayim*, *siman* 518, at par. # 2.

⁴⁴ Magen Avraham, *id.*, at par. # 4.

⁴⁵ *Id.*, at pars. # 5–6.

⁴⁶ Rabbi Samuel ha-Levi Kolin, *Machatzit Ha-Sheqel* to *Shulhan Arukh, Orach Hayim*, *siman* 518, par. # 5.

and that therefore, if the Tosafists permitted playing ball on *yom tov*, then that activity would certainly be permissible on *shabbat*.⁴⁷ He thus sustains the position of the Rama against that of Rabbi Yosef Caro.

The Magen Avraham then cites the position of the MaHaRSHaL, that ball playing, even according to the Tosafists, is really prohibited by law, but that people's practice is lenient. The inclusion of a reference to Luria in *siman* 308 led some to erroneously conclude that Magen Avraham was ascribing to Luria the position of the *Mehaber*, that the ball was prohibited on the grounds of *muktsah*. This is certainly not the case. In fact, Rabbi Gombiner explicitly upheld the position of Rama against that of the *Mehaber*. The citation of Luria was simply a cross-reference to the related question of carrying on *yom tov*, which Gombiner treats directly later on in *siman* 518, in the manner that we have already seen.⁴⁸

A further element in this matter is filled in by the Vilna Gaon. In his attempts to identify the earliest sources of all laws in the *Shulhan Arukh*, the Vilna Gaon refers to the *aggadic* passage in the *Yerushalmi*, referring to the cause of the destruction of Tur Shimon, as the source of the position of the *Mehaber* considering balls to be *muktsah*. Clearly, the Gaon is reading the *Yerushalmi* in accordance with the expanded version in *Midrash Eikhah Rabbati*, which connects the act of ball playing to *shabbat*. However, this raises another problem. How do the Tosafists account for the *Yerushalmi*? The response of the Vilna Gaon to this question is simple and elegant. The Tosafists agree that a *shabbat* violation caused the destruction of Tur Shimon. It was not violation of the Rabbinic law of *muktsah*, but violation of the *d'oraita* prohibition against carrying in a public domain while playing ball,

which resulted in such dire punishment.⁴⁹ Therefore, so long as no such prohibition of carrying was involved, either because the game took place in private domain or within an *eruv* for *shabbat*, no stigma of evildoing would attach to the game.

An appropriately clear summation of this entire question is offered by Rabbi Yehiel Michel Epstein in his extraordinary, albeit not yet sufficiently recognized, masterpiece, the *Arukh HaShulhan*. In *Orah Hayim, siman* 308, par #70, he notes the debate around the *muktsah* question and indicates that our practice is in accord with the Rama. He does, however, then take note of the *Yerushalmi* without assigning any force to it.⁵⁰

In *Orah Hayim, siman* 518, par. #8, Rabbi Epstein says as follows:

Our teacher, the Rama, wrote that, "It is permissible to play with a ball even in public domain, even though it is only general pleasure." There are those who object to this on the grounds that this is not (religious) joy or pleasure except to children, but not for adults. In truth this is not a valid objection for since it is precious to him within his own undeveloped (religious) consciousness, how can we withhold this from him? Additionally, he (himself, Luria) wrote that if he had set up an *eruv*, then it would be permissible to move and to carry out anything which is considered a utensil, even if it is for "no need" related to the day (of the holy day) at all.

There is a two-fold significance to the position of Rabbi Epstein. Firstly, he recognizes the power of the subjective element in determining what constitutes "slight need" in

⁴⁷ Magen Avraham to *Shulhan Arukh, Orah Hayim, siman* 308, par #73.

⁴⁸ See *Machatzit Hashkel, id.*, at par. #73.

⁴⁹ *Be'ur HaGra* to *Shulhan Arukh, Orah Hayim, siman* 308, par. #45.

⁵⁰ Rabbi Epstein cites the *Yerushalmi* as explicitly referring to playing ball on *shabbat*. *Korban HaEdah* (R. David Fraenkel, 1707–1762), had offered this and an alternative explanation of the passage. He considers the possibility that the wrongfulness of ball playing had nothing to do with *shabbat* but with the general involvement with such athletics to the exclusion of study of Torah. J.T. *Ta'anit* 4:5, *s.v. she'hayu mesachakin bekaddur*.

the experience of the day of *yom tov*. He therefore takes direct issue with the position of Luria who propounded an objective determination that ball playing would not serve as a sufficient need. It is also possible that Rabbi Epstein recognized in the formulation of Luria a move away from what had classically been the position of the Tosafists, towards the position of Rabbenu Hananel, and, thereby, towards the position of Beit Shammai. This movement alone might have motivated Rabbi Epstein's sharp repudiation of the conclusion of Rabbi Shlomo Luria.

Whatever the motivation, the position of the *Arukh HaShulhan* cut through the haziness in its restoration of the position of Ashkenaz in accordance with the explicit indication of the *Ba'alei Ha-Tosefot*. "Slight need" would continue to include the sources of subjective, permissible pleasure that each individual found to be enjoyable on *yom tov*.

The second element of significance in the position of the *Arukh HaShulhan* resides in the recognition that in the final event, even according to the MaHaRSHaL, there is no legal constraint against ball playing on *yom tov* within the confines of an *eruv* which had been established for *shabbat* use. This conclusion, consistent with the way in which all of the prior *acharonim* understood Luria, is also consistent with Luria's own specific language. There is nothing novel in the contention that even according to Luria, on both *shabbat* and *yom tov*, playing ball within private domain or within an *eruv* is totally permissible.

Rabbi Israel Meir HaCohen Kagan, makes no reference to Luria in his comments to *Orah Hayim, siman 308*. Again,

simply because Luria does not disagree with Rama on the matter of *muktsah*. The *Mishna Berurah*, therefore concludes that the *halakhah* is in accordance with Rama, and that playing ball on *yom tov* even in a public domain is completely permissible, so long as the play is on a hard surface.⁵¹

In his commentary to *Orah Hayim 518:1*, the *Mishna Berura* does in fact cite the position of Luria.⁵² He even appears to attempt to support Luria's position by noting the restrictive position of the *Mehaber* on the *muktsah* question.⁵³ Nevertheless, he, like all of his predecessors amongst the *acharonim*, immediately indicated that Luria's hesitancy is completely overcome by the presence of an *eruv* even on *yom tov*.⁵⁴ The practical significance of his citation of Luria and of his reference to Caro on the *muktsah* issue, is to support the contention that ball playing is prohibited on *shabbat* in public domain or in *carmelit* which lacks a proper *eruv*. This point he makes quite explicitly.⁵⁵

The issue that Luria raised was perceived throughout as a technical problem in the law of carrying on *yom tov*, not an overarching critique of the activity of ball playing itself. Thus, so long as the "carrying" problem could be adequately dealt with, on either *shabbat* or on *yom tov*, through containing the activity within a private domain or within the confines of an *eruv*—the activity itself was simply not objectionable.

This pattern has carried into contemporary times, as outstanding Ashkenazik decisors of this generation have confirmed the permissibility of ball playing within

⁵¹ *Mishna Berura to Shulhan Arukh, Orah Hayim, siman 308*, par. #158, N.Y., 1952. I was just informed that the Chief Rabbinate of Tel Aviv made precisely this decision in the mid-1980s, in permitting the Israel Tennis Centers to remain open on *shabbat*. The fact that play took place in an enclosed area, on a hard surface, with racquets which are not normally repaired by the players, were apparently sufficiently consonant with the conditions referred to by *Mishna Berura* and his antecedents.

⁵² *Mishna Berura to Shulhan Arukh, Orah Hayim, siman 518*, par #9.

⁵³ This, despite that fact that he had offered no indication in *siman 308* that he supported the position of Caro against that of the Rama.

⁵⁴ *Mishna Berura, Shulhan Arukh, Orah Hayim, siman 518*, par. #10.

⁵⁵ *Mishna Berura, Shulhan Arukh, Orah Hayim, siman 308*, par. #158.

reasonable limits. Rabbi Shlomo Zalman Auerbach, as cited by Rabbi Yehoshua Y. Neuwirth in his *Shemirat Shabbat Ke'hilkhatah*, permits ball playing,⁵⁶ but forcefully prohibits soccer, generally playing on grass or earth fields, and the use of inflated balls that are tied to keep the air in (such as balloons and some beach balls).⁵⁷ In like fashion, Rabbi Moshe Feinstein, is quoted as having resolved simply the question that agitated the *rishonim*, in contending that playing balls are definitely “utensils”; and, in accordance with the whole of Ashkenazik tradition, are not *muktsab*.⁵⁸

Most interesting, however, is to observe the progression of three versions of the language of Rabbi Neuwirth, in *Shemirat Shabbat Ke'hilkhatah*. In the first edition, published in 1964, he states:

Ball playing—except for the game of soccer— involves no prohibition, even outside of the house (in a place where there is an *eruv*), as the law is likewise in regard to the game of table tennis (ping pong).⁵⁹

In the second, revised and expanded edition, published in 1978, the language is slightly more tentative:

Ball playing should not be [declared to be] prohibited—except for the game of soccer—even outside of the house (in a place where there is an *eruv*).⁶⁰

An English translation of the second edition, done “in close collaboration with the author,” and including “modifications as are felt to be appropriate for an English edition,” was published in 1984.⁶¹ It expands the paragraph by including the constraints, both directly and by cross reference:

A. Subject to the restrictions referred to in paragraphs 7, 8 and 9 below, there is no reason to forbid ball games played on a hard surface, such as an asphalt or concrete court or a ping-pong (table-tennis) table, whether indoors or out, provided that, where necessary, an *eruv hatseivot* has been made properly, as described in Chapter 17.

B. Ball games should not be played on earth or grass.⁶²

The subtle, but clear progression in these three presentations; moving from “involves no prohibition”, to “should not be prohibited”, to “there is no reason to forbid” conjoined with detailed restrictive specifications, is indicative of a growing sense of discomfort with the permissive position.⁶³ Nevertheless, Rabbi Neuwirth does not attempt to deny the clarity of the tradition of *pesak halakhah* in the Ashkenazic tradition.⁶⁴

The call to limit ball playing on *shabbat* and *yom tov* does not, then, derive from a valid place in the literature of *halakhah*. Where then does it come from? Why has it

⁵⁶ Rabbi Yehoshua Y. Neuwirth, *Shemirat Shabbat Ke'hilkhatah*, 2nd edition, Ch. 16, par. 6, Moriah Press, Jerusalem, 1978.

⁵⁷ *Id.*, at paragraphs 6, 8 and 9, and footnote 24 on p. 184.

⁵⁸ Rabbi Yisroel Pinchos Bodner, *The Halachos of Muktzah*, pp. 25–26 and at footnote 27 on p.26, Feldheim Publishers Ltd., New York, 1981. Rabbi Feinstein is there recorded as having told Rabbi Bodner that rackets of permissible sports, such as tennis, racquetball, ping-pong and handball are, like the ball itself, not *muktsab*, since they are “utensils of permissible activities”.

⁵⁹ Rabbi Yehoshua Y. Neuwirth, *Shemirat Shabbat Ke'hilkhatah*, Chapter 15, par. 6, at p. 101, Feldheim Pub. Co., Jerusalem, 1964.

⁶⁰ *Id.*, 2nd edition, Chapter 16, par. 6, at p. 183, Moriah Press, Jerusalem, 1978.

⁶¹ Rav Yehoshua Y. Neuwirth, *Shemirat Shabbat*, English edition prepared by W. Grangewood, Feldheim Pub. Ltd., New York, 1984, inside cover page and Preface, p. xiv.

⁶² *Id.*, Chapter 16, par. 6, at p. 189.

⁶³ Rabbi Neuwirth was clearly aware of the significance of the variation in his language, but attempts to blur the distinction by insisting that it is really based on the same sources, the *Arukh Ha-Shulhan* and the *Mishna Berura*. Compare footnote no. 14 on p.101 in the 1st edition, with footnote no. 18 on p.183 in the 2nd edition.

been so recurrent? Further, what response ought to be made to this concern? To deal with these questions we need to turn to an entirely separate discussion of the spiritual condition of our community.

II. The Public Policy Question

As I indicated at the outset of this paper, I believe that we as a community have a problem in regard to the use of time on *shabbat*. We seem to have evolved only three activities through which we positively and effectively enhance the holiness of the day. First, “*davening*” time; second, meal time; and third, learning time. Whatever time cannot be consumed in one of these three activities remains available for sleep.

Is this really it? In God’s whole wide world the only permissible activities which can serve spiritual purposes on *shabbat* are *davening*, learning and eating, leaving then only sleeping as the residual means of consuming time not otherwise able to be put to positive use?

My life experience, as a person, as a parent, as a rabbi, as a teacher, lead me to the conclusion that these three areas are simply not sufficient for most people, and are certainly not sufficient for children and young adults. Adults are somewhat able to cope with the bad situation. As time grows heavy on their hands, meals protract into feasts, *davening* time protracts to fill some of the available time, and people will take a *sefer* with them to bed, or just sleep more.

It seems to me that we need to be looking to expand the base of activities through which meaningful spiritual experiences can be had. If we want the time of *shabbat* to

so infuse the life of the Jew with meaning that the rest of the days of the week could be lived in its shadow, then we need to discover additional frameworks through which such meaningful transmissions can take place.

In regard to children, the problems are even more severe. In recollecting my own childhood, and now in observing the similar experiences of my own children, as well as now reflecting upon very active youth programs in a number of congregations—I see more clearly than ever the inadequacies of the pattern that we have inherited. *Davening*, learning and eating will simply not grab most kids’ attention for protracted periods of time; certainly not for twenty-five hours. Besides which, kids know instinctively that sleeping is a waste of valuable living time and is to be engaged in only under duress (parental or bodily).

Telling people not to play ball on *shabbat* or *yom tov* is not a solution to this problem. All it will do is shift people’s engagement to some other equally non-spiritually productive activity. This is particularly so in regard to children and young adults for whom the sheer release of physical energy in ball playing will invariably be replaced with another activity providing the same release of energy.

It seems to me that the challenge before us is two-fold. Firstly, can we sustain a limited form of ball playing and turn the activity toward a religious purpose? For example, is it possible to develop a form of ball playing in which the goals are cooperative rather than competitive, in which there could be a more conscious awareness that improving the well being of the body is itself a form of service of *Ha-Shem*. Is there a way of modifying the rules of an existing game so as to make the experience of playing, not only a release of physical energy, but an acquisition of ethical energy?

⁶⁴ A step yet further in the restrictive direction is taken by Rabbi Yisroel Pinchos Bodner, *op. cit.*, p.25, “Ball playing (inside one’s house or *eruv*) although not proper, can not be prohibited (since technically no Shabbos prohibitions are violated). Therefore, all types of balls, such as basketballs, tennis balls, raquetballs, baseballs, handballs, etc. are not *muksab*.” Notice the significant omission of reference to soccer balls and footballs, which Rabbi Bodner apparently could not bring himself even to mention as falling amongst objects not deemed to be *muksab*.

Secondly, we need to seek out wholly new additional frameworks for the transmission of Jewish values on *shabbat*. In some combination of intellectual and physical activities, we need to identify ways in which families can achieve spiritual renewal without being bored to death in the process. For young people in particular, we need to rethink the values that need to be transmitted to them and what mechanisms could achieve that transmission.

Simply telling people that ball playing on *shabbat* is now prohibited will not achieve either of these purposes, nor will it really improve in the slightest the positive experience of *shabbat* by any Jews. It will, on the other

hand, further convince many Jews that Jewish asceticism is alive and well, and that they can look forward to ever increasing ascetic "*humrot*" as the rabbinate flounders in its attempt to make Judaism meaningful in the modern world.

Ball playing on *shabbat* and *yom tov* is a vacuous, pointless activity, almost as useless as sleeping hours on end. But it is halakhically permissible and serves a perceived need for relaxing, enjoyable and physically energetic activity time. Let's not take that away from people until we can replace it with something that serves approximately the same purposes, and also serves to enrich their religious and ethical beings.

**Between the Yeshiva World and Modern
Orthodoxy: The Life and Works of Rabbi
Jehiel Jacob Weinberg, 1884–1966**

by Marc B. Shapiro

Simcha Krauss

Abstract: An analysis of the biography of Rabbi Jehiel Jacob Weinberg, known as the *Sredei Eish*, who became a leader and halakhic authority for German Jewry in the first half of the 20th century. Shapiro explores R. Weinberg's intellectual and social struggle in attempting to synthesize traditional Orthodoxy with modern critical studies, liberal Judaism and Zionism.

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Between the Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg, 1884–1966 By Marc B. Shapiro

Reviewed by Simcha Krauss

We live in an age of sound-bytes. Newspaper headlines are considered too long. Since we are all in a rush, we invented the byte for brevity. To a certain degree, this development is positive. It saves time and energy. But it has a major drawback. When one talks or writes in bytes, there is no place for nuance and complexity. Only the bottom line is important.

This phenomenon is also true in the Jewish world. A tour of Jewish bookstores fills one with joy and gladness at the explosion of Jewish books, all of which are intended to “sell” Judaism. These books, however, are often on a grade school level. This is particularly true of biography—specifically biographies of Jewish leaders, *g’dolei yisrael*.

The flat, monochromatic image of our leaders conveys a distorted message. It suggests that the *gadol* was great, scholarly, pious and an outstanding leader, all without effort. It contends that there were no periods of growth, never a doubt and never a struggle. A perceptive observer, himself a *gadol*, articulated his response to contemporary standards for evaluating a *gadol*:

“...We are engaged only with the last summation of their standing. We retell their path to wholeness while skipping over the internal struggle that permeated their soul. When we speak of our *gedolim* we get the impression that they appeared from the

time they were created in their full stature... Everyone speaks, is excited and uses the Hafetz Hayim as a model for his purity of speech, but who knows of the wars, the struggles, the failures and steps backward that the Hafetz Hayim experienced in his struggle with the evil inclination?”¹

Marc Shapiro’s biography of Rav Jehiel Jacob Weinberg is a refreshing exception. In it Shapiro relates Rav Weinberg’s odyssey from Ciechanowieck to Berlin, via concentration camps, to Montreux, Switzerland, in all its complexity. Shapiro takes us along Rav Weinberg’s difficult, tragic and lonely life, revealing his inner world. We are privileged to an insider’s view of Rav Weinberg’s conflicts and tensions, his struggles, contradictions, defeats and successes. We get a true glimpse of the development of a *gadol*. For this alone, we would be indebted to Marc Shapiro.

Who was Rav Weinberg? Why is his message so resonant, especially to the segment of Orthodoxy that defines itself as Modern Orthodox?

Rav Weinberg, who studied in Slobodka when it was at its zenith, was first and foremost an outstanding Rav, *posek* and Lithuanian style *lamdan*. Yet he was also at home in the modern world of “critical” and “scientific” Jewish studies.

¹ *Pabad Yitzhak, Igrot Uketavim, Mori V’rabi Harav Yitzhak Hutner, z’tl*, p.217.

He eventually settled in Germany where he began his studies at the University of Giesen, and after completing the course requirements became a member of its faculty. In 1924, he joined the faculty of the Hildesheimer Rabbinical Seminary in Berlin. Just before the outbreak of World War II, he was expelled from Germany, incarcerated in the Warsaw Ghetto and transferred to a German prison, surviving miraculously. Thanks to efforts of his student, Saul Weingort, he settled in Montreux Switzerland in 1946, where he spent the rest of his life.

His mastery of Jewish sources was combined with a comprehensive knowledge of secular learning, a unique synthesis for a Lithuanian *lamdan*. He wrote and spoke in Hebrew to Hebrew speaking audiences.

After he became Rector of the Seminary during his stay in Berlin, he was essentially the *poseq* of German Jewry. He wrote extensively, yet tragically most of his writings were lost during the Shoa. Fortunately he gave his student, Eliezer Berkovits, a manuscript of his responsa before he left Germany. This was published after the war, under the title, *Seridei Esh*, and became his best-known work. Among his other books are *Lifraqim*, *Et Abai Anokhi Mevaqesh*, and *Hidushei Ba'al Seridei Esh*.

Shapiro takes us along Rav Weinberg's difficult, tragic and lonely life, revealing his inner world.

Rav Weinberg's life (1884–1966) spans a period in which the Jewish community experienced cataclysmic changes. The Shoa and the establishment of *Medinat Yisrael* were the most obvious. Yet beginning with Emancipation, the Jewish community in Europe was buffeted by ideas and ideologies that questioned the very axiologies of the traditional Jewish world. If, as Peter Berger says, modernity means having options and choices, then we can say that the pre-Shoa Jewish community was given a wide array of choices—many of which were marked by the rejection of religious observance and traditional values. The breakdown of the ghetto walls threatened the relative spiritual

safety of the past insular society. Socialism, Bundism, and an increasingly aggressive secularism questioned the behavioral norms and values of traditional Judaism. Zionism, in all its manifestations, challenged the passivity of the Jewish community. Finally, as society became more open, schools and universities challenged the educational foundations of the Jewish community.

The points of conflict that were the “live” issues within Orthodoxy at that time have yet to be solved. Today's Orthodox community still grapples with the issues of the relationship of Orthodoxy to contemporary culture, the relationship of Orthodoxy to political Zionism, and the relationship of Orthodoxy to heterodox movements as well as to the non-Jewish world.

In these areas of the Orthodox divide, the “*yeshiva* world” took the position that no change to the *status quo* was valid and that any accommodation with modernity would lead to irreversible severance from tradition. Hence, secular studies were banned in all *yeshivot*. When Rav Reines, a respected Torah scholar and the founder of Mizrachi, started a *yeshivah* that included secular studies in its curriculum, he was isolated from the *yeshivah* world. In an article eulogizing Rav Isaac Jacob Reines (1915), Rav Weinberg seemed torn. On the one hand, he notes Rav Reines' sheer greatness in Torah should have been sufficient reason for *g'dolei yisrael* not to isolate him. On the other hand, Rav Weinberg's loyalty to the leaders of the *yeshivah* world, i.e. “the *geonim* and the old *tsadikim* who carry on their weak backs the spiritual loads of the Jewish people”, initially caused him to withhold his own imprimatur from this new style *yeshivah*. As Shapiro shows, Rav Weinberg has eventually embraced Rabbi Samson Raphael Hirsch's position of ‘*Torah im derekh erez*.’ He became its defender and champion, a position he articulated in an address he delivered in memory of Rav Hanokh Ehrentrav, who according to Rav Weinberg best exemplified the ‘*Torah im derekh erez*’ model.

Rav Weinberg explained that the synthesis between the Jewish and the secular was more than a technical

accommodation such as wearing a “*shabbos* belt” to carry keys on *shabbat*. It meant, rather, the synthesis of all aspects of life and human experience. This entails struggle, he claimed, but all truly great ideas in science, philosophy and culture have a tragic element: the confrontation between the old wisdom and the new insight. Here Orthodoxy is no exception. Indeed, true Orthodoxy is about the balancing of modernity and tradition.

In another context, Rav Weinberg said:

“If it were, G-d forbid, as the opponents of secular education say, it would be a disgrace for the ‘wise and understanding nation’ that it is not able to simultaneously digest belief and secular education, while other peoples with their foolish beliefs can do so. The Catholics, *le-havdil*, have professors, intellectuals, researchers and great scientists, and they are strong believers and defend their religion with all the weapons of modern philosophy...I am afraid that this fear of secular studies will lead, G-d forbid, to a disgrace of the Torah. Might one then be able to say that our great divine Torah cannot endure the conjunction of Torah with so-called secular studies—with a little grammar, geography, history, mathematics?” (quoted in book under review, pp.179–180)

This balance of tradition with modernity and the struggle it takes to remain honest to both, also expressed themselves in the area of Jewish and non-Jewish relationships. As Marc Shapiro brilliantly shows, Rav Weinberg was unique among *g’dolei yisrael* in his friendships with non-Jews.

One such friendship was with Professor Paul Kahle, a Semitic and Masoretic scholar who was Rav Weinberg’s teacher and mentor at the University of Giesen. Kahle noted Rav Weinberg’s great talent and this relationship soon developed into a lifelong friendship. Indeed, when Kahle’s wife died, Rav Weinberg wrote the following letter:

“As often as I had the opportunity to meet her, I was strongly impressed by her deep religiosity, her modest demeanor, and her sure judgment—spiritual strengths which make a woman strong and great. Besides its tragic character for her own family, this death of a noble, pious Christian woman also possesses a historically devastating aspect. She was one of the few German women, perhaps even the only one, who found the courage to oppose the overpowering might of the criminal usurpers when it came to standing up for the innocents being persecuted. In the Israeli papers this heroic act of a German woman was lauded as praiseworthy, and I am convinced that many among us keep her in grateful memory.” (quoted in book under review, p.183)

Rav Weinberg’s attitude to non-Jews, however, was even stronger. As a survivor of the Holocaust, he personally experienced the evil that results from intolerance and hatred. In a letter written “with the blood of my heart, the blood of my soul” to his (Reform) friend Professor Samuel Atlas, he wrote the following:

“The entire world hates us. We assume that this hatred is due to the wickedness of the nations, and no one stops to think that perhaps we also bear some guilt. We regard all the nations as similar to an ass. It is forbidden to save a gentile, it is forbidden to offer him free medical treatment, it is forbidden to violate the sabbath to save his life, his sexual intercourse does not render a woman forbidden to her husband according to R. Tam because their issue is like the issue of horses. Can the nations resign themselves to such a deprivation of rights? It is permitted to deceive a Gentile and cancel his debt as well as forbidden to return his lost object! What can we do? Can we uproot our Torah teaching with apologetic formulae or clever deceptions.”²

² “Scholars and Friends: Rabbi Jehiel Jacob Weinberg,” Marc B. Shapiro, *The Torah U-Madda Journal*, Vol. 7, 1997.

If Rav Weinberg found some “company” in his position vis-a-vis *‘Torah im derekh erez’*, I am quite certain that in the latter position concerning gentiles he was nearly alone.³

More in consonance with his peers, yet still sufficiently nuanced, was Rav Weinberg’s position on intra-Jewish relationships. Germany, after all, was the battleground of *Austrit vs. Einheit Gemeinde*. On this issue, Rav Samson R. Hirsch’s position of *Austrit*, carried the day. However, as Shapiro points out, even among those who officially took the position of *Austrit*, there were various interpretations. In Frankfurt Am Main, the Separatists were exceedingly zealous in guarding and maintaining their position. In Berlin, in contrast, even those who were formally Separatists cooperated more freely with the Liberal (Reform) communities.

While Rav Weinberg never articulated a formal position on this issue of separation, he served for a time as *Gemeinde* Rabbi, as did many of the graduates of the Hildesheimer Rabbinical seminary. He also served in the *Halakhah* Commission of *Vereinigung Traditionell-Gesetztreuer Rabbiner*, an organization many of whose members also belonged to the *Allgemeiner Rabbinerverband*, a group made up of both Orthodox and Reform rabbis.

While relatively liberal on the question of Orthodox Jews separating from heterodox Jews, Rav Weinberg was a strong opponent of the philosophy and ideology of Reform. He felt that the Reform movement was akin to Christianity and he did not consider their marriages and divorces to be valid. He refused to allow Reform rabbis to speak in Orthodox synagogues and questioned their conversions. Yet he had friendly and warm relationships with Reform leaders. In a letter to Professor Samuel Atlas he sarcastically wrote that a certain Reform rabbi created a *hilul Ha-Shem* because he was living proof that one can be

a fine and decent person without observing *halakhah*. Conversely many Orthodox Jews, who were punctilious in the observance of *halakhah*, were lacking in relations *bein adam lehavero*.

After the death of Leo Baeck and Israel Bettan, Rav Weinberg wrote, “Every great man who dies leaves a void. Who can replace Dr. Baeck? When they are alive, we criticize them and search for their faults, but when they die we feel that we have lost.”

His attitude to Reform may be summed up by paraphrasing Voltaire: “To Reform as Reform, nothing; to Reform as individuals, everything.”

The Shoa found Rav Weinberg totally unprepared. Even after *Kristallnacht*, when the Berlin Seminary was closed, Rav Weinberg expressed the hope that it would soon reopen. Only when he was expelled from Germany in 1939 did Rav Weinberg realize the magnitude of the upcoming tragedy.

R. Weinberg’s optimism regarding the Nazi regime was shared by many others. In October 1933, three “separatist” organizations sent a letter to Hitler in which they declared their loyalty to Germany, and stated that they shared some of the Nazi societal values, boasted of German Jewry’s contribution to the German army in the First World War and promised to work with Jewish communities the world over to stop the boycott of German products. Although Rabbi Weinberg was not a signatory to this letter, it was not because he felt differently about the Nazi regime. Rather, he sincerely felt that in such issues the Jewish community must act as a whole without separatist agendas.

The period 1933–1939 was a tragic one for German Jewry. The Nazi regime gave one of the first signals that it

³ On similar concerns voiced by the Me’iri and his views on the halakhic status of gentiles and Jewish obligations toward them, see Moshe Halbertal’s essay, “Possessed of Religion: Religious Tolerance in the Teachings of the Me’iri,” in this volume.—*Editor*

intended to implement its anti-Jewish platform by outlawing the traditional method of *shehitah*, which required the stunning of animals prior to slaughter.

This decree raised both halakhic and policy issues for the German Jewish community. First, does the stunning of animals render it unfit for kosher consumption? Secondly, even if there is a halakhic rationale for a lenient ruling, there is yet an issue of policy to be determined, i.e. the extent to which this leniency would galvanize the anti-*shehitah* forces in the rest of the European continent.

As the major *poseq* in Germany, Rabbi Weinberg took on the challenge. He did find a possibility for lenient ruling on this issue and began corresponding with the leading rabbis and *roshei yeshivah*, trying to elicit support for his position. (This correspondence to and from him makes up a large part of the first volume of *Seridei Esh*.) However, with all his energy expended to prove that his position for leniency in this case has halakhic validity, R. Weinberg failed to gain a consensus for his position. The leading rabbis and *roshei yeshivah* rejected his call for a lenient *psaq*. The reasons, Shapiro shows, were ‘meta-halakhic’ (Shapiro’s term), i.e. the decree might soon be rescinded, but the *heter* would remain. It also might endanger the position of *shehitah* in other countries. Although he believed he was right, R. Weinberg, acquiesced to the majority opinion.

This is characteristic of R. Weinberg methodology of *psaq*. On the theoretical level, he would be bold, courageous and creative. He was willing to be led by his creative instinct to the brink of his logical conclusions. In the final decision, however, he was guided by precedent, the opinions of earlier decisors and his peers whom he respected.

Yet there were exceptions to this rule. When asked by the leadership of Ezra, a youth movement, about the permissibility of men and women singing together, he answered in the affirmative. Many of his peers opposed him but R. Weinberg stood his ground. Likewise, his lenient position regarding *b’not mitzvah* was not shared by his peers.

R. Weinberg often dealt with difficult halakhic problems. Many of them are still unresolved, such as the issue of *agunot*, of conditional marriages, and medical *halakhah*. In dealing with all these problems he appears to use a consistent methodology. He believed that a lenient position could be taken—or at least defended—on the basis of a theoretical breakthrough. Yet he literally “feared” to decide a case leniently; indeed it was more than “fear.” In a particular *she’elah*, he exclaimed that that though he knows his position to be justified, how could he rule against Rav Yitzchack Elchanon Spektor or the Noda B’Yehuda? He was truly conflicted, yet in the end his fidelity to precedent carried the day.

While relatively liberal on the question of Orthodox Jews separating from heterodox Jews, Rav Weinberg was a strong opponent of the philosophy and ideology of Reform.

These conflicts accompanied him throughout his life. After the Shoa, R. Weinberg settled in Switzerland. The establishment of *Medinat Yisrael* was, to him, was an event unmatched in Jewish history. Only a person “whose heart is frozen,” he writes, will fail to be impressed by the return of Jews to their homeland and the new dynamism one witnesses in Israel.

Yet, here too the joy was tempered by conflict. This occurred on two levels. First, he foresaw the problems still with us today. The secular-religious *kulturkampf* and the issue of democracy vs. the Jewish character of the state. He agonized over these issues, believing that with good will these problems could be solved. He was afraid, however, that extremists on both the right and the left would torpedo any attempt at reconciliation.

Secondly, he was personally torn. Though living in Switzerland, Rav Weinberg received many offers to settle in Israel. The offers were as varied as was his personality. He could have accepted the position of *rosh yeshivah* in a traditional *yeshivah* or a professorship at Bar Ilan University. He also had an offer to found a new

Rabbinical Seminary in Israel built on the model of the Hildesheimer Seminary in Berlin.

None of these options were realized. R. Weinberg felt, as Marc Shapiro shows, that by associating himself with a university he would become isolated from the *yeshivah* world. By accepting a position as a *rosh yeshivah*, he was certain to be isolated from the academic world. In sum, the “normalcy” he enjoyed in Berlin by straddling both worlds without having to choose between them was a luxury he could not duplicate in Israel.

This tension accompanied R. Weinberg even in death. Shapiro begins his book with the following episode:

“On Tuesday, 25 January 1966, the coffin of Rabbi Jehiel Jacob Weinberg left Jerusalem’s Sha’arei Tzedek Hospital, accompanied by a throng of people. It had been transported from Switzerland, where Weinberg had died the previous day. Among those accompanying the coffin to its final resting-place were many of Weinberg’s students, as well as a large number of religious and political leaders, including the country’s chief rabbis, government ministers, and President Zalman Shazar. As Weinberg’s coffin was about to

be placed in the hearse that was to take it to the cemetery in the Sanhedria district of Jerusalem, a number of *yeshivah* students intervened. They insisted, in accordance with Jerusalem custom, that the coffin be carried to the cemetery. After a short discussion the students had their way. A few minutes later, as the funeral procession made its way on foot to the cemetery, it was met by a number of rabbis led by Weinberg’s close friend Rabbi Ezekiel Sarne, head of the Hebron-Slobodka *Yeshivah*. Sarne ordered the students carrying the coffin to proceed to the cemetery on Har Hamenuhot. Many great Torah scholars are buried in this cemetery, and Sarne and his colleagues were adamant that Weinberg be laid to rest beside them. An argument ensued on the road, and Sarne emerged victorious. Once again the funeral plans were altered.”

He died as he lived—with conflict. Perhaps this is the meaning of, “*Tsadiqim ein lahem menuha bein b’olam ha-zeh bein b’olam ha-bah, sh’nemar, Yelkhu mehayil el hayil.*”

We are indebted to Marc Shapiro for his brilliant work that brings to life this major halakhic personality.

The Lieberman Phenomenon

Samuel C. Heilman

Abstract: An examination of Senator Joseph Lieberman's model of integrating religious commitment with public service in American society, and its implications for Modern Orthodox and Ultra-Orthodox ideologies.

Biography: Professor Samuel C. Heilman, a member of Edah's Advisory Council, is Harold M. Proshansky Professor of Jewish Studies & Sociology at the City University of New York.

The Lieberman Phenomenon

Samuel C. Heilman

Americans have become quite used to Jews holding high public office in all the branches of government. Beginning with Louis Brandeis, there have been seven Jewish justices on the U.S. Supreme Court. So common has this become that most Americans are probably unaware that the last two appointed justices were both Jews and that at present there are an unprecedented two seated on the court. Indeed the fact that both Justices Ginsburg and Breyer are Jews is probably of less symbolic importance to most Americans than the fact that Justice Ginsburg is the second woman on the court. In the U.S. Congress, Jews have long been over-represented, and often from states where Jews constitute a minority even smaller than the 2% that they make up of the total American population. They have, moreover, held influential leadership posts, and during the tenure of Tip O'Neill as House Speaker, his chief legislative aide was a Modern Orthodox Jew whose *kippah* was as visible as his power and influence. In many state houses and in all levels of local government Jews are found in ample numbers. In the executive branch, this generation has seen a number of Jewish cabinet secretaries including perhaps most prominently the powerful Jewish Secretary of State, Henry Kissinger, who was also a European refugee; and of course, the current Secretary, Madeline Albright, would be considered a Jew by many rabbinical authorities.

One might therefore conclude that the idea of Jews serving in positions of governmental power is not something all that new either to Americans or the Jewish community. Nevertheless, the unprecedented selection of Senator Joseph Lieberman as a candidate for Vice-President of the

United States has captured the imagination of the nation, even though one might easily make the case that of all the public political offices that Jews have held, the vice-presidency is the least powerful post. Part of that fascination of course has to do with the symbolic importance of the selection of a Jew who will be the proverbial “heartbeat away” from the most powerful office in the land and with the fact that of all government positions, only the President and Vice-President are chosen by all the voters and therefore must answer to all of them.

Yet it is not simply the fact that Lieberman is a Jew that has captivated the nation, but rather it is the character of his Jewish identity and commitments that beguiles so many. For Joseph Isadore Lieberman, unlike all those other Jews in public office, is by his own description “an observant Jew.” It is an observance he takes seriously, one that he displays prominently and that puts him in sharp contrast not only to the other Jews who have held high national office but no less to most other American Jews for whom Jewish observances have devolved to a relative few like fasting on Yom Kippur, going to a Passover seder or lighting Hanukkah candles. Unlike most American Jews, Senator Lieberman observes the sabbath, and *kashrut*, regularly attends the synagogue, prays each day, and has seen to it that his children receive a serious Jewish education. In both beliefs and practices he is part of a minority among American Jews, and his selection implies that these beliefs and practices—which many American Jews have considered an obstacle to their full-fledged engagement in American life and society—do not disqualify one from being fully in and of America.

Yet there is more that this selection has accomplished. For many Americans, the working assumption has been that any religiously observant and fervently faithful person must also embrace the political values and worldview of the conservative right wing in this country. During the last twenty years, this has been the argument most prominently of the Christian right. A close look at Joseph Lieberman, however, reveals that while he shares their respect for religion and many traditional values, his sincere religious commitments have not necessarily led to his embracing their politically conservative ideology or views. On the contrary, on the basis of his record and statements, Lieberman demonstrates that one can be serious about his faith and its commitments yet still support liberal democratic principles with regard to people's personal status, treatment of the poor and the powerless. In effect, Lieberman's religiousness challenges the assumption that there is an ineluctable contradiction between the values of faith or religious commitment and those of a liberal democracy. In effect, by his example he helps rescue religion from what has been the exclusive, even jealous, grasp of both the Christian and the political right. As such, he shows America that one can embrace faith without at the same time having to choose policies that scorn or spurn the values of liberal democratic values. That will perhaps allow a whole new sector of America to reconsider their resistance to religion, its values and commitments.

Just as his example challenges these American political assumptions, so too does it challenge certain truisms that have in these same last twenty years become current in the Jewishly observant community. It is no secret that the view that has increasingly dominated certain precincts of observant Jewry is that genuine Jewish commitments require nothing less than a full time engagement in Judaic activity. For many who espouse this point of view the goal of Jewish learning and observance has become nothing less than more Jewish learning and more punctilious observance. So powerful has this trend become that the old maxim of, *"yafeh Torah im derekh erets,"* which means that Jewish learning and observance should be integrated with a positive attitude toward and activity in the world

that we inhabit, has become increasingly ignored. In its place, the metaphor of *"vehagita bo yomam va leila,"* one should meditate on and be engaged by the Torah night and day, has taken over and become interpreted as the dominant recipe for ideal Jewish observance and life. This metaphor has been used by many young observant Jews and their mentors as a mandate to advocate an active retreat from the American public square, to be in contemporary society but not a part of it. This tendency to dwell in America but not truly share in its culture or life has often evolved into a devaluation of American society and culture or to view it at best as, in the words of one prominent Rosh Yeshiva, a "handmaiden" to Jewish life. Nothing perhaps symbolized this better than the case of the Yale students who were prepared to get a Yale degree but wanted little to do with Yale culture and life, as it was to be found in its dormitories. Of course to many among the Orthodox, the very decision to even go to a place like Yale, which represents to some an apex of what American culture has to offer, was viewed as wrong-headed. Better to stay in a Jewish environment, go to a yeshiva.

Lieberman's religiousness challenges the assumption that there is an ineluctable contradiction between the values of faith or religious commitment and those of a liberal democracy.

Not only has this attitude transformed the yeshivas and Jewish study halls into fortresses and many Jewish neighborhoods into virtual ghettos, but more insidiously it has also given birth to a posture of disdain to any Jews who do not share in this radical parochialism. The assumption here is that true Jewish commitments and sincere observance cannot allow room for anything else and demands an active turning away from the American (read: *goyish*) public square.

Senator Lieberman's embrace of the American public square, his active engagement in political life, his attachments to Yale University, his concern for minorities other than his own—as illustrated, for example, in his activities

in the black civil rights movement as well as his voting record—his engagement in American political culture and social life, even while maintaining his high level of Jewish engagement and identity shows his fellow observant Jews that there is room in the life of the committed Jew for activities that are not parochial. Even as he defers some of his pursuits in the American public square in favor of his Jewish commitments and observances, he also reminds us by his example that there are times when even an ardent Jew has other legitimate concerns, that indeed, “*yafeh Torah im derekh erets.*” Observance and Jewish responsibility do not demand parochialism and the retreat from this-worldly activities. On the contrary, the genuine test of Jewish faith and commitment is the extent to which the observant Jew finds a way to maintain his religious obligations in this world rather than hiding within the four cubits of the *halakhah* or the citadels of Jewish learning. It is no trick to remain observant and Jewishly committed within the walls of the yeshiva or the boundaries of the virtual ghetto; everyone there does so. The true test of faith comes for those who experience the tug of other engagements and who still are able to hold fast to that faith and commitment.

The genuine test of Jewish faith and commitment is the extent to which the observant Jew finds a way to maintain his religious obligations in this world rather than hiding within the four cubits of the halakhah or the citadels of Jewish learning.

This is something that Modern Orthodoxy long ago realized and it is the premise of the way of life its followers champion. That is why Senator Lieberman finds a Modern Orthodox synagogue to be the Jewish institution in which he feels most at home. And that is why his new prominence has so energized many of his Modern Orthodox counterparts who see in him a projection of so much that they hold dear. Even more than a rabbi—who is after all primarily attached to the Jewish domain and concerns and therefore cannot act as a role model of how to inhabit two universes—someone like Mr. Lieberman

can demonstrate the capacity of the Jew to be both observant and integrated in American life. This is no small matter to today’s Orthodox Jewry. And of course, it is a message that will not be lost on other Jews who will, perhaps, take another look at their religion.

Orthodoxy in America, although shrinking as a proportion of this country’s Jewry (down from about 15% thirty years ago to about 10% at last count), has during the last twenty years become far more visible and assertive than it was during the 1950’s and 1960’s when it was rebuilding itself in this country. Part of this change is a result of its surprising (surprising only to those in the Jewish majority who predicted its decay and decline) success in building institutions (particularly day schools and *yeshivot*) and its refusal to confirm the predictions of its imminent demise. Part, however, is also a result of a changing America, an America that departed from its mono-cultural melting pot ideal in favor of a far more ethnic and culturally pluralist salad bowl model. In this sort of America, Orthodox Jews could, like other ethnic groups, proudly stand out and still be part of the mosaic of American society. Here they could build their lives without the prejudice and obstacles that so many other Diaspora communities experienced. Paradoxically, this cultural condition which made Orthodoxy feel freer to be itself than ever before led in most cases to an Orthodoxy that actually segregated itself more from America in many ways. This Orthodoxy, increasingly *haredi* in character, effectively asserted thereby that it did not truly trust American tolerance for pluralism and was therefore best off seeing to it that observant Jews kept themselves to themselves and became more scrupulous about their Judaism, a Judaism which they believed was being eroded by the open and beckoning society of America. To be sure, they were ready to take whatever resources they could from that America in order to “rebuild” and “fortify” themselves after their devastating demographic and cultural losses during the first half of the twentieth century.

Modern Orthodoxy, however, has displayed a greater trust in the salad bowl version of America. Modern Orthodox

Jews have believed they can keep a foot in both their own communities and the larger American one. Joseph Lieberman's candidacy as well as his previous electoral victories and public engagements prove that, at least thus far, his trust has not been misplaced. One might say that the senator has shown that these days one need not simply be an American Jew but rather can be a proud Jewish American, one whose religious and ethnic identity modifies his American identity rather than the other way around. As such, his selection by Al Gore for this symbolically important co-starring role in the contest for the top electoral prize in America represents for many Modern Orthodox not only a confirmation of their trust in America and its capacity to allow them to be both Orthodox and fully engaged American citizens. It also serves as an implicit reproof to their *haredi* fellow Orthodox, whose life choices have suggested that there can be no such possible intersection.

Yet the matter is not completely resolved. That is why so many of the right wing Orthodox seem to be watching Lieberman for signs that he is actually not "strictly Orthodox." By de-legitimizing Lieberman's *bona fides* as an Orthodox Jew, these Jewish right-wingers implicitly hope to legitimate their own choices to remain aloof from the American public square that Lieberman has so obviously and enthusiastically entered. "See," they seem to say, "he cannot really be Orthodox and do the things he does." For if he could, then their decision to embrace parochialism would be open to challenge.

This sort of challenge is not unlike the one that certain elements of the American political right wing have also leveled at Lieberman. They argue that he cannot truly be religious if he is liberal (or he cannot truly be liberal if he is religious, as the left-wing political secular radicals have conversely argued). But of course if he can be religious and liberal, then the vistas of what is possible for the faithful become far broader—as those who are religious must realize.

The debate will surely go on, growing more agitated as election day nears. While the American voter will ultimately decide Lieberman's fate as a candidate, the legitimacy of the example that his life and choices will be decided only to the extent that others follow that example. The more observant Jews there are who emulate his model—one committed to a serious Judaism but also engaged by contemporary society; one desiring to share in democratic ideals and to embody *torah im derekh erets*—the more that way of life will triumph over its parochialist and innately anxious challenger. Likewise, the more those who are attached to liberal democratic ideals can find ways to integrate religious beliefs and observances into their lives without abandoning those ideals, the more will that combination prevail over those of the political right wing who have commandeered religion for their own ends. Time will tell if Joseph Lieberman will be the forerunner of a new renaissance of Modern Orthodoxy and a liberal democratic religious America or an anomaly that will be a footnote in history.