

# זרמים Zeramim

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## A Letter From the Editors

Dear readers,

It is with great pleasure that we present our third issue of *Zeramim*. Committed to a present and future of Jewish civilization informed and enriched by studies of our history, literature and traditions, *Zeramim* is proud to publish three issues a year featuring articles representing excellence in scholarship that impacts contemporary Jewish life and thought.

Our issue opens with Daniel Stein's ground-breaking research on the history of the Rabbinical Assembly's attitudes, policies and actions in regard to any interfaith marriage at which a member of the Conservative rabbinic membership organization officiates. The array of questions surrounding the inclusion of interfaith partnerships have been the subject of many debates among Conservative Jews—lay and clergy—in recent years.

Navigating yet another path forward in Conservative Judaism, Ben Sommer compares and synthesizes the theological and interpretive trends found in the teachings of three late Biblical scholars ordained by the Jewish Theological Seminary: Moshe Greenberg, Yochanan Muffs and Jacob Milgrom. Seeking common ground amidst the work of this triad, Sommer proposes a system of conserving and seeking meaning and Jewish identity in the likeness of these teachers' radical scholarship.

Exploring the peculiar ritual of placing stones at graves, David Golinkin illustrates a nearly encyclopedic history of the development of this traditional action so often associated with remembrance of those whom we have lost. Golinkin invites the reader back to the origins of this practice that dates back over a millennium.

In contemplating the diversity of current, past and potential liturgical practices regarding reciting the prayer *Addir Addirenu*, Jonah Rank traces the literary history of and mythic meanings associated with this short prayer. Building layers of meaning found in the prayer through several centuries of commentary and interpretation, Rank proposes a spiritual and halakhic framework to aid the worshiper in appreciating this prayer in contemporary practice.

Closing our third issue and previewing our fifth issue, Richard Claman, recognizing the unique challenges of Jewish and American life in the age of Trump, reviews the problematic nexus of nuanced and effective Jewish engagement with the political in society guided by the ideal of civility and neutral discourse. Claman's article reviews the latest writings on the subject

and segues naturally into our final page of this issue: an invitation for our readers—Jewish academics, clergy, professionals, and laypeople alike—to submit their own articles articulating the idealized and actualized relationships between Judaism and the political—and what all this should mean today.

Thank you for joining us in exploring the Jewish past, present and future.

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## **Is There a Standard of Rabbinic Practice Against Inter-marriage? A History of the Rabbinical Assembly's Prohibition on Interfaith Marriage<sup>1</sup>**

Daniel Z. Stein

I was presented with my copy of *Hatzne'a Lekhet: A Code of Professional Conduct for Members of the Rabbinical Assembly*<sup>2</sup> during my final year of study at the Jewish Theological Seminary, as part of a seminar on rabbinic ethics. By nature, I am contrarian, so it is not surprising that my interest focused on the illicit *thou shalt not*s: What behaviors were deemed immoral enough to place my professional credentials and affiliation in jeopardy? With great interest, I turned to the so-called "Standards of Religious Practice," which I understood to be the categories in Jewish law that held a special status in the Rabbinical Assembly (RA). This is how the *Code* describes the formulation of these standards:

"Standards of Religious Practice" are binding upon all members of the Rabbinical Assembly. *Such standards are established through the Committee on Jewish Law and Standards with approval of the Assembly at an annual meeting...* Violations of Standards of Religious Practice usually result in expulsion from the Rabbinical Assembly.<sup>3</sup>

Official publications of the Rabbinical Assembly list four such standards; they largely deal with issues of Jewish identity: May a rabbi officiate at an intermarriage? What is the status of Jews with a Jewish father and a non-Jewish mother? May a rabbi perform a marriage absent a rabbinic divorce?

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<sup>1</sup> I am particularly grateful to Mordecai Martin, without whose assistance this research would not have been possible. Mo spent many hours digging through microfilm at the Jewish Theological Seminary Library on my behalf; he has my gratitude. I am also grateful to Professors Roger Simon and Robert Weiner, who read early drafts of this paper. I am equally in debt to Rabbis Jonah Rank and Joshua Cahan, who guided me with important clarifying questions, and have provided this important forum for applied Jewish studies. Any errors, obviously, remain my own. Finally, I am deeply in debt to my friend Norm Seidel, of blessed memory. Norm was principally opposed to illogical ideas, and our many conversations on jurisprudence inspired me throughout this project.

<sup>2</sup> The Rabbinical Assembly, *A Code of Professional Conduct for Members of the Rabbinical Assembly*. (The Rabbinical Assembly, 2011). Available online as of May 17, 2017: [http://www.rabbinicalassembly.org/sites/default/files/public/ethical\\_guidelines/Code%20of%20conduct-2011-public.pdf](http://www.rabbinicalassembly.org/sites/default/files/public/ethical_guidelines/Code%20of%20conduct-2011-public.pdf). Emphasis added.

<sup>3</sup> *Ibid.*, 2.



I gave little thought to these standards until recently. The publication of the Pew Research Foundation's *A Portrait of Jewish Americans*,<sup>4</sup> which highlighted the overwhelming intermarriage rate among non-Orthodox Jews, prompted me to take a deeper look at the development of these standards, and Standard (d) in particular—which states that “[r]abbis may not officiate at, participate in, or attend an intermarriage.”<sup>5</sup> I wanted to understand how, exactly, this ban on rabbinic participation in interfaith marriage came into being. Given the language in the *Code*, I thought the task would be simple enough: I would just read the minutes of the annual meeting at which the Rabbinical Assembly passed the standard. I soon discovered, though, that *no evidence of such a vote exists*. Instead, an understanding of Standard (d)'s evolution requires an in-depth study of the history of both the RA and its Committee on Jewish Law and Standards (CJLS). Such analysis ultimately calls into question the very legitimacy of the Standard; my research suggests that a reevaluation is necessary to determine if it is in any way binding on members of the RA.

David Golinkin's encyclopedic anthology, *Proceedings of the CJLS 1927-1970*, sheds light on the persistent controversies that shaped the CJLS's first decades. Perhaps the most vital dispute centered on the function of the committee's decisions: Was every rabbi a ruler unto himself? Could the rulings of the CJLS be binding on Rabbinical Assembly membership? And, if rulings were “binding,” what precisely did that term mean? Did the Rabbinical Assembly have the right to enforce punitive action on a member who chose to ignore a “binding” decision?

This controversy emerged as early as 1927, when the RA established the CJLS as an advisory body on *halakha* for rabbis in the field. The resolution establishing the CJLS attempted to create a degree of cohesive practice among RA members; while the committee was to include rabbis representing a wide array of opinions, if it was to reach a unanimous decision on an issue, it was to be regarded “as the authoritative opinion of the Rabbinical Assembly.”<sup>6</sup> In any other instance, the CJLS was to issue both majority and minority opinions, both of which were to be

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<sup>4</sup> The Pew Research Center, *A Portrait of Jewish Americans*. (The Pew Research Center, October 2014). Accessed online on May 17, 2017: <http://www.pewforum.org/files/2013/10/jewish-american-full-report-for-web.pdf>.

<sup>5</sup> *Ibid.*.

<sup>6</sup> Committee on Jewish Law and Standards, *Proceedings of the Committee of Jewish Law and Standards, 1927–1970*, vol. I. Ed. David Golinkin, (New York: The Rabbinical Assembly, 1970), 4. The early years of the

considered valid.<sup>7</sup>

A unanimous decision of the CJLS could thus be considered “authoritative,” although the precise meaning of that term was unclear. In 1948, when the committee was reformed, the RA’s resolution strove for greater clarity; it included a clause declaring that “[d]ecisions rendered by the Committee unanimously shall be binding on all members of the Rabbinical Assembly.”<sup>8</sup> During the same voting session, though, the Rabbinical Assembly *rejected* a resolution that allowed for punitive measures if a rabbi failed to comply with a “binding” decision; this *rejected* resolution reads, in part:

Disciplinary sanctions against members who defy the unanimous decisions of the Committee shall not be the business of the Committee, but of a special court to be set up by the Assembly. In general, no sanctions shall be taken against any member unless his conduct or teaching sabotages the work and progress of Conservative Judaism as a movement to which we are dedicated.<sup>9</sup>

The RA, then, was willing to create “binding” decisions, but it was simultaneously *unwilling* to provide a vehicle for enforcing such decisions. In other words, even if a rabbi violated a unanimous decision of the CJLS, the Rabbinical Assembly, at least in 1948, was reluctant to take disciplinary action.

This tension—between the so-called “binding” decisions on the one hand and a lack of punitive measures on the other—led to ongoing confusion in the deliberations of the CJLS and the RA at large. The issue consistently simmered in RA debates, dividing the RA between those who believed that the CJLS’s primary function was as an advisory body, with ultimate power in the hands of local rabbis, and others who firmly asserted that an important function of the CJLS was the creation and enforcement of policy to foster denominational cohesion. At the 1950 Rabbinical Assembly Convention, RA President David Aronson described how the movement was beginning to balance these competing viewpoints:

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<sup>7</sup> *Ibid.*, 4.

<sup>8</sup> *Ibid.*, 276; 276-297.

<sup>9</sup> *Ibid.*, 276; 276-297.

One of the chief problems which agitated our Convention last year was the scope, composition, and authority of the Committee on Jewish Law and Standards....

Obviously, the Committee cannot legislate in a manner which would be acceptable to all congregations ministered by our men. No individual body, or code was ever able to standardize the practices of synagogues and we doubt whether such standardization would be conducive to spiritual growth. Neither is the Rabbinical Assembly ready or willing to impose sanctions against its members who may deviate right or left from decisions—even unanimous decisions—of the Law Committee.

The decisions of the Law Committee can therefore be taken only as the collective, studied, and crystallizing judgements within the Rabbinical Assembly, judgements arrived at after due consideration of all the viewpoints represented in our movement....

Let me add this, however. While we do not apply sanctions against members who refuse to accept even a unanimous decision of the Law Committee, such a unanimous decision is considered the *official opinion* of the Rabbinical Assembly, and may be quoted as such.<sup>10</sup>

At the 1952 convention, rabbis again debated the nature and role of the Committee on Jewish Law and Standards. At issue, again, were the two competing roles of the committee: on the one hand, it was meant to serve as a body for enforcing Jewish Law. On the other, it was meant to establish religious standards for the movement. Rabbi Mordecai Kaplan struck at the heart of the issue:

Rabbi Simon pointed out that that it is not within the scope of this committee or the entire [Executive] council to apply sanctions. Now, if that is the case, why not do the logical thing and not speak of a Law Committee, but speak of a Committee on Standards. There has to be a certain degree of unanimity, but the idea of law carries with it inner contradictions. If it is law, it ought to have sanctions. If you cannot apply sanctions, you don't have law....

There should be a committee on law that should deal with marriage, etc., or there should be a committee on standards. The committee on standards is the one that we are dealing with regard to these problems [questions of ritual observance] and

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<sup>10</sup> Rabbi David Aronson, "President's Report to the 1950 Rabbinical Assembly Convention," quoted in Golinkin, 327-328.

we will get much further, we will be able to work out in the course of time a set of uniform standards which will be flexible, but which will not raise the entire question of their being binding or not being binding. We need unanimity, but we can't possibly have it under the conditions in which we live.<sup>11</sup>

In his address to the 1955 Convention, Rabbi Simon Greenberg again cautioned against excessive legislative action by the Rabbinical Assembly:

The reports of the commissions and committees of the Rabbinical Assembly can well become *normative* without becoming authoritative first for its own members and, through them, for many of our congregants.

I believe that there is a fair sized group amongst us that would prefer to have it otherwise that would be happier if instead of functioning primarily through committees and commissions, the Rabbinical Assembly would express itself through actions of the convention. They would want to see the Rabbinical Assembly through its convention become a legislative body not only for its own organizational needs, but also in matters of law, ritual, and perhaps even ideology. I would therefore formulate as a second basic principle whereby the Assembly should guide itself in the future, the proposition that *any step that would tend to make the Rabbinical Assembly a legislative body in matters other than those immediately affecting its organizational needs would be a step in the wrong direction*.<sup>12</sup>

While many within the RA seemed to feel that it lacked punitive authority, by 1962—with no subsequent policy changes—the leadership of the RA was contemplating how disciplinary measures against rabbis could be carried out. Jules Harlow, then the secretary of the CJLS, wondered:

What happens if somebody does not follow a unanimous opinion? I have not yet heard of a test case. This past year, the Executive Council, I believe, recommended that any charges one would care to make should be submitted to the Ethics Committee. It is not the business of the Law Committee to deal with

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<sup>11</sup> Mordecai Kaplan, qtd, in Golinkin, 358-359.

<sup>12</sup> Rabbi Simon Greenberg, Report of the CJLS, 1955. Qtd in Golinkin, 397-398

infringements.<sup>13</sup>

But in 1967, we again see that approach questioned. Reflecting on the nature of “binding” decisions, CJLS Chair Benjamin Kreitman observed, “[n]either the subcommittee nor the committee at large has been able to come up with a serviceable definition of ‘binding.’ For the time being this term remains in the realm of moral persuasion.”<sup>14</sup>

Though these examples will suffice, the Golinkin anthology recounts numerous conflicting opinions centered on the RA’s ability to enforce unanimous decisions of the CJLS. At the same time, an equally challenging problem arose around the requirement for unanimity: if even one member of the CJLS disagreed with an overwhelming majority, he could, in essence, become a veto of one, preventing the committee from creating a “binding” ruling. Ultimately, these two parallel challenges proved to be too overwhelming for the committee to bear, and, in September of 1970, the committee found itself at loggerheads. Not coincidentally, issues around interfaith marriage and Jewish identity would ultimately push the CJLS to its breaking point. Rabbi Wolfe Kelman, Executive Vice President of the RA, described the events at a meeting of the Rabbinical Assembly’s executive Committee:

In September of 1970, two matters came to the attention of the President of the RA: 1) whether a member of the RA could officiate at the marriage at which one partner was a non-Jew (not converted); 2) whether conversion was valid *tevilah*. On October 28, 1970, both questions were put before the RA Committee on Jewish Law and Standards. A unanimous decision on the first question held that marriage without conversion was contrary to our understanding of Jewish Law. On the second question—of conversion without *tevilah*—there was one vote against making *tevilah* mandatory. The vote elicited considerable ferment and intense discussion in the committee.

The Executive Council, at the meeting of November 11, 1970, heard a report of the Law Committee which indicated that the committee had voted unanimously against officiating at a marriage without conversion and that his ruling was henceforth binding on RA members. That statement was inaccurate, since a unanimous decision of the Law Committee must be voted on at two consecutive

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<sup>13</sup> *Ibid.*, 501.

<sup>14</sup> *Ibid.*.

meetings before it becomes binding. The committee report further said that there was unanimity on *tevilah*, since the interim, the single negative vote, had been changed to an abstention. This was also an inaccurate statement, since there had not been a unanimous vote at the October 28 Law Committee meeting.

At the subsequent meeting of the Law Committee on December 2, 1970, the rabbi who had voted against mandatory *tevilah* indicated that he had changed his vote in order to make the ruling unanimous, and gave reasons why he had done so.

This was followed by a considerable discussion about the propriety of changing a vote between meetings of the committee. The committee voted a retroactive ruling that it would be acceptable in this one case, but would not be permitted in the future. Henceforth, a change in vote may be made only at a subsequent meeting of the committee, not in the interim period.

The Chairman of the Law Committee then placed both questions to a second required vote. The committee voted unanimously against permitting Conservative rabbis to officiate or participate at a marriage where a non-Jewish partner had not been converted.

On the second question (*tevilah*), one member of the Law Committee, who had not been present at the October 28 meeting, voted negatively, despite lengthy and intense pleading by those present to vote a unanimous ruling. The Chairman and several members of the Law Committee then made it clear that they would not serve on a committee that could not reach unanimity even on such a question.

Their dissatisfaction also stemmed from previous occasions where the votes of two or three members could block a unanimous decision on vital questions. At the close of the meeting, more than a majority of the Law Committee submitted their resignations to the President of the RA<sup>15</sup>

It was in this contentious context, then, that the CJLS passed “binding” votes against intermarriage—even while uncertainty ruled the day on the meaning of the term.<sup>16</sup> At the same time, the Rabbinical Assembly at large found itself facing a dilemma: what would be the status

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<sup>15</sup> Wolfe Kelman, Minutes of the Rabbinical Assembly Executive Committee, March 1970, box 3, folder 9, Rabbi Isaac Klein Papers 1925–1979, University at Buffalo Library, Archival and Manuscript Collection. Accessed via Microfilm, The Jewish Theological Seminary Library.

<sup>16</sup> That vote, in and of itself, was not entirely clear. Edward Gershfield, then a member of the committee, observed the following: “At recent meetings, the Committee ran aground on the need for unanimity in order to make binding decisions (a concept which is itself not entirely clear), and a wave of resignations has ensued.” Edward Gershfield, “Rebuilding the Law Committee,” *Conservative Judaism* 25:2 (Winter, 1971): 59.

of the CJLS? The RA formed *The Special Committee on the Future of the Rabbinical Assembly Committee on Jewish Law and Standards* to explore policy to address the procedural problems that had plagued the CJLS. Its report, which appeared in *Conservative Judaism* in the spring of 1971, sought to address many of the ambiguities that had marked the Committee's history. Robert Gordis explained the goals of a reformed Committee on Jewish Law and Standards:

We need to move much more vigorously than heretofore toward the establishment of generally recognized and accepted norms of Conservative practice that will bear the earmarks of our approach to the *halakhah*, which is not identical with that of other movements in Jewish life. This does not diminish our regard for other interpretations of the tradition maintained in contemporary Jewry. Finally we must make certain that the Rabbinical Assembly not surrender its attachment to the principles of diversity and freedom, or engage in imposing norms of conformity upon the practice of individual members of the Rabbinical Assembly and our lay constituency by subtle or gross forms of "heresy-hunting." The last two principles may appear to be in contradiction with each other. Actually, they are in creative tension with one another. Indeed, it is the balance between them that is the essential characteristic of our movement, which sets it apart from the movements on the right and on the left. Since we regard both goals of law and liberty as legitimate and indispensable, our task is to find a formula by which both principles can be safeguarded.

Towards those ends, the Special Committee made several policy recommendations on when an opinion of the CJLS would be binding on the RA's membership. It also made a specific suggestion about what would occur should a member choose to ignore such a decision:

There obviously can be no norms without some means of enforcement. It therefore follows that if a member of the Rabbinical Assembly violates the decisions of the Law Committee he should, upon presentment of a complaint, be asked to appear before a special Committee on Practice, which would be created by the Rabbinical Assembly as a body independent of the Law Committee. At this meeting the facts would be explored. If found to be true, the colleague would be asked to modify his course of action which violates the practice established by the Law Committee as normative for the Rabbinical Assembly. If he found it impossible to do so, he might be asked to submit his resignation from the

Rabbinical Assembly, or some other sanction could be invoked.<sup>17</sup>

The recommendations of the committee would ultimately be brought to a vote at the Rabbinical Assembly Convention of 1972. As will be discussed below, the Committee's recommendations would be accepted, but with a crucial difference: for a policy to merit disciplinary action, it would have to be adapted by a supermajority of RA's membership.

With these policy changes looming on the horizon, the reconstituted CJLS resumed its work in December of 1971. Anxious to resolve the controversies of a year prior, it revisited the issues that had caused its collapse by taking up challenges around interfaith marriage and conversion. While none of the attendees presented papers, the Committee voted unanimously that "That no member of the RA may *officiate* at the marriage between a Jew and a non-Jew."<sup>18</sup> During the deliberations, critical attention was given to two points: first, by privileging the term "officiate" over "participate," many felt that the Committee "left open many questions regarding [a rabbi's] 'participation' in the marriage or performing a civil ceremony."<sup>19</sup> The Committee, though, was anxious to make the policy "binding," and felt that it was important for the language in the resolution to be consistent with the wording from the 1970 meetings. As a result, the Committee chose to leave the language unchanged. The CJLS considered its vote to be the official second reading, standing in place of the controversial meeting of December 1970. It was carried unanimously, and the minutes indicate that the Committee considered "the rule...binding on all members of the RA." At the same time, it left the window open for further discussions on the issues of rabbinic participation and attendance at interfaith marriages.

The CJLS met again on January 20, 1972, taking the unique step of passing papers on interfaith marriage after already voting on their substance the month prior; it unanimously adopted papers by Rabbis Immanuel Lubliner and Aaron Blumenthal. The Lubliner paper is noteworthy in its strident, sarcastic tone, and contains many clauses that contemporary rabbis might find dubious. Reflecting on a rabbi who would offer his blessing to an interfaith marriage, he ruminates:

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<sup>17</sup> Robert Gordis, "Report of the Special Committee on For the Revitalization of the Law Committee," in *Conservative Judaism*, Spring 1971. Further reflections by members of the CJLS and others appear in the Winter, 1972 volume.

<sup>18</sup> Minutes of the Committee on Jewish Law and Standards, December 21, 1971.

<sup>19</sup> *Ibid.*



Considering the consensus of...opinions our sages concerning the [interfaith] relationship about to be blessed by the Rabbi [sic], any benediction pronounced on such an occasion would be in the nature of *Khilul HaShem b'farhesia* [public blasphemy], as if he had said: Blessed art Thou O Lord...who hast commanded us...*al mitzvat z'nut* [regarding the laws of harlotry].<sup>20</sup>

Later, considering the validity of imposing the prerequisite of conversion for marriage, he writes:

There is no body of people nation, party or organization which does not require certain pre-requisites [sic] for belonging. The Black Panther Party, the Weathermen, the Kiwanis, the Garden Clubs, all of them make certain demands before anyone is permitted to join, whether these be difficult or easy conditions to fulfill. To exempt the institution from all such conditions is preposterous.<sup>21</sup>

Rabbi Blumenthal's paper (more of a statement, really)—prohibiting officiating or even attending an interfaith marriage—was passed as a first draft. While no less restrictive in its content, its tone was considerably more sympathetic than Lubliner's, noting that “every effort should be made to retain contact with the intermarried couple,” and that they “deserve our deep concern.”<sup>22</sup>

The text of Blumenthal's paper, it seems, became the basis for the RA's policy on intermarriage that exists to this day; in addition to restrictions on officiating interfaith marriages, it bans rabbinic attendance at such events, as well as at any associated social events. It reads, in part:

It is the unanimous judgment of the CJLS that a member of the RA may not officiate at the marriage of a Jew to a non-Jew, that he may not co-officiate with any other clergyman, nor may he officiate or be present at a purely civil ceremony. Furthermore, he may not grace his presence at any social celebration

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<sup>20</sup> Immanuel Lubliner, “A Memorandum on the Participation of a Rabbi at an Interfaith Wedding Ceremony Together With a Non-Jewish Clergyman,” unpublished *responsum* provided by the Rabbinical Assembly, 1972, p. 2.

<sup>21</sup> *Ibid.*, p. 6.

<sup>22</sup> Aaron Blumenthal, untitled memo, February 14, 1972, box 3, folder 18, Rabbi Isaac Klein Papers.

immediately before or after such nuptials.

A rabbi is a rabbi and a cantor is a cantor. Neither can divest himself of his essential role. There is no other way to interpret the presence of a Rabbi or a Cantor at a marriage or its social celebrations other than as a form of approval or acquiescence. This he may not do in the case of intermarriage.<sup>23</sup>

It is worth noting two factors that may also have impacted the CJLS. First, beginning in 1968, the Reform Movement's Central Conference of American Rabbis had begun an intensive study on the future of the rabbinate. Although in 1972 the findings were inconclusive, there were hints about the direction the Reform movement was heading. At its 1971 convention, for instance, the CCAR declined a request from its president to pass a renewed prohibition against interfaith marriage; while it called officiating at such marriages "discouraging," the convention would not bar them.<sup>24</sup> The issue was to be revisited with more depth at the CCAR's 1972 convention, when a survey of its membership would be presented.<sup>25</sup> Secondly the Rabbinical Assembly had not yet solved its own issues of internal discipline—as the members of the CJLS knew, this issue was to be a primary focus of the March 1972 Rabbinical Assembly Convention. Perhaps, sensing change on the horizon both internally externally, the members of the CJLS felt an urgency to act. So in February 1972, just days before the Convention, Judah Nadich distributed a memo to the RA membership clarifying the position of the CJLS.<sup>26</sup>

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<sup>23</sup> *Ibid.*

<sup>24</sup> The Jewish Telegraphic Agency, "CCAR Postpones Vote on Intermarriage, WJC Membership," June 28, 1971. Accessed May, 2017: <http://www.jta.org/1971/06/28/archive/ccar-postpones-vote-on-intermarriage-affiliation-with-wjc>.

<sup>25</sup> The Jewish Telegraphic Agency, "Reform Rabbis Postpone Decision on Mixed Marriage Ban," June 15, 1972. Accessed May, 2017: <http://www.jta.org/1972/06/15/archive/reform-rabbis-postpone-decision-on-mixed-marriage-ban-on-mixed-marriage-ban>.

<sup>26</sup> It is worth noting that the text of the Nadich memo is slightly different than the text distributed at the January CJLS meeting, and seems to be more permissive around the issue of rabbinic *attendance* at an interfaith marriage. It reads:

It is the unanimous judgement of the Committee on Jewish Law and Standards that a member of the Rabbinical Assembly or of the Cantor's Assembly may not officiate at the marriage of a Jew to an unconverted non-Jew, that he may not co-officiate with any other clergyman, nor may he officiate or be present at a purely civil ceremony, nor may the Conservative Synagogue be used for such purposes. It is the unanimous judgement of the Committee on Jewish Law and Standards that a member of the Rabbinical Assembly or of the Cantor's Assembly may not officiate at the marriage of a Jew to an unconverted non-Jew, that he may not co-officiate with any other clergyman, nor may he officiate or be present at a purely civil ceremony, nor may the Conservative Synagogue be used

During the 1972 Convention, the Rabbinical Assembly as a whole came to a consensus on how, and under what circumstances, the Ethics Committee could enforce a decision of the CJLS. The convention debated and voted on the various proposals for the CJLS emerging from the work of the Special Committee. After deliberations, the Rabbinical Assembly ultimately created a category known as “Standards of Rabbinic Practice,” violations of which were considered inconsistent with membership in the RA. The RA established rigorous guidelines for elevating a particular ruling of the CJLS into a Standard. Under the new rules, an opinion had to overcome several hurdles: A two-thirds majority of present members at a CJLS meeting had to affirm a position was worthy of becoming a standard; subsequently, a second vote was to be taken of the entire CJLS by mail to determine if the standard would leave committee. This vote required an 80% majority. Finally, if both these thresholds were met, a proposal would be presented to Rabbinical Assembly Convention for ratification. Only then would an opinion become a Standard of Rabbinic Practice for which a non-complying rabbi could be disciplined.<sup>27</sup>

In August of the same year, the CJLS examined in what ways this new policy would impact prior unanimous—or “binding”—decisions of the CJLS, including the recent ban on intermarriage. The implications the decision would have for rabbis in the field were also unclear. The committee was unable formulate a concrete policy on interfaith marriage, and resolved that more time was needed to reach a decision; the item was tabled. The minutes indicate, “Rabbi Blumenthal urged that the question could not be reconsidered for two years, under our rules of procedure. The Chair agreed to wait with this matter until the entire question of procedures has been studied.”<sup>28</sup>

At the same time, the CJLS was trying to understand how the creation of Standards

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for such a marriage.

Neither a Rabbi nor a Cantor can divest himself from his role as representative of the Jewish faith and claim to perform such a marriage in a civil capacity. There is no other way to interpret the presence of a Rabbi or a Cantor at a marriage other than as a form of approval.

Memo of Judah Nadich, February 24, 1972, box 3, folder 18, Rabbi Isaac Klein Papers.

<sup>27</sup> The Rabbinical Assembly did not publish proceedings of the 1972 convention; a general description of events can be found in: Jewish Telegraphic Agency, “RA Sets Standards of Rabbinic Practices,” March 17, 1972. Accessed September 11, 2014: <http://www.jta.org/1972/03/17/archive/ra-sets-standard-of-rabbinic-practices>.

<sup>28</sup> Minutes of the Committee on Jewish Law and Standards, August 28, 1972, box 3, folder 18, Rabbi Isaac Klein Papers.

impacted its own procedures. RA President and CJLS Chair Gerson S. Levi and RA Executive Vice President Wolfe Kelman shared with the committee their understanding of the new policy, emphasizing the view that “all previous rules of procedures had been voided by the Convention [of 1972].”<sup>29</sup> At least through 1974, the CJLS accepted the view of Rabbi Kelman: for the ban on intermarriage to be enforceable, it would have to be elevated to a Standard according to the rules of the convention of 1972. Accordingly, after the prescribed two years had passed, in March of 1974, the CJLS resolved that the unanimous decision reached between 1970 and 1972 be elevated to a Standard of Rabbinic Practice.<sup>30</sup>

According to the minutes of the March 1974 meeting, the resolution carried by vote of 7-1. Close scrutiny reveals that the adoption of this resolution was problematic for a variety of reasons. First, as Philip Sigal noted at the time, the motion might have been out of order without a specific responsum on which to vote.<sup>31</sup> Secondly, the rule of 1972—cited above—requires that a two-thirds majority of those present (not those voting) affirm a new Standard. Though abstentions are not recorded in the minutes, the record indicates that thirteen members attended

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<sup>29</sup> The minutes report:

Rabbi Levi distributed copies of the resolution passed by the Convention of 1972, in which the structure and certain basic procedures of the Law Committee were laid down. He pointed out that all additional rules of procedure would have to be submitted to the Executive Council, and declared his intention to appoint a sub-committee for the purpose of drafting such rules. Rabbi Kelman stated his view that all previous procedures had been voided by the Convention. Rabbi Levi felt this view was the one with which he agreed, but he was aware of a contrary view which held that all previous rules of procedure were valid until explicitly set aside. However, he was convinced that the issue would quickly become academic, as soon as the sub-committee had reported.

*Ibid.* I could find no record, in subsequent meeting minutes, of such a sub-committee report.

<sup>30</sup> “A motion was made by Rabbi [Ben-Zion] Bokser (1907-1984) to elevate the unanimous decision of the committee prohibiting intermarriage to a Standard of Rabbinic Practice as provided by the resolution adopted at the 1972 convention.” Minutes of the Committee on Jewish Law and Standards, March, 1974, box 3, folder 18, Rabbi Isaac Klein Papers.

Interestingly, at the same meeting, a motion was made to elevate certain practices of conversion into Standards of Rabbinic Practice. These requirements would ultimately be included in Roth and Lubow’s Standard cited below; it took more than a decade, though, for them to be brought to the RA Convention for a vote.

<sup>31</sup> *Ibid.*

the meeting.<sup>32</sup> Under the committee's rules, the motion should not have carried. Finally, the rules adopted in 1972 require two additional tests: a mail ballot of CJLS members and a formal adoption at the annual convention.

Today, it is impossible to ascertain whether or not the mail ballot took place,<sup>33</sup> but it is clear that the 1974 convention *did not* vote on the Standard—meaning it was never formally adopted. In personal correspondence, Rabbi Edward Gershfield—a member of the CJLS in 1974—confirmed this detail: “When the issue of performing intermarriages came up, it was felt by many that such an action would be going too far (e.g., interfering with one's livelihood, etc.) and it was taken off the agenda.”<sup>34</sup>

Despite this, the Convention of 1974 was unique in at least one way: although no formal vote was taken on intermarriage, the Rabbinical Assembly as a whole voted on the recommendation of the Executive Committee to expel Rabbi George Gershon Rosenstock for failing to appear before the ethics committee after performing an intermarriage. Apparently, this was the first time in the history of the RA that a rabbi had been expelled for such an offense.<sup>35</sup>

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<sup>32</sup> *Ibid.*

<sup>33</sup> The RA was unable to provide evidence of such a vote.

<sup>34</sup> In preparing this paper, I contacted many of the surviving members of the CJLS from 1972-1974. Few offered personal recollections of the events. However, Rabbi Edward Gershfield offered this recollection:

As for your question, I will try to respond, relying on memory, which is subject to correction.

In general, since theoretically the RA was dedicated to observing the traditional *halachah* (unless modified by rulings of the CJLS), it was accepted practice that the CJLS did not have to restate the *halachah* on every point. It was also clear that performing intermarriages was prohibited by the *halachah* and if performed, were null and void. However, at that time there had been complaints that there were one or more colleagues who were performing such marriages, and it was thought appropriate to restate the prohibition in a ruling of the CJLS, in a sense, to emphasize it. This was done at a meeting of the CJLS.

At the same time, there was considerable activity to change the way the CJLS operated. The issue was the enforcement of CJLS rulings, which some thought was ineffectual. Therefore it was decided that an additional layer of prohibition (and enforcement) should be created. The result was a decision that if any rule passed by the CJLS were then passed as a "standard of Rabbinic practice", and subsequently affirmed by a positive vote at the full RA Convention, any member who violated that rule would be subject to expulsion from the RA. When the issue of performing intermarriages came up, it was felt by many that such an action would be going too far (e.g., interfering with one's livelihood, etc.) and it was taken off the agenda.

<sup>35</sup> Jewish Telegraphic Agency, “Rabbinical Assembly Ousts Three Rabbis.” May 9, 1974. Accessed

Although Standard (d) was never formally adopted, many within the RA still used the various resolutions passed between 1970 and 1974 as a basis for a Standard of Practice. Ambiguity around the Standard's origins, though, persists in RA publications. In fact, in 1985, Rabbi Joel Roth, then chairman of the CJLS, stated as much in a letter to Rabbi Armond E. Cohen:

Until the Convention of 1972 (which took place after February 24, 1972), the Standards of Rabbinic Practice were promulgated by unanimous vote of the Law Committee, and were not subject to ratification by the membership at large. Though the procedure for the adoption of Standards of Rabbinic Practice was modified by the convention of 1972, the modified procedure was not made retroactive. Thus, the statement in the minutes of the Law Committee of February 24, 1972, *though never ratified by the membership*, remains in force as a Standard of Rabbinic Practice, and violation of it is inconsistent with membership in the Rabbinical Assembly.<sup>36</sup>

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online, May 2014: <http://www.jta.org/1974/05/09/archive/rabbinical-assembly-ousts-3-rabbis>. It is worth noting that Rabbi Rosenstock was not expelled from the RA for performing intermarriage per se, but rather, for failing to appear before the ethics committee to answer charges leveled against him. See *Proceedings of the Rabbinical Assembly XXXVI* (1974, Published 1975), 228.

<sup>36</sup> Correspondence of the Chair of the Committee on Jewish Law and Standards, May 5, 1985. Available from the Rabbinical Assembly. By 1986, Rabbi Roth had adopted a slightly different theory about the standard:

The two other Standards of a halakhic nature that now exist within the Rabbinical Assembly forbid officiating at the marriage of a Jew to a non-Jew and officiating at the remarriage of a divorced person whose prior marriage has not been halakhically terminated. *It never occurred to anyone to insist, or even to suggest, that papers had to be written defending our stand forbidding intermarriage or our position requiring a get or hafka'at kiddushin.* Papers are required to deal with new halakhic issues, to clarify ambiguous areas, or to recommend change—they are not required to reaffirm clear, unambiguous, and time-honored precedents.

This is a rather surprising statement. In 1972 the CJLS did, in fact, consider a paper by Rabbi Lubliner in opposition to intermarriage. In 1974, when the CJLS attempted to elevate its positions on conversion and intermarriage into Standards, Philip Sigal suggested that both motions were out of order without papers on which to vote. Although Sigal was overruled on both occasions, it is clear from the minutes that he suggested—and even insisted—on reviewing papers. See Joel Roth, “Correspondence,” *Conservative Judaism* 39:1 (Fall, 1986): 125-127.

In preparing this paper, I contacted Rabbi Roth, who—at least at the time of our conversation—continued to stand by the position expressed in his letter.

According to the *CJLS Summary Index*, the official guide to the rulings of the CJLS, this novel understanding of procedure is the official source for Standard (d).<sup>37</sup> If so, it may be procedurally problematic for several reasons. Rabbi Roth refers to “Standards of Rabbinic Practice” existing prior to 1972. This category did not exist before the 1972 Convention—in fact, the term is conspicuous by its absence even in the many written reflections produced in advance of the convention. Prior to 1972 there were only *unanimous* and therefore *binding* decisions of the CJLS. There was no consensus, however, on what the term “binding” meant. Because the CJLS had voted down the motion allowing for sanctions in 1948, prior to 1972, it was unclear if the RA had the authority to force rabbis to comply with unanimous decisions. This was *the very problem* that the 1972 Convention sought to rectify. The rules creating the Standards of Practice clearly allowed for sanctions, making “Standards” materially different than past “binding” decisions. Secondly, Rabbi Roth suggests that the policy adopted at the 1972 Convention was *not* retroactive; as noted above, both Rabbis Kelman (the RA’s chief executive) and Levi (the chairman of the CJLS) believed that it was retroactive (“Rabbi Kelman stated his view that all

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<sup>37</sup> The *Summary Index* offers two different statements on intermarriage. In the section titled “Intermarriage,” it notes the following:

A member of the Rabbinical Assembly or Cantors’ Assembly may not officiate at the marriage of a Jew to a non-Jew, may not co-officiate with any other clergyman and may not officiate or be present at a purely civil ceremony. A recommendation for expulsion may be made on these grounds. (Standard of Rabbinic Practice; Statement by Rabbi Aaron Blumenthal, Feb. 24, 1972).

The Committee on Jewish Law and Standards, *Summary Index*, (1994) 6:6.

In the section titled “Marriage and Divorce,” however, a different statement is offered, reflective of the problematic nature of the Standard:

A member of the Rabbinical Assembly or of the Cantors Assembly may not officiate at the marriage of a Jew to an unconverted non-Jew, nor may he/she co-officiate with any other clergy person, nor may he/she officiate at or be present at a purely civil ceremony, nor may the Conservative synagogue be used for such a marriage. (Minutes of the CJLS, 022472B; see RA Code of Conduct. Correspondence of the Chair, .050185.)

*Summary Index*, 9:13.

The first edition of the *Summary Index* (1994) seems to be the first official publication of the RA to cite Rabbi Roth’s letter as the source for the Standard. The 1998 edition notes, in underline, that Rabbi Roth’s letter *is not an official position of the CJLS*.

previous rules of procedures had been voided by the Convention”). Why else would the CJLS have raised the issue again in 1974? It appears that the committee itself knew that it stood on clay feet when it came to establishing a “Standard.” Finally, the RA has never considered another unanimous decision of the CJLS to be a “Standard.” Beyond the policy on interfaith marriage, there were many other unanimous decisions—both restrictive and permissive—between 1948 and 1972, none of which have been considered “Standards.”<sup>38</sup>

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<sup>38</sup> A complete list of these nearly two dozen opinions can be found in Robert B Slosberg, “Responsa and Papers of the Committee of Jewish Law and Standards,” *Conservative Judaism* 34:1 (September–October 1980): 43-54. The majority of these decisions are lenient rulings; of the few restrictive rulings, most have been revisited by the CJLS without procedural question.

In a phone conversation, Rabbi Roth argued that all unanimous decisions prior to 1972 are to be considered “standards,” and that while a rabbi may adopt a more rigid position than a decision demands, one may not be more permissive. The RA, however, has not called any other unanimous decision a “standard,” or prevented the CJLS from ruling against prior unanimous decisions—even with less than unanimity.

In 1963, for instance, the CJLS unanimously adopted a policy on *brit milah* that includes the following strong language:

Under no circumstances is [a rabbi] to give assent to a circumcisions when performed on other than the eighth day or by a religiously unauthorized person. He certainly may not officiate or otherwise take part in such a ceremony for a child. By word and by deed the rabbi must stand in protest against the violation of this basic rite in our religious tradition.

Given the logic in Rabbi Roth’s letter, this policy should be a “Standard.” While the CJLS seemed to retreat from this hardline position in 1983, it reversed this decision with near unanimity in 1984 and affirmed the more restrictive stance established in 1963.

Despite this, in 2001 the chair of the CJLS issued a ruling apparently based on the overturned *teshuva* of 1983:

*A hatafat dam brit* is required for a baby boy who received a hospital circumcision before the eighth day, and without *brachot*. The responsibility to perform the mitzvah of *brit milah* remains. However, if the parents will not permit *hatafat dam brit*, then the baby boy may still be named in the synagogue at a Shabbat *minhah* service. We recognize the need to keep the family identified with the Jewish community, and that the child is still a Jew and did not himself chose not to have a *brit milah*. However, the family should be sent a letter informing them that *hatafat dam brit* is required for the boy before he becomes a bar mitzvah. (Correspondence of the Chair, .081401. Not an official position of the CJLS.)

If the RA truly considers unanimous rulings prior to 1972 to be “standards,” surely such decisions would require more than a reversed “tentative *teshuva*” and a ruling of the chair to overturn.

See “Brit Milah,” in Golinkin, vol. iii: 134; David H. Lincoln, “Naming of an Improperly Circumcised



Because of its murky and elusive origins, Standard (d) has generated widespread confusion in the official publications of the RA and the Conservative movement. A few examples will suffice: in 1989, the CJLS—in a responsum by Jerome Epstein—states that the paper of Immanuel Lubliner (voted on in January 1972) opposing intermarriage “was later made into a Standard of Rabbinic Practice.”<sup>39</sup> As a source for this later policy change, Rabbi Epstein cites the minutes from the March 1974 meeting mentioned above;<sup>40</sup> he cannot cite the approval

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Child,” Committee on Jewish Law and Standards, *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement, 1986–1990*. (New York: The Rabbinical Assembly, 2001), 71-73; and *Summary Index* 8:2.

Similarly, in 1967, Rabbi Jack Segal authored a paper, unanimously adopted by the Law Committee, requiring a hearing before a *beit din* in order to exhume a corpse. Again, according to the approach advocated by Rabbi Roth, such a decision is to be considered a “Standard.” Yet, in 1996, the CJLS approved a paper by Rabbi Myron Geller that allowed a rabbi to make such a decision by himself, without a *beit din*. Only after the paper was passed, in an 18-1 vote, did Geller note the previous ruling of the CJLS. Geller writes:

After this paper was completed, I learned from Rabbi Mayer Rabinowitz that *teshuva* on disinterment by Rabbi Jack Segal had been approved unanimously by the CJLS. Rabbi Segal “suggests that every problem of disinterment be presented before a board of three rabbis, and that each case should be judged on its own merits.” In my view, the *marah d’atrah* should determine if this called for and may prefer ruling on the matter without recourse to a *bet din*.

If unanimous decisions of the CJLS prior to 1972 were considered “Standards,” surely it would have been known the CJLS! Yet the Committee ruled without even consulting the previous *teshuva*, and then took no corrective course once Rabbi Rabinowitz brought the prior *teshuva*’s existence to their attention. If the Committee understood such papers to be “Standards,” one might anticipate more debate around the abrogation of a norm.

See Jack Segal, “Disinterment,” in Golinkin, vol. iii: 195, and Myron Geller, “Exhuming the Dead,” in Kassel Abelson and David J. Fine, ed., *Respona, 1991-2000, The Committee on Jewish Law and Standards of the Conservative Movement*. (New York: The Rabbinical Assembly, 2001), 413.

Finally, in March of 1982, the CJLS passed a series of papers on *keruv*. The papers advocate a broad spectrum of practices: on one end, a paper by Rabbi Kassel Abelson seems to allow a patrilineal Jew of questionable status to marry a matrilineal Jew. On the other end of the spectrum, Rabbi Roth advocates barring an intermarried Jew from receiving honors in a congregation, except in the most limited of circumstances. None of the papers, though, make mention of a particular standard barring rabbis from officiating or attending interfaith marriages. See *Proceedings of the Committee on Jewish Law and Standards, 1980-1990* (New York, The Rabbinical Assembly 2001) 129-167.

<sup>39</sup> Jerome Epstein, “Congratulations to Mixed Marriage Families,” in Committee on Jewish Law and Standards, *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement, 1986–1990*. (New York: The Rabbinical Assembly, 2001), 460.

<sup>40</sup> *Ibid.*, 464. In preparing this paper, I contacted Rabbi Epstein. He stands by the claims made in his

of the Convention because, as Rabbi Roth notes, the convention never approved the Standard.

More recently, in the Rabbinical Assembly's guide to Jewish practice *An Observant Life*, we find, again, a wholly inaccurate attribution for the origin of the Standard. This time, the source cited is Joel Roth and Akiba Lubow's Standard of Practice on patrilineal descent from 1985.<sup>41</sup> Although the "Standard" mentioned *was* adopted in 1985 according to the rules of 1972,<sup>42</sup> it deals exclusively with Jewish identity and patrilineal descent. Nowhere does it mention, or even allude to, interfaith marriage.<sup>43</sup> It certainly never even implies that "Conservative rabbis are absolutely forbidden from officiating at or participating in

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paper, and asserts that the editorial process of the CJLS would have corrected any factual errors that might have been present.

<sup>41</sup> The attribution reads:

Conservative rabbis are absolutely forbidden from officiating at or participating in intermarriages. (*The rabbinic standard authored by Rabbis Joel Roth and Akiba Lubow and referenced above with respect to the question of patrilineal descent also bars members of the Rabbinical Assembly from being associated in either of these ways with intermarriages*; cf. CJLS Responsa 1980–1990, pp. 379–380.) Such a marriage is not a Jewish marriage and a rabbi's authority to perform weddings is by definition limited to weddings that solemnize Jewish marriages.

See Carl N. Astor, "The Jewish Lifecycle," in Martin S. Cohen, ed., *The Observant Life: The Wisdom of Conservative Judaism for Contemporary Jews* (New York: The Rabbinical Assembly, 2012). Kindle edition. In the process of preparing this paper, I contacted Rabbi Astor. At the time of our correspondence, he maintained the validity of his citations.

<sup>42</sup> Joel Roth and Akiba Lubow, "A Standard of Rabbinic Practice Regarding Determination of Jewish Identity," in Committee on Jewish Law and Standards, *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement, 1980–1988*. (New York: The Rabbinical Assembly, 1988), 177–178.

<sup>43</sup> The Roth/Lubow Standard asserts the following; note that marriage is not discussed:

THEREFORE, BE IT RESOLVED that the Committee on Jewish Law and Standards recommends to the Convention of the Rabbinical Assembly that: (a) ascription of Jewish lineage through a legal instrument or ceremonial act on the basis of anything other than matrilineal descent; or (b) supervision of a conversion which omits *tevilah* in the case of females, or *tevilah* and *brit milah* in the case of males shall continue to be regarded as violations of the *halakhah* of Conservative Judaism.

They shall henceforth be violations of a Standard of Rabbinic Practice and be inconsistent with membership in the Rabbinical Assembly, it being understood that any member of the Rabbinical Assembly shall continue to possess the right to petition the Committee on Jewish Law and Standards for an opinion on any case of extraordinary circumstances.

intermarriages.”<sup>44</sup>

The Standards of Rabbinic Practice are of tremendous importance for members of the Rabbinical Assembly. They assert firm guidelines and boundaries for Conservative Judaism and its affiliated organizations. In creating them, the Rabbinical Assembly thoughtfully crafted policy, and established a high bar for consensus—as Rabbi Fishel Perlmutter once noted in a different context: “Some wags believe that a resolution to express ‘*gesundheit*’ to a sneezing colleague would find 75% in favor hard to attain.”<sup>45</sup>

The standard barring interfaith marriage never cleared such procedural hurdles within the Rabbinical Assembly.<sup>46</sup> It is possible that, today, the RA’s membership and the CJLS believe such a standard necessary. If they do, it should be affirmed in accordance with the rules established in 1972. It is equally possible, though, that today’s Rabbinical Assembly might be unwilling to impose sanctions on its membership for the performance of an interfaith marriage, given the radical change in demographics over the past 40 years and the unstable ground on which the standard rests.

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<sup>44</sup> Astor, accessed electronically.

<sup>45</sup> Fishel Perlmutter, “Will Egalitarianism Compel the RA?” in *Sh'ma: A Journal of Jewish Ideas* 13:250 (March 18, 1983): 78.

<sup>46</sup> In this paper, I have tried to advance the argument that the Standard of Practice barring intermarriage does not exist. Of course, it is difficult argue a negative supposition. That being said, those who believe such a ban exists and should be enforced must note an important rule of jurisprudence: *Affirmanti, non neganti incumbit probatio*: the burden of proof lies with the one who affirms, not denies—stated in the Babylonian Talmud as “*hamotzi me-chaveiro alav ha-re'ayah*” (*Bava Kamma* 35a).

**Reclaiming the Bible as a Jewish Book: The Legacy of Three Conservative Scholars  
(Yochanan Muffs, Moshe Greenberg, and Jacob Milgrom)**

Benjamin D. Sommer

Does the Bible matter to contemporary religious Jews, and if so, how? The question might seem an odd one, but modern Jews have long had ambivalent attitudes toward biblical study. The Bible's status has suffered from two types of pressure, one long-standing in traditional Judaism and the other relatively recent. The first type of pressure results from the fact that the Bible is not the only sacred book of the Jews, and, on a practical level, it is not the most important one. The Talmuds and other rabbinic books have an important—one can even say, a scriptural—status in Judaism as it has existed for the past fifteen or so centuries. Jewish law as we practice it is set forth in rabbinic texts, not in the Bible. When one wants to know whether a pot or pan is kosher, whether a business transaction is permissible, or what time the Passover Seder must begin, one does not open up a Bible. One turns instead to works of rabbinic literature. Central Jewish beliefs regarding messianism, the resurrection of the dead, and the nature of God find expression in rabbinic and post-rabbinic texts and are mentioned in the Bible barely or not at all. What the modern Jewish philosopher Moshe Halbertal refers to as the “normative canon” of Judaism (the set of rules by which Jews live) is found not in the Bible but in rabbinic literature. What Halbertal calls its “formative canon” (the set of texts whose study helps create, shape and maintain the Jewish community) is found in both, but rather more prominently in the latter.

If Jewish tradition complicates the role of the Bible, then modern biblical criticism—that is, the sort of biblical study carried out by professors in universities, colleges, and seminaries—has thrown that role into question altogether. Biblical criticism has undermined the perception that the Bible is holy, the claim that the Bible has something vital to teach Jews living in every place and any era. During the past two and a half centuries, biblical critics have denied Moses' authorship of the Torah, asserting that Genesis, Exodus, Leviticus, Numbers and Deuteronomy bring together documents that were originally separate from each other. They argued persuasively that these underlying documents contradict each other in regard to details of plot: What was the order in which God created the world? How many of each animal did Noah bring onto the ark, two or seven? How long did the flood last? Where was God located when the Torah was given at Sinai, in heaven or on earth? More importantly, these contradictions also pertain to

theological issues: Is God fundamentally transcendent or immanent? Does God punish the children, grandchildren, and great-grandchildren of sinners for the sinner's crime? Can one see God? The discovery that the laws found in Exodus through Deuteronomy were not in any literal sense Mosaic and the realization that the Torah contradicts itself were greeted with dismay by many Jews, who felt that by making these claims, biblical critics attacked the root of Jewish religiosity.<sup>1</sup> An example of this attitude is a famous statement made in 1903 by Solomon Schechter, the President of the Jewish Theological Seminary from 1902 to 1915 and one of the founders of the Conservative movement in North America. Schechter maintained that "higher criticism" of the Bible (that is, the branch of biblical criticism that analyzes the authorship of biblical books) is nothing more than "higher anti-Semitism."<sup>2</sup>

As a result, the Bible's claim to be a sacred text presents a problem for modern Jews. (By "modern Jews" I mean here those who are open to historically oriented, academic ways of studying Judaism.) Because they are not quite able to regard the Bible as revealed or inspired in the manner it was (and is) for pre-modern forms of Judaism, many modern Jews tend to regard the anthology that is the Bible as a historical artifact or as an object of nostalgia. Their relationship to the Bible is ethnic and national in nature, but it is not religious. Jews who subscribe to this approach do not connect the Bible with God, nor do they use it to connect themselves to God. They may accord these texts an honored place as the oldest classical literature of the Jewish nation, but their conception of the Bible does not allow for a serious form of Jewish religiosity. It does not even claim to do so; for proponents of this option (for example, for many secular Zionist thinkers), the Bible is no longer sacred scripture and is not regarded as

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<sup>1</sup> In addition, some Jews have regarded biblical criticism as unnerving because it casts doubt on the historical reliability of biblical texts. The extent of this challenge for believers who are not overly concerned with minutia has been vastly exaggerated, however, since there is no archaeological or historical reason to doubt the core elements of the biblical history: namely, that the ancestors of the Israelites included an important group who came from Mesopotamia; that at least some Israelites were enslaved to Egyptians and were surprisingly rescued from Egyptian bondage; that they experienced a revelation that played a crucial role in the formation of their national, religious and ethnic identity; that they settled down in the hill country of the land of Canaan at the beginning of the Iron Age, around 1300 or 1200 B.C.E.; that they formed kingdoms there a few centuries later, around 1000 B.C.E.; and that these kingdoms were eventually destroyed by Assyrian and Babylonian armies.

<sup>2</sup> Solomon Schechter, "Higher Criticism—Higher Anti-Semitism," in *Seminary Addresses and Other Papers*, with an introduction by Louis Finkelstein (New York: Burning Bush Press, 1959), 35-39.

having been revealed by God to the Jewish people.

Other modern readers attempt to forge a religious relationship with the Bible by temporarily renouncing the intellectual skills they use in other parts of their life so that they can read the Bible with a sort of feigned naïveté. For proponents of this option, studying the Bible as a human, historical artifact would preclude reading the Bible as sacred scripture. Consequently, they may decide that the findings of modern biblical scholarship have to be denied in order to save the Bible as religiously relevant. Alternatively, they may decide that these findings have to be ignored—that is, these Jews may bracket their ability to think critically and their knowledge of history whenever they activate their religious identity. This option is deeply problematic, because it proposes to build Jewish religiosity on a foundation of bad faith, erecting a barrier separating truth from religion.

Both these options display what we might call “either/or” thinking: either the biblical critics are right or the religious readers of scripture are right. But one of the great strengths of the Conservative movement has been its insistence on adopting what we might call a “both-and” approach to Judaism as a whole: the Jew is required to hold on to both sides of a polarity, to accept that there is truth to both sides. Readers of Abraham Joshua Heschel, for example, will recall how often the master theologian of the movement criticizes Jews who only value one side of a polarity. For Heschel, the authentic Jew does not focus on study instead of action, or action instead of study; she does not value spontaneity instead of set structure, nor does she idolize structure over spontaneity but accepts the crucial need for each of these religious values. How, then, should one apply this “both-and” model to the challenges of biblical criticism?

### **A Threefold Cord**

An answer to these two questions emerges from studying the writings of three major biblical scholars who died less than a decade ago: Yochanan Muffs, Moshe Greenberg, and Jacob Milgrom, זכרונם לברכה (may their memory be for a blessing). I would like to suggest that these scholars show that Jews who want to be both modern and religious don’t need to be afraid of biblical criticism (not even the “higher criticism” that so disturbed Schechter), because biblical criticism can enrich a Jew’s commitment to the Bible and its teachings. More

specifically these scholars demonstrated that the great Jewish conversations and debates that are so central to Judaism begin already in the Tanakh itself, and not just in the literature of the rabbis such as the Talmuds and the midrashim. They did not solve all the problems presented by biblical criticism—in particular, they did relatively little to address the question of how divine authorship or inspiration relates to the ancient Israelite documents found in the Bible, which is a crucial issue still in need of serious attention. But they did establish that studying the Bible openly and with intellectual honesty can produce results that add depth to one's practices and learning as an observant, thoughtful, modern Jew.

Yochanan Muffs taught at the Jewish Theological Seminary in New York; Jacob Milgrom, at the University of California Berkeley and also as a frequent visitor at the Hebrew University in Jerusalem; and Moshe Greenberg, initially at the University of Pennsylvania and, after making aliyah in the early 1970s, at the Hebrew University, as well as at the Jewish Theological Seminary's Jerusalem campus (now an independent institution known as מכון שכטר, the Schechter Institute). These three scholars, all of them Conservative rabbis, were close both personally and professionally for many decades, ובמותם לא נפרדו: the three of them died during the six-month period from December, 2009, to June, 2010. All three were enormously influential in the academic world. Their books, commentaries and articles are regularly cited among biblical critics, both Jewish and Christian. But the full measure of their legacy, I think, is not yet appreciated. In what follows I would like to step back from their work on specific biblical texts and historical questions to talk about how they relate to the larger field of biblical studies and how they helped to transform it. To do so, I will describe the broad thematic aim of their work; I will examine how those aims relate to the academic field of biblical criticism; and I will show how their scholarship was shaped by the approach of Conservative Judaism. In all this, I am not only attempting to appreciate these three great scholars; more importantly, I am using their work as a window into the challenges that biblical criticism poses to modern religious Jews in general and to Conservative Jews in particular, and I employ their writings to exemplify a successful way of responding to those challenges.<sup>3</sup>

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<sup>3</sup> I should note that unlike many faculty members at JTS, and unlike many Conservative rabbis, I did not study with these three men, and I barely knew them personally. I met each of them only once, chatting with Muffs at a conference for about five minutes and with Greenberg and Milgrom at their homes in

These three biblical scholars, in my estimation, shared a single intellectual project. As Jewish scholars, they wanted to reclaim the Bible as a Jewish book, and, as scholars of the humanities, they wanted to reclaim the Bible as an interesting book. To see what I mean by this, it will be helpful to examine how Professors Muffs, Greenberg, and Milgrom reacted against biblical scholarship that preceded them. Thus before I discuss their work, I will need to describe some characteristics of biblical criticism as it existed before the 1970s.

### **Biblical Criticism Until the 1970s**

Biblical criticism as an academic field was originally almost entirely a Protestant pursuit. The field emerged at universities and seminaries in central and western Europe in the late eighteenth and early nineteenth centuries. Neither Catholics nor Jews were involved in this field in any significant numbers during the first century and a half of its existence. By the mid-twentieth century some Jews became involved in the field of biblical criticism, especially at Israeli universities. But only in the 1970s did significant numbers of Jews begin to join what we might call the guild of biblical critics in North America. Thus the norms according to which modern academics study scripture were almost entirely shaped by Protestant scholars until well into the twentieth century. These norms were dictated by the ways Protestants conceive of scripture—that is, the ways they assumed it is sensible to read scripture and the roles they thought scripture naturally plays in religion and society. It is important to note that Protestant answers to the questions, “Why is scripture important, and what is its function in a religious community?”, differ substantially from Jewish, Catholic and Eastern Orthodox answers to these questions.

As a result, biblical criticism has often made a strong divide between the Bible and

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Jerusalem for a few hours. On the other hand, though I never had the privilege of sitting in their classrooms, I regard each of them as my teacher, because their writings have had an enormous influence on my published work. The claims I make about their goals and the origins of their approach are based not on personal knowledge but on my reading of their books, articles, and commentaries. In this respect what I say about them doesn’t differ from what a scholar might write about the religious goals and intellectual genealogy of, say, Rashi or Maimonides based on a careful study of their work and their historical contexts.



Judaism as we know it. The goals behind this divide are varied, and not in all cases objectionable. They stem not only from the ill-disguised anti-Judaism of biblical critics in the nineteenth and early twentieth centuries but from scholars' admirable determination to avoid anachronistic interpretations. The core of biblical criticism might be described in this way: We biblical critics do not necessarily accept classical Jewish or Christian interpretations of the Bible. Just because Rashi or Augustine said that this passage or that verse has a particular meaning, it does not follow that the original audience of the text understood it that way. Rather than seeing the Bible through the eyes of the rabbis or the Church Fathers, modern biblical critics attempt to see the Bible in the context of its own cultural world, which was the ancient Near East. That is why we biblical critics spend so much time in graduate school immersing ourselves in the languages and cultures of ancient Canaan, Babylonia, Assyria, and so forth. The goal of this immersion is to achieve literary competence that allows us to read texts from the ancient Near East sympathetically, noticing what ancient readers are likely to have noticed and reacting as they reacted. A fundamental goal of the modern scholarly interpretation of the Bible is to distinguish between what the Bible says and what the classical rabbis or the Church Fathers say the Bible says. Now, this is a worthy goal, but many biblical scholars took these goals further, insisting that the Bible is not really a Jewish book at all, and sometimes insisting that it is not a Christian book either. For these biblical critics, it has to be an either/or: since the Bible is an ancient Near Eastern book, it cannot also be a Jewish book. Many biblical critics, both Jewish and Christian, have created a firewall between biblical religion and Jewish culture. These scholars insist that it is illegitimate to use rabbinic lenses to look at the Bible, it is pointless to use rabbinic commentaries, and it is perverse to think about the Bible in terms of classical Jewish ideas or values.

This way of thinking—let's call it "the firewall mentality"—relates in interesting ways to points of view that predate modern biblical criticism. One of these points of view stems from ancient and medieval Christianity and the other, surprisingly enough, from traditional Judaism. On one level, the firewall mentality is not an invention of the modern world. It is just a new form of anti-Jewish supersessionism—that is, the idea (repudiated by many modern Christians, most famously by the Catholic Church at the time of the Second Vatican Council) that with the emergence of Christianity, the Jewish people are no longer the covenantal community created by

the Bible, because the Church has replaced the Jews as the true Israel. At the same time, this mentality meshes well with an attitude common among some elements of rabbinic culture in the Middle Ages and the modern world. That attitude downplayed the importance of biblical study; recall that the curriculum of traditional Eastern European yeshivot, for example, focused almost entirely on Talmud and usually included no biblical study. After all, a correlate to the view that biblical critics shouldn't look at the Bible as part of Judaism might be that a student of Judaism need not look at the Bible—which matches the reality of many yeshivot rather well.

The Protestant origins of biblical criticism also appear in an aversion to ritual and to physical expressions of religious feeling that typified a fair amount of biblical criticism before the 1970s. Protestant biblical critics made assumptions that Jewish thinkers (and also many Catholic theologians) regard as incorrect or even bizarre. These include the idea that the spirit is religiously superior to the flesh, or even that the spirit is genuinely distinct from the flesh; the notion that grace and law are in opposition to each other; and the assumption that rituals are nothing more than educational symbols, and thus they are basically pointless for people who are more intellectually and spiritually sophisticated. These sorts of prejudices had an enormous effect on the work of the great German biblical critic Julius Wellhausen (1844-1918).

Wellhausen argued that Israelite religious expression in its earliest and purest form was fresh, natural, spontaneous, and the realm of the individual, but that it later shrank into an artificial set of ordinances and institutions that, in his opinion, typify post-biblical Judaism. This view manifests itself especially in Wellhausen's influential views of the Priestly document or "P," which is one of the four documents that, according to the convincing analysis of "higher criticism," were edited together to create the Torah. (Priestly material is found throughout the Torah and is concentrated especially in the Book of Leviticus, which contains only P material.) Wellhausen regarded P as ritualistic and thus as proto-rabbinic. For him, P lacked a robust notion of ethics; it was radically removed from the inspiring religion of the prophets and was fundamentally uninteresting from a religious (that is, a Protestant) point of view. (I should add that in spite of his negative attitude toward the Jewish religion Wellhausen was not himself an anti-Semite in his political or social views. Further, and even more importantly, most of his work, in spite of its many flaws, is truly brilliant and still worth studying closely and respectfully.)

One final characteristic of biblical criticism to which Muffs, Greenberg and Milgrom respond needs to be mentioned, Biblical criticism has tended to portray the Bible as much less interesting than we usually think it is—less interesting humanistically, theologically, and existentially. We see this, for example, in the obsession that some biblical critics have with etiology—that is, with reading stories in the Bible as attempts to explain the origin of some custom, name, or cultural institution. It is clear that some biblical passages do contain etiologies (for example, the story of how God “passed over” [פסח, *pasah*] the houses of the Israelites in Egypt provides an etiology for the name of the holiday commemorating the Exodus [פסח, *pesah*]), but many biblical scholars either found etiologies everywhere or interpreted stories as if they contained nothing besides an etiology. Thus some critics have claimed that the creation story in Genesis 1 is nothing more than an attempt to explain the peculiar Israelite habit of not working every seven days, or that the story of the Tower of Babel in Genesis 11 is just an etiology explaining the origins of the world’s many languages. These kind of critics (and there are many of them still today) regard the Bible as far less profound than many people suppose it to be.

### **The Response to the Challenge**

How might a religious Jew, or a religious Christian, react to these characteristics of biblical criticism? The easiest responses are either to reject biblical criticism, or to reject the Bible as a religious document. Certainly many Jews throughout the nineteenth and twentieth centuries availed themselves of these options. Starting in the 1960s and 1970s, however, several Jewish and Christian scholars refused to accept the dichotomy according to which one must reject either the Bible or biblical criticism. One sees this trend, for examples, in the work of the great Christian biblical scholars Brevard Childs (who taught at Yale) and James Barr (the Regius Professor of Hebrew at Oxford, and later a faculty member at Vanderbilt and at Claremont). At roughly the same time literary scholars like Meir Weiss (Hebrew University), James Muilenburg (Union Theological Seminary), and Robert Alter (Berkeley) focused attention on the humanistic depth and psychological sensitivity of the Hebrew Bible’s narrative and poetry. These trends also emerge in a distinctive way in the work of the three scholars I am discussing.

Now with all this background, let us look at what I think are the two core ideas in the work of our three scholars—namely, that the Bible is a book of important Jewish value and a book of important existential value. I will begin with the first of these claims. Muffs, Greenberg and Milgrom believe that it makes sense to study the Bible in a Jewish context, as part of an ongoing Jewish conversation. To achieve a deeper understanding of the Bible, scholars can and should utilize not only modern critical tools such as archaeology and linguistics but also rabbinic midrash, as well as the work of medieval Jewish interpreters (many of whom were themselves superb linguists). Thus all three of them brought the classical Jewish interpreters back into conversations about the Bible among modern scholars. In so doing, they made clear to their colleagues in the academic world that the Bible is (among other things) a Jewish book. At the same time, they demonstrated something crucial to their fellow Jews (and especially their rabbinic and educational colleagues): Jews who want to study the Bible as their scriptures have much to gain by turning to certain modern scholars. A rabbi, an educator or a Jewish layperson who is preparing a *devar torah* for a minyan or who is preparing to lead a lively Passover seder will often begin by opening up ancient and medieval commentaries on the Bible like Rashi or *Midrash Rabbah*. The work of Muffs, Milgrom and Greenberg shows that such a person can also profit by looking at the writings of biblical critics who read the Bible with literary sensitivity and theological seriousness. Those biblical critics address some of the same thematic issues that Rashi or the midrash address, but they do so from a different and original point of view; further, they help us see additional religious or ethical themes that the earlier commentators did not discuss.<sup>4</sup>

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<sup>4</sup> I should note that none of our three scholars really came out and articulated these ideas in any programmatic statement. Rather, these ideas guide their work and are implied by their work, but they are never the thesis of a particular book or article. Greenberg did address some of these issues in short but instructive essays he wrote, many of them collected in two anthologies: Moshe Greenberg, *‘Al Hammiqra’ Ve‘al Hayyahadut* [in Hebrew] (Tel Aviv: Am Oveid, 1984), and Moshe Greenberg, *Studies in the Bible and Jewish Thought* (Philadelphia: Jewish Publication Society, 1995). See also his comments on the important place of ancient and medieval commentators for modern interpreters in Moshe Greenberg, *Understanding Exodus* (New York: Behrman House and the Melton Research Center of the Jewish Theological Seminary, 1969), 5-7. Milgrom does not discuss his intention to demonstrate the “organically bound together and... mutually illuminating” nature of P and post-biblical texts, but Avigdor Victor Hurowitz does so (in his review essay about Milgrom, “Ancient Israelite Cult in History, Tradition

### **Jacob Milgrom**

These tendencies pervade the work of these scholars. Here I will give just a few samples from their writings, starting with Professor Milgrom. Milgrom is most famous among scholars for his massive three-volume commentary on the Book of Leviticus, by the far the most detailed and important study of the book ever written.<sup>5</sup> (A somewhat uneven abridged version was also published.<sup>6</sup>) He wrote a shorter, more user-friendly commentary on Numbers as well.<sup>7</sup> When one pages through any of Milgrom's commentaries, it immediately becomes clear that he perceives strong elements of continuity between the Bible and Jewish culture in the same way that modern scholars have long perceived continuities between the Bible and ancient Near Eastern cultures. For this reason, in his quest to understand difficult texts from Leviticus and Numbers, Milgrom utilizes comparisons and insights from both rabbinic literature and literature written in Akkadian, Ugaritic, and Hittite (languages of ancient Mesopotamia, northern Canaan, and Asia Minor, respectively). In turning to each of these types of literature, Milgrom was not innovating. Biblical critics since the late nineteenth century had already shown that Mesopotamian texts such as the Code of Hammurapi or the Gilgamesh Epic, to name just two examples, shed light on biblical texts, even though some of those texts were composed as much as a thousand years before the biblical texts. Milgrom continues this scholarly tradition with particular thoroughness and efficacy. And of course it was long the norm for Jewish scholars to use rabbinic commentaries in studying biblical texts. What is distinctive about Milgrom's work is the way he pursues both agendas on the same page—indeed, even in comments on a single verse, phrase or word. By using insights he gleans from both types of literature, Milgrom places the Bible on a long trajectory that moves backward from the Bible to the ancient Near East and forward toward

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and Interpretation," *AJS Review* 19 [1994]: 213-36; the phrase I quote comes from page 221), and Milgrom acknowledges that Hurowitz describes him correctly on page 2452 of his *Leviticus 23-27* (concerning which see the next note).

<sup>5</sup> Jacob Milgrom, *Leviticus 1-16: A New Translation with Introduction and Commentary* (Anchor Bible; New York: Doubleday, 1991); *Leviticus 17-22: A New Translation with Introduction and Commentary* (AB; New York: Doubleday, 2000); and *Leviticus 23-27: A New Translation with Introduction and Commentary* (AB; New York: Doubleday, 2001).

<sup>6</sup> Jacob Milgrom, *Leviticus: A Book of Ritual and Ethics* (Continental Commentary; Minneapolis: Fortress Press, 2004).

<sup>7</sup> Jacob Milgrom, *Numbers* (JPS Torah Commentary; Philadelphia: Jewish Publication Society, 1989).

rabbinic Judaism. Milgrom shows that just as earlier literature is relevant for understanding the Bible (even though some of it predates the biblical texts by a millennium), so too rabbinic works edited a thousand years after the biblical era can enhance our understanding of the Bible. The Bible in many ways grew out of the literary and cultural traditions of ancient Canaan and Mesopotamia, so that tracing the connections from Canaan and Mesopotamia to Israelite literature helps us understand the later texts; by the same token, examining how biblical culture grows into later Jewish cultures also helps us to understand what was latent or potential in the Bible.

Milgrom emphasizes the importance of ethics and values especially in Priestly literature (which biblical critics often call the P document), precisely where biblical critics like Wellhausen argued that ethics and values were absent. This becomes clear, for example, in Milgrom's understanding of the *זִבְחֵי עֹלָה*, or guilt offering, described in Leviticus 5. Several priestly passages, such as Numbers 15:22-23 and Leviticus 5:14-19, make clear that a person can offer sacrifices to atone for certain sins only if the sins were committed inadvertently. If a person sinned knowingly and on purpose, then the basic principle was that forgiveness was not an option. Thus, Leviticus 5:14-19 gives rules concerning people who committed certain sins by accident and subsequently realized they had sinned; these people are required to offer the *זִבְחֵי עֹלָה*. But that passage goes on to give a rule in Leviticus 5:20-26, according to which even a person who sinned on purpose can offer the guilt offering. (A similar rule appears in Numbers 5:5-10.) Why, Milgrom wondered, is the deliberate or intentional sinner in these passages allowed to offer the sacrifice and receive forgiveness? Because, Milgrom explains, the sinner felt remorse: Leviticus 5:23 addresses the case of a deliberate sinner who "feels guilty" (which is how Milgrom translates the verb *וַיִּזְכֹּר*) and confesses. The confession that follows the remorse renders his intentional sin an inadvertent one. Milgrom argues that the term *וַיִּזְכֹּר*

involves the self-punishment of conscience, the torment of guilt...[and] refers to psychological guilt...In the Priestly demand for remorse and reconciliation we see the genesis of repentance, the doctrine that will flower into full bloom with Israel's prophets.<sup>8</sup>

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<sup>8</sup> *Leviticus 1-16*, 345.

Thus Milgrom points out that the idea of repentance shows up in priestly literature, in the frequently-used verb נָשָׁח. Wellhausen and other biblical critics were wrong to assume that the priestly literature does not speak in terms of ethical values familiar from the prophets. While the priests' terminology differs from the prophets', the idea is present. Moreover, Milgrom shows, the priests were distinctive in their emphasis on physical and external expressions of spiritual and internal feelings. The core of the priestly doctrine of repentance was not only theological but even more importantly psychological, because it was sensitive to the needs of the regretful sinner. Guilt and shame can destroy a person from within, but by requiring the sinner to perform a concrete action, P permits the sinner to achieve "a catharsis of conscience"<sup>9</sup> that mere confession by itself might not yield. Thus P's main thrust in discussing these rituals was not guilt but forgiveness, not strict law but mercy.

Similarly, Milgrom points out that Priestly literature emphasizes the communal effect of individual action. P requires that a person must bring a זֶבַח offering at the sanctuary after committing certain deeds, some of them sinful and others praiseworthy or morally neutral. Though זֶבַח is often translated as "sin offering," it is clear that the purpose of this ritual was not to rid a sinner of his or her guilt, since in many cases the person required to bring the זֶבַח had committed no sin at all. In fact, Milgrom argues, the זֶבַח had no effect on the individual who committed the act that led to the need for the offering. Rather, Milgrom shows in a brilliant textual interpretation that utilizes both etymology and close reading, the word זֶבַח means not "sin offering" but "purification offering." This offering purifies not the individual who brings it but the altar in the sanctuary, which is a concern of all Israelites. Rather than being about one person's guilt, the זֶבַח purifies the altar, which became ritually impure because of some deed the person committed. Ritual impurity in the Bible is not in any way prohibited or sinful; indeed at times it is required or praiseworthy. But when impurity attaches itself to the altar, it can repel God's presence, because impurity, which is associated with death, is antithetical to the God who never dies. Thus the זֶבַח's goal is to alleviate the potentially dangerous effect on the community of an individual's action; the entire Israelite nation is concerned with the possibility that God

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<sup>9</sup> This phrase appears in *Leviticus* 1-16, 377.

might leave the sanctuary if the altar accumulates too much impurity. The person who brings a תִּשְׁטֹף does so not primarily for his or her own sake but for the sake of the community as a whole.

Milgrom acts as what we might call a textual anthropologist when he shows us that P's rituals are a religious and ethical language. Like an anthropologist, Milgrom attempts to observe the world of Priestly ritual and thought from the inside and to describe it sympathetically. (Unlike his colleagues in the Department of Anthropology, of course, he cannot travel to a place where the culture currently exists to observe and describe it, and so instead he takes texts from the ancient culture that concerns him and reads them with great care.) According to Milgrom, religious rituals express core Jewish and humanistic values through symbolic action. These values are congruent with the religious system of rabbinic Judaism. In making these claims, Milgrom was disagreeing with Wellhausen and with pre-1970s biblical criticism generally, first of all by showing that P is religiously interesting. As we have seen, Priestly rituals deal with issues of guilt, forgiveness, and the communal implications of individual action. Elsewhere, he shows that rituals encode ideas about the relationship between religious hierarchy and religious equality, about divine transcendence and immanence, and above all about divine grace. Thus P is not only about outward acts, but about interior, psychological and spiritual states that express themselves through the outward acts. Further, Milgrom disagrees with older biblical criticism in his approach to the relationship between P and rabbinic Judaism. He shows that P is Jewish—that is, that P's religious world anticipates the rabbis of the Talmudic era not only in its attention to ceremonial minutia but also in the core values the ceremonies express. Here, Milgrom seems at first to agree with Wellhausen, who also regards P as Jewish, but Milgrom takes this characteristic in a totally different direction. For Milgrom, “Jewish” does not mean “committed to childish and meaningless rituals;” rather, “Jewish” means “expressing core humanistic and religious values through ritual.”

### **Yochanan Muffs**

Similar characteristics are present in the work of Yochanan Muffs. I will take as my first



example his book *The Personhood of God*,<sup>10</sup> a work of great depth and subtlety that is nonetheless surprisingly readable. In *Personhood* Muffs stresses ideas that will make many modern Jews uncomfortable: God, God's humanity, God's grace. (Religious Jews committed to Maimonides' philosophical form of Jewish belief will admire Muff's decision to focus on God but will be deeply uncomfortable with what Muffs has to say about the deity's human characteristics.) Against the tenor of some modern religious thinkers, Muffs does not shy away from the Bible's anthropomorphic conception of God. In fact, he argues, in many ways the Bible's understanding of God is more anthropomorphic than the concepts of divinity in ancient Babylonian and Assyrian religion. Further (and again disconcertingly for many Jews) he claims that the rabbis' theology is even more anthropomorphic than the Bible's. As a result, he makes biblical religion seem less rational, more primitive, and, for many modern people, insufficiently monotheistic. It is here that Muffs delivers his surprise: the personal, emotional God of the Bible is more monotheistic, not less monotheistic than the God of rationalist philosophers. This is because the anthropomorphic, emotional God of the Bible and rabbinic literature is radically free, whereas the fully rational God of the philosophers is predictable, stable, and thus not truly free. A deity who cannot make the emotional, irrational choices the biblical and rabbinic authors attribute to God is not truly omnipotent. Only a God who is completely omnipotent, subject to neither nature nor reason, is truly a monotheistic God.

In presenting this argument about the monotheistic God's freedom, Muffs synthesizes the teachings of two modern Jewish thinkers: Yehezkel Kaufmann and Abraham Joshua Heschel. Kaufmann was an Israeli biblical scholar who spent decades composing an eight-volume masterpiece, תולדות האמונה הישראלית, which appeared, volume by volume, from 1937 to 1956. (This title is usually translated as "The History of Israelite Religion" but could also be rendered "The Generations of Israelite Belief.") Kaufmann also wrote other works in biblical scholarship and a two-volume study of the social and ideological forces that characterize Jewish history in the Exile, גולה ונכר ("Exile and Alienation"). Heschel was a scholar of rabbinic thought, Jewish

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<sup>10</sup> Yochanan Muffs, *The Personhood of God. Biblical Theology, Human Faith and the Divine Image* (Woodstock, VT: Jewish Lights, 2005). The book is also available in Hebrew as *Ishiyuto shel Elohim: Te'ologiyah Miqra'it, Emunah Enoshit, Udemut Ha'el* (Jerusalem: Hartman Institute and Keter Publishing, 2007).

philosophy, kabbalah, and Hasidism, but most of all he was a constructive theologian in his own right. Muffs was a disciple of both, though in different ways: as a rabbinical student and later a faculty member at the Jewish Theological Seminary he knew Heschel and studied with him; and, like most Jewish biblical scholars in the second half of the twentieth century, he was deeply influenced by Kaufmann. These two thinkers stand at opposite ends of the spectrum that is Jewish thought. Kaufmann was a rationalist and a historian. In many ways his work on the Bible presents an attempt to historicize abstract ideas from a book written by the Reform Jewish philosopher Hermann Cohen, *Religion of Reason out of the Sources of Judaism* (first published in 1919). Kaufmann shows how Cohen's thesis about the nature of monotheism correctly describes the religious ideas of the Bible. For the Bible, as for a rationalist philosophy of religion, God is absolutely free, separate from the world, and in no way subject to the forces of nature. Heschel, on the other hand, was far less interested in historical explanations for religious phenomena than Kaufmann, and he rejected a purely rationalist account of Judaism or of human nature. In his own theology, Heschel reinterpreted the kabbalistic idea of theurgy, the idea that God was dependent on humanity and especially on the Jewish people's observance of *mitzvot*. Heschel contended that God, like a person, has emotional needs and desires and that God can grow and change over time. One would have assumed then, that the ideas of an arch-rationalist and historicist like Kaufmann can no more be synthesized with those of the mystically inclined Heschel than sodium can be combined with water.

But Muffs presents a nuanced version of Kaufmann's thought that is more supple, more flexible, more supportable than the somewhat brittle and polemical version that Kaufmann himself presented in תולדות. In so doing, Muffs confirms the main insight about monotheism that Kaufmann learned from Cohen: Monotheism does not simply mean that there are no other immortal or heavenly beings beside Yhwh. (In fact both biblical and rabbinic texts assume the existence of angels, whom the Bible often refers to as "gods;" see, e.g., Psalm 29:1, 35:10, 71:19, 82:6, 86:8, 87:7-9; Exodus 15:11.) Rather, monotheism means that there are no forces in the universe stronger than Yhwh—not nature, not death, not fate, not the laws of physics. (The other gods, on the other hand, are usually subject to these forces and invariably subject to Yhwh's power; in this way, the gods/angels are basically similar to human beings, and it is for this reason that their existence does not impugn the Bible's monotheism.) While emphasizing this notion of

divinity, Muffs also focuses on Heschel's portrayal of God. Heschel's God is a highly anthropomorphic deity, or, more precisely, an anthropopathic one (that is, a God with human emotions). In focusing on Heschel's very personal God, Muffs emphasizes divine freedom and preserves God's absolute lack of subservience to any force, even reason. In this way, Muffs brings together these two conceptions of God, one from Kaufmann and one from Heschel. When one pauses to reflect on the intellectual and spiritual genealogies of Kaufmann and Heschel, one realizes that Muffs' accomplishment goes even further. As we have seen, Kaufmann's larger project is fundamentally to provide a historical restatement of Cohen's rationalist philosophy, while Heschel wrote not only as an academic scholar but also as a certain kind of Hasidic Jew (a Hasid who left Poland to pursue a doctoral degree and liberal ordination in Berlin, to be sure, but a Hasid all the same). At the deepest level, then, Muffs was combining Cohen's neo-Kantian rationalist theology with traditional *chasidus*. Muffs achieves nothing less than an exquisitely balanced theology that brings together the Jewish rationalist and mystical traditions.

Muffs' reading of the Bible in *Personhood*, then, is as much a contribution to modern Jewish theology as it is a work of biblical criticism. Yet when Muffs reads the Bible, he is specifically reading the biblical critics' Bible. At every turn, he interprets biblical texts in their ancient Near Eastern context, comparing them especially to Mesopotamian religious texts and referring frequently to the work of Assyriologists (that is, scholars of ancient Babylonian and Assyrian culture). It is precisely his grounding in ancient Near Eastern patterns of thought that allows Muffs to defend the definition of monotheism proposed by Cohen and Kaufmann, and it is on the basis of his background in ancient Near Eastern studies and biblical criticism that he creates his synthesis of rationalist and mystical forms of Judaism.

Another side of Muffs' work is especially well represented in his essay on divine justice and grace as they appear in the prayers of biblical prophets.<sup>11</sup> There Muffs confronts the

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<sup>11</sup> The essay appeared originally in Hebrew as Yochanan Muffs, "Bein Din Leraḥamim: Tefillatam shel Nevi'im," in *Torah Nidreshet*, ed. Moshe Greenberg (Jerusalem: Am Oved and The Jewish Theological Seminary, 1984), 39–87, and is also available in *Ahavah Vesimḥah: Ḥoq, Lashon Vadat Bamiqra Uvsifrut Ḥazal* (Jerusalem: Magnes Press, 2001). An English translation appears in Yochanan Muffs, "Who Will Stand in the Breach?: A Study of Prophetic Intercession," in *Love and Joy: Law, Language and Religion in Ancient Israel* (New York and Cambridge: The Jewish Theological Seminary and Harvard University Press, 1992), 9–48.

contradiction between two sets of verses in the Bible. On the one hand, Exodus 34.6-7 states that God “surely does not clean away all guilt, but remembers the sin of the fathers against the children, the grandchildren, and the third and fourth generations”—that is, God punishes the descendants of a sinner for what the sinner did. Several additional biblical passages refer to this idea as well (for example, Numbers 14.14-19, 1 Kings 22, Isaiah 39.8, Psalm 99.8). Other biblical passages, however, state precisely the opposite: God does not pay attention to a sinner’s guilt forever and does not punish innocent people for their ancestors’ crimes. This idea is stated most clearly in Ezekiel 18, and also appears in texts such as Deuteronomy 7.9-10, Jonah 4.2 and Psalm 103.8-10. The contradiction between the passages is not the only difficulty Muffs addresses; in addition, he notes that texts such as Numbers 14.14-19 make it clear that biblical authors considered God’s decision to punish innocent descendants to be an example of divine *mercy*.

In confronting these difficulties, Muffs shows that we can speak of three different types of thinking about divine retribution in ancient Israel. In the earliest sort of thinking, sin was seen as having an objective character, as if it were a physical substance that attached to a person who committed a sin. It was like a tumor that has to be cut away through suffering or even death. Repentance or regret did not get rid of it. This is the most primitive stage, which really represents a prebiblical point of view, with a very strong stress on *דִּין*, or divine justice. In the third stage, sin has a subjective character. It is no longer thought of as a substance that is external to a person. Rather, it is a state of mind, a spiritual disease, and the cure is repentance or regret. Once a person repents and regrets the sin committed, the sinful state of mind is simply gone; the sin and the guilt associated with it no longer exist. In this way of thinking, punishment does not cleanse away the sin, though it might be a useful inducement to repentance: God might send suffering to sinners to encourage them to examine their actions so that they will realize what they did wrong. This point of view puts a strong stress on *רחמים*, or divine mercy. It is the second stage, represented by texts like Exodus 34.5-7, that is hardest to understand. This stage shares features of the first and the third stages. Both justice and mercy are present, and each demands to be taken into account. Sin is still seen as a substance, and thus punishment must occur to wipe away the guilt. But in light of God’s mercy, repentance has to be taken into account; if the sinner regrets the sin, the sinner should not be punished. The solution at this second stage is to defer

punishment to later generations; God “lifts up the sin” (נִשָּׂא עוֹן) temporarily, taking it away from the sinner. This deferment is actually an act of divine mercy—the sinner is being forgiven and not punished! But sin does not just disappear. Eventually God lets go of the sin, which must be paid for, albeit by a member of the sinner’s family a few generations on.

What is most significant in Muffs’ brilliant analysis of these difficult texts is not just the way he explains the various points of view but how Muffs shows an organic development of ancient Jewish thought. It is not only in the modern era that Jewish theologians generate new ideas. Biblical authors, too, take issue with their predecessors and present bold innovations, even as they stress their connection with the earlier thinkers. One might have thought that the stage three authors would have wanted to ignore or bury the stage two thinkers who, in their eyes, presented an incorrect picture of God as treating innocents unfairly. In fact, Muffs shows, Deuteronomy 7.9-10, Jonah 4.2 and Psalm 103.8-10 all borrowed language from the main text they disagreed with, Exodus 34.5-7:

Yhwh, Yhwh, a compassionate and gracious God, slow to anger, and full of abundant loyalty and truth. He maintains loyalty to the thousandth generation, holding sin and punishment and guilt in abeyance. But He does not ignore punishment at all, but visits the guilt of parents upon children and grandchildren, upon the third and fourth generations. (Exodus 34.6-7.)

Yhwh is compassionate and gracious, slow to anger, full of abundant loyalty. He does not fight a case forever or maintain His anger for all time. (Psalm 103.8-9.)

The psalm uses crucial vocabulary from the earlier text, calling it to mind so that audiences will notice the innovative element even as they sense the ways that the new texts echo and grow out of the old one. It is here that the relevance of a biblical critical finding for Conservative Jews becomes evident. The Conservative movement stresses a certain degree of pluralism within Judaism, allowing divergent points of view to exist alongside each other. As a result, publications by the movement not infrequently contain contributions that disagree with each other and debate each other. Muffs’ essay shows that debate, difference, and development typify not only modern Jewish anthologies but the ancient Jewish anthology known as the Bible; in

fact, given Deuteronomy 7's disagreement with Exodus 34, they can be found even within the Torah itself. The Conservative movement's toleration of multiple points of view that do not go beyond some boundary has a great deal of historical authenticity.

### **Moshe Greenberg**

The implicit claims that the Bible is a Jewish book and a work of humanistic depth and subtlety are found throughout the writings of Professor Greenberg as well. Because Greenberg is the most well-known of the three thinkers whom I discuss, I will focus on just one example of his work, a famous study of capital punishment in biblical and ancient Mesopotamian law he wrote early in his career, "Some Postulates of Biblical Criminal Law."<sup>12</sup> This essay reveals central values of biblical thinking that were developed more fully in rabbinic literature. Greenberg shows that biblical texts regard human life as sacred and therefore incommensurable: nothing can substitute for a human life. Hence legal corpora in the Bible insist that murder must be punished in every case by the execution of the murderer; the Bible rejects other sanctions permitted by Mesopotamian law codes such as the Code of Hammurapi in certain cases of murder (for example, compelling the murderer to pay a fine or to pay damages to the victim's family, or substituting some other family member's life for the life of the murderer). Of course, the punishment that results from the notion of the sanctity of human life is paradoxical, since it compels human courts to destroy precisely what it exalts. Much later than the Bible, the rabbis would institute laws of evidence and narrow definitions of capital crimes which severely limited—indeed, came close to abolishing—the application of the death penalty. In so doing, the rabbis were not so much overturning the biblical legal system as taking its logic quite seriously, in a sense more seriously than the biblical law codes themselves.

Although Greenberg's study barely mentions rabbinic texts (the only reference to the rabbinic laws occurs in one brief paragraph and in footnotes 28 and 29 of his essay), it is

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<sup>12</sup> "Postulates of Biblical Criminal Law," originally published in *Yehezkel Kaufmann Jubilee Volume*, ed. Menahem Haran (Jerusalem: Magnes Press, 1960), 5-28; reprinted in several collections, including Greenberg, *Studies*, 25-41. It is also available in Hebrew in *Torah Nidreshet*, ed. Moshe Greenberg (Jerusalem: Am Oveid and The Jewish Theological Seminary, 1984), 13-37.

nonetheless a deeply Jewish one, because it identifies a core value-concept in biblical law that came to a more consistent and thoroughgoing expression in post-biblical Jewish literature. At the same time Greenberg contributes to our understanding of biblical and Mesopotamian law and thus is rewarding to any students of the ancient Near East, whether they are interested in Jewish thought or not. It is at once, then, a study of ancient Near Eastern legal history and, in a subtle and not fully explicit manner, an attempt to note the basis in biblical law for a development in rabbinic law. Greenberg's essay, then, not only explains the nature of biblical law but implies something crucial about talmudic law: while the limits the rabbis put on capital punishment seem to go against the grain of particular biblical laws (the mandates for capital punishment), these limits also allow a foundational element of biblical law (the sacrality of human life) to develop more fully.

Greenberg is more explicit about the connections between the Bible and rabbinic culture in his later writings—for example, the essays “Using Rabbinic Exegesis as an Educational Resource When Teaching the Book of Joshua” and “How Should One Interpret the Torah Today?”<sup>13</sup> In the former, Greenberg delineates how rabbinic teachings from the Talmudic era temper and even overturn the Bible's violent commands regarding the Canaanites. His attention to these rabbis' interpretive techniques heightens our ability to sense multiple voices regarding the Canaanites not only among the rabbinic interpreters but also in the biblical texts themselves. In the latter, Greenberg analyzes rabbinic attempts at articulating the central value-concepts that should guide Jewish reading of the Bible. The explicit rabbinic discussions regarding the fundamental principle in the Torah (כלל גדול בתורה, e.g., in *Sifra* to Leviticus 18.19; *b. Makkot* 23b-24a) lead Greenberg to notice an analogous, albeit implicit, discussion of central principles in the Bible itself, in Ezekiel 18.

In these and other examples, Greenberg uses midrashic and medieval rabbinic

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<sup>13</sup> These appear in Moshe Greenberg, *Hassegullah Vehakkoah* [in Hebrew] (Oranim: Hakkibbutz Hameuhad, 1985), 11–18 and 49–67. Material approximating the former appears in English as “A Problematic Heritage: The Attitude Toward the Gentile in the Jewish Tradition—An Israeli Perspective,” *Conservative Judaism* 48 (1996):22–35. Some of the latter article appears in English as “On the Political Use of the Bible in Modern Israel: An Engaged Critique,” in *Pomegranates and Golden Bells*, eds. D. Wright et al. (Winona Lake: Eisenbrauns, 1995), 461–471. See also Moshe Greenberg, “You Are Called Human,” [in Hebrew] in *‘Al Hammiqra’ Ve‘al Hayyahadut*, 55–67.

interpretations not only as tools that aid his own interpretations; he also sees rabbinic literature as an outgrowth of the Bible's own theological system. On the basis of Greenberg's work one might say that rabbinic literature is sometimes more biblical than the Bible. Further, because rabbinic literature results from the evolution of biblical thought in the post-biblical period, it is possible to use rabbinic literature to understand the Bible; for Greenberg, as for Milgrom, they are part of a single cultural trajectory. To understand the Bible, one must see it as part of this trajectory, or we might say, as part of a tradition. Greenberg does not just read the Bible by itself—he is not a Protestant, rejecting tradition as an authoritative religious category. Nor does he just read Rashi, or the Bible through Rashi—he is not a certain kind of Orthodox Jew. Rather, Greenberg does both, and he does them together: he reads the Bible on its own cultural and linguistic ground in part by reading it through a rabbinic lens. He demonstrates how traditional rabbinic commentaries aid him in understanding the Bible in its ancient Near Eastern context.

### **The Conservative Context**

In this tendency to be a both-and thinker, I think that Greenberg is the best sort of Conservative Jew. He is not middle-of-the-road; instead, he succeeds on being on both sides of a polarity; indeed, he succeeds in showing that it is not really a polarity at all. (Here I allude to the instructive title of a book by former JTS Chancellor Ismar Schorsch, *Polarities in Balance*, a series of essays that present a Conservative approach to Jewish learning and practice.) This deft ability to embrace what strike others as opposing conceptions and to demonstrate that they need not be in opposition at all characterizes all three of the scholars I have discussed. It would not be correct to say that they were religious Jews and also biblical critics, nor that they were religious Jews in spite of the fact that they were biblical critics; rather, they were religious Jews, in part, through being biblical critics. They showed how modern methods of study reveal the Bible's relevance to Judaism. In light of their writings, it becomes clear how being fully critical and intellectually honest is an important way of being a serious, committed Jew.

In this respect, they were products of the education they received as rabbinical students at the Jewish Theological Seminary. Unlike many biblical critics (including many Jewish biblical critics), Greenberg, Milgrom and Muffs received strong training not only in Bible but in all fields



of Jewish learning, including especially the study of Talmud. All three were exposed to the core ideology of Conservative Judaism, an ideology that goes back through Solomon Schechter (1847-1915) to Zechariah Frankel (1801-1875) and the original Jewish Theological Seminary in Breslau, Germany. Scholars like Schechter and Frankel insisted that we should use the full array of modern academic methods to study Judaism. Since the mid-19th century Conservative Judaism (or Positive-Historical Judaism, as it was known in Europe) has taught that to ignore what archaeology, comparative religion, history and linguistics tell us about Judaism is to retreat behind walls of a ghetto (or of a yeshiva). To fear that Torah could be harmed by evidence from these fields constitutes an insult to Torah. Further, the Conservative or Positive-Historical approach, with its commitment to “tradition and change” (a phrase that serves the movement as a sort of motto), has always stressed elements of continuity in Jewish intellectual history: it has taught that authentic changes emerge in part from within the tradition. The word “and” is the crucial word in this motto, which, pointedly, is not “tradition vs. change,” or “change in spite of tradition.” In this light, the emphasis we noted above in the work of Milgrom and Greenberg on biblical and rabbinic Judaism as existing on a long historical trajectory was not only a response to the firewall mentality prevalent among biblical critics; it was also an expression of their Conservative worldview. (This emphasis also emerges in work by Muffs that I have not discussed here, especially in his first book<sup>14</sup> and some of the shorter articles in *Love and Joy*; further, as we have seen, Muffs implicitly extended this trajectory to encompass Jewish philosophy and mysticism.)

In light of the stress these scholars put on continuity between biblical and rabbinic Judaism, it is worth pausing to recall an essay written at the end of the 1800s by Schechter. A brilliant scholar of Second Temple, rabbinic, and medieval Jewish literature, Schechter would later become the most influential Chancellor in the history of the various Jewish Theological Seminaries and their sister schools in Europe, the United States, Argentina and Israel (the last of which is named after him). In an essay he wrote about Leopold Zunz, the founder of the modern critical study of rabbinic literature and Jewish liturgy, Schechter made a pregnant comment about a key goal in Zunz’s work. Alluding to the neo-supersessionist firewall mentality I described

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<sup>14</sup> Yochanan Muffs, *Studies in the Aramaic Legal Papyri from Elephantine* (Leiden: E. J. Brill, 1969).

above, Schechter noted that among German Protestant scholars,

the Talmud and the Midrashim were considered as a perversion of the Pentateuch and the books of the Prophets, and the Jewish liturgy a bad paraphrase of the Psalms...To destroy these false notions, to bridge over this seemingly wide and deep gap, to restore the missing links between the Bible and tradition, to prove the continuity and development of Jewish thought through history, to show their religious depth and their moral and ennobling influence, to teach us how our own age with all its altered notions might nevertheless be a stage in the continuous development of Jewish ideals and might make these older thoughts a part of its own progress—this was the great task to which Zunz devoted his life.<sup>15</sup>

These words describe Schechter himself as much as they describe his hero; Schechter's essay on Zunz is in part a disguised autobiography. It is not a coincidence that Schechter's statement applies beautifully to the work of the JTS-trained scholars whom I have discussed. All three used the tools of modern biblical criticism, and especially their superb training in ancient Near Eastern literature, to uncover the deep continuities that link the Bible with later Judaism.

### **Biblical Criticism Today**

It is a measure of these scholars' success that much of what they attempted is now common in biblical studies. The notion that biblical criticism belongs not only to the study of the ancient Near East but also to the academic field of Jewish Studies is not controversial, and many leading biblical critics (both Jewish and non-Jewish) whose careers began in the 1970s and 1980s see it as perfectly natural to use classical and medieval rabbinic texts to interpret the Bible and to contextualize biblical texts within Jewish intellectual history. To be sure, Greenberg, Milgrom and Muffs were not the only scholars who led to the recontextualization and re-Judaization of the Bible; one might also speak of the influential work of their contemporaries Moshe Weinfeld, Menahem Haran, Shemaryahu Talmon, Nahum Sarna, Alexander Rofé and Shalom Paul, as well as some of their teachers, such as H.L. Ginsberg. Further, our three scholars

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<sup>15</sup> Solomon Schechter, "Leopold Zunz," in *Studies in Judaism, Third Series* (Philadelphia: Jewish Publication Society, 1924), 98.

(along with many other Jewish biblicists) were deeply influenced by Yehezkel Kaufmann; the changes these scholars helped introduce into biblical studies resulted not only from the effect of Conservative Jewish ideology on their scholarly practice but from the impact of Kaufmann's massive and thought-provoking work as well. One could also discuss the importance of literary and theological approaches associated with both Christian and Jewish scholars I mentioned earlier.

These approaches led scholars to move beyond the trivial nature of so much biblical criticism and to understand the humanistic and existential depth of biblical narrative, poetry, and ritual. The result of all these developments is that reading the Bible as understood by biblical critics no longer needs to threaten or upset religious Jewish readers. Biblical criticism may surprise us, and it may challenge us. But it is precisely by challenging us that it helps us to seek guidance from the canonical texts that came to us from ancient Israel.

### **The Bible, the Rabbis and Conservative Jews Today**

What sort of guidance, then, might emerge from the conclusions of these three scholars? I think that the biblical canon as they describe it provides a crucial model for contemporary Judaism. Ours is an era of rapid change, and also an era that idolizes innovation. Pluralism is a byword for contemporary culture, which celebrates diversity and difference at the expense of what we share; indeed, I think that when people speak of pluralism, in many cases they really mean relativism, which rejects the possibility of a common thread that holds a culture together. It would be easy, much too easy, to find a justification (or rather, a rationalization) for this outlook in the Bible as understood by biblical criticism. Many biblical critics have demonstrated that the Bible has many voices, that its varied texts debate each other, and that it clearly reflects theological and legal development over time. Further, the stark differences between biblical and rabbinic religion can easily allow one to enlist the Talmud as another alleged predecessor for a modern temperament. Some ideas that are central to rabbinic Judaism, such as the resurrection of the dead, seem to have little or no basis in biblical theology, while important rabbinic practices such as the separation of milk and meat are essentially unknown in biblical law. Extrapolating from these facts, one might conclude that the rabbis of the Talmudic era created a new religion

connected to the Bible only nominally. If this is so, then the modern Jew who values innovation and multiplicity, who admires bold moves beyond conventional boundaries, might claim the Bible and the Talmuds as useful prooftexts.

But the picture of the Bible and its relationship to rabbinic culture that we saw above warns against this facile conclusion. Unlike modern Western culture, the Bible and rabbinic literature emphasize tradition and continuity. Muffs' discussion of the theologies of divine retribution in the Bible shows that even when biblical thinkers introduced new ideas and disagreed with their predecessors, they used vocabulary and literary forms that underscored their connections with what came before them, and they did so in order to show that their new ideas emerged out of specific elements of older ideas. (Stage two and stage three agree that divine mercy is crucial; stage three attempts to define that mercy in a more self-consistent manner.) Greenberg's work on the varied law codes in the Torah shows that they have an underlying ideological unity, at least as far as capital punishment goes; in that essay and elsewhere, he argued that there are fundamental ideas that draw biblical texts together, even when a fundamental idea manifests itself in multiple ways. Milgrom shows that Priestly texts focus attention on community, and on the communal implications of individual actions, a theme that moves against modern Western culture's heavy emphasis on individualism. Further, all these scholars draw our attention to continuities between the Bible and the rabbis, and from this it becomes clear that at the most basic level the rabbis were far less innovative than they initially appear. At times the specifics of the laws they codify in the Talmud were new, but the core values they express—the sanctity of human life, the importance of ritual for expressing religious and moral ideas, the personhood of God—are not at all new but come from the Bible.

In an era in which change so often trumps tradition, in which novelty is savored and continuity belittled, the worldview of the Bible and the rabbis is deeply countercultural. At the same time, the rigorous and subtle work of Greenberg, Muffs, and Milgrom helps us recognize that biblical and rabbinic texts do not reject novelty outright. Even as they respect continuity, biblical and rabbinic authors refrain from making it a false god that prevents them from introducing fresh notions or practices. Judaism accentuates tradition precisely as it engages in change. One can easily deny that change occurs; it takes no effort to pretend that there is no such thing as history and to reject the possibility that the new can become sacred. Indeed, denial of

this sort is popular among some Jews of our era precisely because it is such a facile path. Conversely, a person with only a little learning can readily embrace change while giving mere lip service to tradition. The Bible and rabbinic literature chose neither of these options. Instead, they struggled to permit the new to emerge while placing it into an already existing and authoritative context. To conserve Judaism even as one moves it forward is a much more challenging path than the one most modern Jews have chosen. Careful study of our sacred texts demonstrates that it is also the correct one.<sup>16</sup>

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<sup>16</sup> It is a pleasure to express my thanks to Richard Tupper and Arnold Eisen for the insights and advice they shared with me as I wrote this article.

## **Why Is It Customary To Place A Stone On A Grave?**

David Golinkin

*In memory of Prof. Andre Hajdu  
and Rabbi Dr. Aaron Singer,  
disciples of Aaron (Avot 1:12),  
who taught at the Schechter Institute  
for many years.<sup>1</sup>*

### **Question from Marty Cohn, Florida:**

Why is it customary to place a stone on a grave at the end of the burial service or after visiting a grave?

### **Responsum:**

After checking dozens of books we have learned that there are three customs related to dirt, grass and stones at the end of the burial service or after visiting a grave. We shall present them in chronological order with the sources and explanations we have found for each custom:

- I. to cleanse the hands with dirt after a burial;
- II. to throw dirt and grass behind one's back while reciting certain verses after a burial;
- III. to place grass or a small stone on the grave at the end of the burial service or after visiting a grave.

### **I) To cleanse the hands with dirt after a burial**

This is the oldest of the three customs we shall discuss. It is mentioned by a number of Geonim and by the Ramban (and from there by the Ritva and the Tur) and then it disappeared,

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<sup>1</sup> An earlier version of this responsum was originally published in *Responsa in a Moment*, Volume 11, Number 3 (January 2017); accessible as of February 9, 2017 at <http://www.schechter.edu/customary-place-stone-grave/>.

apparently because the Geonim did not support it but preferred to cleanse the hands with water after the burial.

And that which you asked that they cleanse their hands with dirt after they bury the dead—this thing we do not do here, but perhaps they were accustomed [to do it] there in order to make a separation from something related to death.<sup>2</sup>

This responsum is attributed to Rav Sar Shalom Gaon (d. 859 or 864) in *Sha'arei Tzedek* and to Rav Natronai Gaon (d. 858) in *Hemdah Genuzah* and scholars have not found a way to determine which attribution is correct. In any case, this Gaon, who is familiar with a custom of cleansing the hands with dirt, states that that they do not do it “here,” and suggests an explanation that perhaps they do so in order to make a separation from something related to death.

The same custom is reflected in a responsum of Rav Hai Gaon (939-1038):

And Rav Hai said: and after [burying] a dead person, they never had the custom in Babylonia to cleanse their hands with dirt. And so we see that that whoever does this, it is nothing, but it is permissible to do so.<sup>3</sup>

Here too, the Gaon is not enthusiastic about this custom. He says that it is not the custom of Babylonia—that it is nothing—but it is nonetheless permissible.

Finally, the Ramban (Spain, d. 1270), who quoted the responsum of Rav Hai, reacted as follows: “And in these places our custom is: to cleanse with dirt, to pluck grass from the ground after Kaddish, and to wash the hands with water,” and then he quotes two homiletic explanations

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<sup>2</sup> B"m Lewin, *Otzar Hageonim*, Volume 4, *Massekhet... Mashkin*, Jerusalem, 1932, paragraph 119, p. 41; *Sha'arei Tzedek*, fol. 21b, paragraph 19 = ed. Jerusalem, 1966, p. 48 in the name of Sar Shalom; *Teshuvot Rav Sar Shalom Gaon*, ed. Weinberg, Jerusalem, 1976, p. 122, paragraph 107; *Hemdah Genuzah*, paragraph 94 among the responsa of Rav Natronai Gaon; *Teshuvot Rav Natronai bar Hilai Gaon*, ed. Y. Brody, Jerusalem, 1994, Vol. 2, Chapter 5, paragraph 292, pp. 436-437; *Sefer Abudraham Hashalem*, Jerusalem, 1963, p. 371 in the name of *Teshuvot Hageonim*.

<sup>3</sup> *Otzar Hageonim*, paragraph 120, pp. 41-42; Rabbi Yitzhak ibn Ghiyyat, *Sha'arei Simhah*, Part II, Furth, 1862, pp. 42-43; *Shibolei Haleket Hashalem*, ed. Buber, *Hilkhot Semahot*, paragraph 14, fol. 173a; *Tanya Rabbati*, ed. Yisrael Baron, Jerusalem, 2011, paragraph 66, p. 268; *Torat Ha'adam* of the Ramban, ed. Chavel, p. 156, which was then copied by *Tur Yoreh Deah* 376, in the *Tur Hashalem*, p. 294.

in order to explain the custom of dirt, grass and water.<sup>4</sup>

It might seem that all of this is only of historical interest since this custom disappeared, but we shall see below that the *Kol Bo* (Provence ca. 1300) maintains that the custom of throwing pebbles after a burial is a mistaken custom that evolved from the custom of cleansing the hands with dirt.

## **II) To throw dirt and grass behind one's back while reciting certain verses after a burial**

This is a widespread custom that is first mentioned in the 11<sup>th</sup> century, and afterwards in dozens if not hundreds of books until today. Due to the large number of sources, I will present primarily the sources until the 18<sup>th</sup> century and the explanations that have been given for the custom. The rest of the sources will be listed at the end of the responsum.

1a. Rabbeinu Kalonymus (Mainz and Speyer, d. 1126) is quoted by a number of important Ashkenazic *posekim* (halakhic decisors) in our context. Here is a brief version of his words:

Customs, Rabbi Kalonymus... After reciting *Tzidduk Hadin* [= a prayer recited after an interment] in the cemetery, they take dirt and grass with it and they throw it behind their backs and they say “and they will sprout up in towns like the grass of the field” (Psalms 72:16); it refers to the resurrection of the dead.<sup>5</sup>

1b. Here is a longer version of his words:

I found in the name of Rabbeinu Kalonymus z"l [*zikhrono livrakhah*, may his memory be for a blessing]:

After finishing *Tzidduk Hadin* and Kaddish, they take dirt and, with it, grass, and they throw it behind their backs, **and the reason is to make a separation between them and death.**

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<sup>4</sup> Rabbi Moshe ben Nahman, *Torat Ha'adam*, ed. Chavel, *Kitvei Rabbeinu Moshe ben Nahman*, Vol. 2, Jerusalem, 1964, p. 156, which was quoted by the Ritva in his *Hiddushim* to *Megillah* 29a and Rabbi Ya'akov ben Asher in *Tur Yoreh Deah* 376

<sup>5</sup> *Sefer Harokeah Hagadol*, Jerusalem, 1967, paragraph 316, p. 193. The short version is also paraphrased in *Sefer Ra'aviyah*, ed. Aptowitzer, end of paragraph 841, Part II, Volume 3, p. 568.



And the grass that they take with the dirt, as we say “and they will sprout up in towns like the grass of the field” (Psalms 72:16), and this verse is referring to the Resurrection of the Dead, and they take dirt since it reminds that you are dirt, as it is written “for dust you are, and to dust you shall return” (Genesis 3:19), and they thereby mention the day of death and accept upon themselves the judgment of Heaven.<sup>6</sup>

1c. The very same longer version is quoted “in the name of Rabbeinu Elyakim *zatz”al* [*zekher tzaddik livrakhah*—may the memory of the righteous be for a blessing],” a contemporary of Rabbeinu Kalonymus, who lived in Speyer, Worms and Mainz, ca. 1030-1100.<sup>7</sup>

2. This custom also appears in *Peirush Magentza to Bava Batra* 100b, which is attributed to Rabbeinu Gershom in the Vilna edition of the Talmud:<sup>8</sup>

Thus said The Teacher... and why do they take dirt and smell it and then throw it on their heads and behind them? So that we may remember that we are dirt.

3. In an addition to *Mahzor Vitry* (France, ca. 1150), it says immediately after the Burial Kaddish:

And every single person takes dirt and pebbles and smells them, and says: “He is mindful that we are dust” (Psalms 103:14). And they throw it behind them and they do this three times to separate between them and the dead person. And some pluck grass from the ground and say “and they will sprout up in towns like the grass of the field” (Psalms 72:16), and so do they do in [Germany]. T’ [=Tosefet, Addition].<sup>9</sup>

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<sup>6</sup> *Shibolei Haleket Hashalem*, ed. Buber, *Hilkhot Semahot*, paragraph 14, fol. 173a = *Ma'asei Hageonim*, ed. Freimann, Berlin, 1910, p. 51 = *Sefer Hapardess*, ed. Ehrenreich, Budapest, 1924, p. 265.

<sup>7</sup> Rabbi Yitzhak ben Moshe of Vienna, *Sefer Or Zarua*, ed. Zhitomir, 1862, Part II, end of the first paragraph 422, fol. 86b = ed. Machon Yerushalayim, Vol. II, Jerusalem, 2010, p. 492. The first sentence is quoted by *Hagahot Asheri* to the Rosh, *Mo'ed Kattan*, Chapter 3, paragraph 86.

<sup>8</sup> Regarding this commentary, see Avraham Grossman, *Hakhmei Ashkenaz Harishonim*, Jerusalem, 1981, pp. 165 ff.. He quotes there the opinion of Avraham Epstein that the commentary to *Bava Batra* was written by Rabbeinu Elyakim b”r [*bar {rav}*], “the son of {Rabbi}”] Meshulam Halevi, the same rabbi whom we quoted in the previous paragraph.

<sup>9</sup> *Mahzor Vitry*, ed. Horwitz, Berlin, 1889, p. 247.

After this, there is a lengthy story of Yitzhak ben Dorbello (a disciple of Rabbeinu Tam, Northern France, ca. 1150) about apostates who slandered the entire Jewish people to the King, saying that they throw dirt after a burial “in order to cast a spell on the Gentiles in order to kill them.” And the King called Rabbi Moshe ben Yehiel ben Rabbi Mattityahu the Great from Paris who explained according to the verse “‘and they will sprout up in towns like the grass of the field’ (Psalms 72:16) that this custom symbolizes that we believe in the Resurrection of the Dead. The King praised him and the Jewish people.” Yitzhak ben Dorbello concludes by saying that he added this story to *Mahzor Vitry* “because many avoid doing the custom due to the fear of the Gentiles that they should not suspect them of witchcraft, and, if they will know what to reply, ‘a wise man’s talk brings him favor’” (Ecclesiastes 10:12).<sup>10</sup>

4. The Ra'avan (Mainz, 1090-1170) also discusses this custom:

I was asked why they pluck dirt and grass after the Burial Kaddish? And it seems to me dirt, according to the verse “He is mindful that we are dust” (Psalms 103:14); [the] grass [is] according to the verse “And they will sprout up in towns like the grass of the field etc.” (*ibid.*, 72:16).

And regarding the fact that they throw it behind their backs [as a sign of] mourning and sorrow, like the verse “and they threw dirt into the air onto their heads” (Job 2:12).<sup>11</sup>

5. As mentioned above (paragraph I), Ramban (Spain and Israel, 1194-1270) wrote that in these places, i.e., Spain, our custom is “to cleanse with dirt, to pluck grass from the ground after Kaddish, and to wash the hands with water.” In other words, this is a combination of the customs of the Geonic period to cleanse with dirt or with water and the Ashkenazic custom to pluck grass from the ground. As mentioned, he gives two homiletic explanations for the three customs, including that grass is a hint at the Resurrection of the Dead as in the verse “And they will sprout up in towns like the grass of the field” (Psalms 72:16).

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<sup>10</sup> *Ibid.*, pp. 247-248.

<sup>11</sup> *Sefer Ra'avan*, Samloi, 1926, paragraph 11, fol. 9b; ed. Shalom Albeck, Warsaw, 1905, paragraph 11, p. 10.

6. Rabbi Ya'akov Hazzan of London related to this custom in his *Eitz Hayyim*, written there in 1287:

And everyone takes dirt or a pebble and says “He is mindful that we are dust” (Psalms 103:14), and throws it behind him, and they do so three times.<sup>12</sup>

7. Rabbi Shimshon bar Tzadok, a disciple of Rabbi Meir of Rothenburg (ca. 1290), discusses this custom at length:

When the deceased is buried, then they should pluck grass and say “and they will sprout up in towns like the grass of the field” (Psalms 72:16). And some take and throw dirt and say “He is mindful that we are dust” (*ibid.*, 103:14).

[The reason for plucking grass is] that the dead shall sprout up like grass at the Resurrection of the Dead, and since the dead were compared to grass, they pluck grass.

And that they throw it behind them and not in front of them, in accordance with what I saw in a midrash that the soul accompanies the body of a dead person until the grave and is not allowed to return until the congregation gives it permission, and the throwing behind them is a sign of permission, as [if to say,] “Go to your rest.”<sup>13</sup>

8. In *Sefer Kol Bo* (ed. David Avraham, part 7, Jerusalem, 2002, cols. 107-109 = ed. Lvov, 1860, fols. 86a-b) and in its “sister” *Or’hot Hayyim* by Rabbi Aaron Hacoheh of Lunel (Part II, Berlin, 1899, p. 575) which were written in Provence ca. 1300, there is a lengthy description of the two customs we have seen thus far: cleansing with dirt and plucking grass with its surrounding dirt and throwing it above the head. The *Kol Bo* says that they throw the dirt above the head, according to the verse “And they threw dirt into the air onto their heads” (Job 2:12), and then they wash their hands. They pluck the grass and the dirt and then wash hands “in memory of the purification from the impurity of the dead, which was done with hyssop, ashes and water.” This explanation was already given by the above-mentioned Ramban. But then he quotes Rabbi Yitzhak ibn Ghiyyat who quoted Rav Hai Gaon regarding cleansing the hands with dirt, and he

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<sup>12</sup> Ed. Brody, Vol. 1, Jerusalem, 1962, p. 394.

<sup>13</sup> *Sefer Tashbatz*, ed. Machon Yerushalayim, 2011, p. 250 = ed. Lemberg, 1858, fol. 42a.

says that the custom of throwing pebbles after the Kaddish is a mistake because they got confused with cleansing the hands with dirt.

9. Rabbeinu Bahya ben Asher (1255-1340) discussed this custom in his commentary to Numbers 19:11-12 (ed. Chavel, Vol. 3, Jerusalem, 1972, p. 139) which was written in Saragossa in 1291:

“He who touches a dead body... he shall cleanse himself with it [=the ashes]...”  
And from here stems our custom of washing the hands after coming from the dead, a hint at the water which contains the ashes of the red heifer. And it is also a hint at the Resurrection of the Dead... also plucking the grass is a hint at this, because the grass at the evening withers and dries out and in the morning sprouts up, according to the verse “And they will sprout up in towns like the grass of the field” (Psalms 72:16).

10. The Ritva (Seville, ca. 1250-1330) quotes the Ramban (in his *Hiddushim* to *Megillah*, ed. Stern, Jerusalem, 1976, cols. 211-212) and adds that one does not pluck the grass from the cemetery itself, but from four cubits outside the cemetery.

11. Rabbi David Abudraham (Seville, wrote his book in 1340) discussed our subject in his chapter on *Birkat Hamazon* in the house of a mourner:

And that they are accustomed **to throw dirt and pebbles in the grave from every direction after the burial**: some say that the earth should not say to the deceased, “The dirt of your body does not belong to me...” as it is written: “For dust you are, and to dust you shall return” (Genesis 3:19).  
And the correct [reason] that they did this in order to show that all [have merited] to take part in his burial, as our Sages *z”l* said: “Just as God buries the dead... so should you” (Babylonian Talmud, *Sotah* 14a and parallels).<sup>14</sup>

This custom is different than what we have seen until now—**that they throw dirt and pebbles from every direction in the grave** and not above the head or behind one’s back. The explanations are also new—that the earth should not say to the deceased, “The dirt of your body

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<sup>14</sup> *Sefer Abudraham Hashalem*, Jerusalem, 1963, p. 371.

does not belong to me,” and to show that all have merited to take part in his burial.

The Abudraham then quotes the custom of washing the hands, Rav Hai regarding washing the hands, a long quote from Ramban, and the Geonic responsum about cleansing the hands with dirt.

12. Rabbi Yozl Hoechstadt, Rabbi Yosef ben Moshe, quotes the custom of his teacher Rabbi Yisrael Isserlein (Austria, 1390-1460):

“He will destroy death forever. My Lord God will wipe the tears away from all faces and will put an end to the reproach of His people over all the earth—for it is the Lord who has spoken.” This verse is written in Isaiah (25:8), and [Rabbi Yisrael] said it when they uproot grass after the deceased is buried.<sup>15</sup>

13. Rabbi Yisrael of Bruna (1400-1480, a disciple of Rabbi Yisrael Isserlein) discusses our topic tangentially in a responsum (No. 181) about burial customs on Hol Hamoed Sukkot. They did not recite *Tzidduk Hadin* and Kaddish.

And when they returned from the grave, some plucked grass and threw it above their heads since it is hint at the Resurrection of the Dead as it is written, “And they will sprout up in towns like the grass of the field” (Psalms 72:16), *i.e.*, just as the grass returns and grows, so do the dead return and live, and so it is in [*Tur*] *Yoreh Deah* and in [*Hagahot*] *Asheri*, and some prevent this [custom on Hol Hamoed] and say that is a custom of mourning and sorrow...

14. Shlomo ibn Verga (1460-ca. 1530) was born in Spain and expelled to Lisbon in 1492, where he became a converso in 1497. He fled to Italy in 1506, where he wrote his book *Shevet Yehudah* ca. 1525. Scholars surmise that he invented some of the stories in his book, but that does not alter the importance of his discussion of our topic. He relates to this custom as part of a dispute between a priest and some “emissaries” of the Jewish community:

The priest replied... Second, I saw that, when they return from the cemetery, they uproot grass and dirt and throw it on their heads, and they say that it is to chase

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<sup>15</sup> *Leket Yosher*, ed, Freimann, Part II, Berlin, 1904, p. 92; the book was written ca. 1475.

away the Angel of Death...

The reply of the important [Jewish] emissary... regarding the second question that they are accustomed to uproot the grass and in some places to lift the dirt—it is to comfort mourners, for they hint at the time of Resurrection, about which it is said “Awake and shout for joy, you who dwell in the dust,” (Isaiah 26:19) and it is said, “And they will sprout up in towns like the grass of the field” (Psalms 72:16). A second reason: To awaken the heart and to break the pride of man, and he lifts up the dirt as if to say, “For dust you are, and to dust you shall return” (Genesis 3:19). And the grass is a hint, as our ancestors said, that “people are like the grass of the field, some sprout up and some wither” (Babylonian Talmud, *Eruvin* 54a). And the third [reason] is that we have a tradition that the soul does not return to its place in the Heavens until the body is buried...<sup>16</sup>

15. Rabbi Yosef Karo (Safed, 1488-1575) discusses this custom at length in his *Bet Yosef* to *Tur Yoreh Deah* 376. In *Shulhan Arukh Yoreh Deah* 376:4 he rules that one says the Burial Kaddish, “and, after that, they pluck dirt and grass and throw it behind their backs and they wash their hands with water.”

16. Rabbi Moshe of Trani, the Mabrit (Safed, 1500-1580) permitted plucking grass with dirt on Hol Hamoed according to this custom, even though there is a general opinion of Rabbi Meir of Rothenburg that prohibits plucking grass and dirt in a cemetery on Hol Hamoed.<sup>17</sup>

17. Rabbi Mordechai Yaffe (1535-1612) quotes this custom in his *Levush* to *Yoreh Deah* 376:4, but it is actually an unattributed quotation from the Ra'avan.<sup>18</sup>

18. Rabbi Moshe Matt (Przemysl, Poland, 1551-1606) completed his book in 1584. He discussed this custom at length and quoted the *Rokeah*, *Tahsbatz*, *Tur*, and *Kol Bo*.<sup>19</sup>

19. Rabbi Aaron Berekhiah of Modena (d. 1639) discusses this custom in his classic work on

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<sup>16</sup> Ed. Shochat, Jerusalem, 1947, pp. 112-113.

<sup>17</sup> Part I, No. 250.

<sup>18</sup> Above, no. 4.

<sup>19</sup> Part 5, 1, 5, ed. London, 1958, pp. 360-361.

mourning.<sup>20</sup> He quotes a number of the classic explanations that we have seen above and adds a number of Kabbalistic explanations according to his usual practice.

20. Rabbi Yudah Low Kirchheim wrote his book *Minhagot Wermeize* in Worms before 1615 (ed. Peles, Jerusalem, 1987, p. 311):

And after that the congregation—men and women—pluck grass and throw it behind them three times and say, “And they will sprout up in towns like the grass of the field,” (Psalms 72:16) or pluck dirt if there is no grass there and say, “He is mindful that we are dust” (*ibid.*, 103:14).

21. Rabbi Yuzpe Shamesh quotes this custom in his *Minhagim dk"k Wermeize* (ed. Hamburger-Zimmer-Peles, Part II, Jerusalem, 1992, p. 95), written in Worms beginning in 1648: “And they uproot grass, and throw it above their heads, and they say: ‘And they will sprout up’ etc..”

22. The non-Jewish scholar Johann Bodenschatz included an engraving of this custom by G.P. Nusbiegel in his *Kirchliche Verfassung* (Frankfurt and Leipzig, 1749). The men in the lower right of the engraving are plucking grass in the cemetery and throwing it behind their backs.<sup>21</sup>

23. From the 19<sup>th</sup> century until today this custom is mentioned in many books devoted to Jewish customs or to the laws of mourning.<sup>22</sup>

Personally, I have never seen this custom since it is not practiced in the Conservative movement in the United States.<sup>23</sup> In Israel, too, I have not seen it from 1972 until today, but this is not surprising since there is no grass in most Israeli cemeteries, and, on *Har Hamenuhot*, the main cemetery in Jerusalem, there is almost no dirt that could be thrown.

24. However, there is some poignant testimony that this was the custom in Eastern Europe until

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<sup>20</sup> *Ma'avar Yabok*, Vilna, 1896, *Sefat Emet*, Chapter 30, p. 196 and *Sifte Renanot*, Chapter 20, p. 218

<sup>21</sup> The picture can be found in *From This World to the Next*, New York, 1999, p. 49, as well as in the articles by Eidelberg and Sperber listed below.

<sup>22</sup> See a list of 24 such books at the end of this responsum.

<sup>23</sup> Rabbi Kenneth Stern wrote to me in February 2017 that he saw this custom at the Breuer Gemeinde plot for German Orthodox Jews at King Solomon Cemetery in Clifton, NJ in 1972.

the Holocaust. In 1996, a German journalist named Paul Badde traveled to the *shtetl* of Alytus in Lithuania in order to research the background of Zvi Kolitz, author of the classic story “Yosl Rakover Talks to God.” An elderly non-Jewish woman told him, “The Jews always throw small pebbles or grass over their shoulders as they leave the graveyard.”<sup>24</sup> In other words, this was the practice of Lithuanian Jews until the Holocaust and this elderly woman remembered the custom 55 years after the murder of the Jews of Alytus.

### **Explanations for the custom of throwing grass and dirt over the shoulder or in the air or in the grave**

We have already seen above many explanations for these customs, including:

1. A hint at the Resurrection of the Dead according to the verse “And they will sprout up in towns like the grass of the field” (Psalms 72:16), as explained in the Babylonian Talmud, *Ketubot* 111b. This explanation explains the grass but not the dirt.
2. As a sign of mourning and sorrow, according to the verse “And they threw dirt into the air onto their heads” (Job 2:12). This verse does not fit most of the descriptions above since Job's friends threw dirt up in the air so that it would land on their heads, not behind their backs.
3. To remember that we are dirt and will return to dirt, according to the verses “For dust you are, and to dust you shall return” (Genesis 3:19) and “He is mindful that we are dust” (Psalms 103:14).
4. A combination of water and dirt [=ashes] and grass [=hyssop] to hint at purification from impurity. This homiletic explanation is not convincing.
5. “That the soul accompanies the body of a dead person until the grave and is not allowed to return until the congregation gives it permission, and the throwing behind them is a sign of permission, as [if to say], ‘go to your rest.’” This explanation of the Tashbatz ca. 1300 resembles in general the following explanation of the modern scholars, and this was stressed by Joshua Trachtenberg in 1939.
6. Indeed, modern scholars beginning in 1880<sup>25</sup> say that Ashkenazic Jews used to throw grass and dirt behind their backs after a burial in order to chase away demons, evil spirits or the soul of the deceased, who chased after or followed them home after the burial.

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<sup>24</sup> Zvi Kolitz, *Yosl Rakover Talks to God*, London, 1999, p. 47.

<sup>25</sup> See the list at the end of this responsum.



Indeed, medieval German sources mention the use of grass for this very purpose, specifically at funerals. This explanation is similar to what Rabbeinu Kalonymus/Elyakim and others said in their own fashion: “And the reason is to make a separation between them and death.” It is also similar to the explanation that Shlomo ibn Verga placed in the mouth of the priest, ca. 1525: “And they say that it is to chase away the Angel of Death...”

### **III) To place grass or a small stone on the grave at the end of the burial service or after visiting a grave**

1. This custom is mentioned by Rabbi Elya Shapira of Prague (1660-1712) in his *Sefer Elya Rabbah* (to *Orah Hayyim* 224, subparagraph 7), which was printed in Sulzbach in 1757:

*Derashot Maharash* wrote...

He also wrote regarding that which they pluck grass from a grave or they take a pebble **and put it on the grave, it is because of *kevod hamet* [respect for the deceased] to show him that he had visited his grave.**

Maharash is Rabbeinu Shalom of Neustadt who died in Neustadt after 1413. If so, the widespread custom today in Israel and the Diaspora as well as its explanation stem from Ashkenaz in the early 15<sup>th</sup> century. On the other hand, perhaps this is not certain because *Halakhot Uminhagei Maharash* was first published by Shlomo Shpitzer in Jerusalem, 1977 on the basis of Ms. Ginzberg-Moscow 85. There, on page 124 (paragraph 368:2), it says: “I saw our teacher, Rabbeinu Shalom... used to pluck grass in the cemetery, and he washed his hands and sat as he was leaving the cemetery...” Since this testimony is not identical to the quote from *Elya Rabbah*, maybe *Elya Rabbah* was quoting a different rabbi?

However, at the end of Shpitzer’s book he appended 118 laws and customs of Maharash quoted by his contemporaries that are **not** in the Ginzberg manuscript. Therefore, the quote from Maharash in *Elya Rabbah* could be authentic, even though it is missing in the Ginzberg manuscript.

Furthermore, the above quotation from Maharash was copied **independently** by Rabbi

Yehudah Ashkenazi, the Dayyan of Ticktin, in his popular commentary *Ba'er Heiteiv* to *Orah Hayyim* 224, subparagraph 8, which was first printed in Amsterdam in 1742 before the printing of *Elya Rabbah*. That quotation is similar but not identical to the text in *Elya Rabbah*. In other words, he too copied the text directly from *Derashot Maharash*.

2. This custom also appears in the above-mentioned engraving by Nusbiegel in the book by Bodenschatz (Frankfurt and Leipzig, 1749). In the upper-left of the engraving one can see piles of stones on two of the graves. In other words, this custom is documented in an engraving in Ashkenaz seven years after the printing of *Ba'er Heiteiv* and eight years before the printing of *Elya Rabbah*.

3. Until today, some of the books which mention this custom quote *Elya Rabbah* and some of them quote *Ba'er Heiteiv*, but no one seems to have noticed that both of them quoted directly from *Derashot Maharash*.<sup>26</sup>

### Explanations for today's widespread custom

1. It could be that today's widespread custom is simply a later permutation of custom number II above. In other words, originally, beginning in the 11<sup>th</sup> century, they used to pluck grass and dirt **and throw them backwards over their shoulder** at the end of the burial service. Later on, as described in *Derashot Maharash* in the 15<sup>th</sup> century: “They pluck grass from a grave or they take a pebble **and put it on the grave**” without throwing it.

2. The Maharash himself explains simply, “It is because of *kevod hamet* [respect for the

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<sup>26</sup> Avraham Yitzhak Sperling, *Sefer Ta'amei Haminhagim*, Tel Aviv, 1957, paragraph 1069; Yitzhak Ze'ev Wendrovsky, *Sefer Minhagei Bet Ya'akov*, second edition, New York, 1911, p. 88; Rabbi Aaron Felder, *Yesodei Smochos*, revised edition, New York, 1976, p. 138; Sperber; and Marcus quote from *Ba'er Heiteiv*.

Rabbi Ya'akov Hayyim Sofer, *Kaf Hahayyim* to *Orah Hayyim* 224, subparagraph 41; Rabbi Ovadiah Yosef, *Yabia Omer*, Part 4, Jerusalem, 1964, *Yoreh Deah*, No. 35, paragraph 7; Rabbi Yitzhak Yosef, *Yalkut Yosef, Hilkhos Bikkur Holim Va'aveilut*, Jerusalem, 2004 edition, p. 612, paragraph 40:11 quote from *Elya Rabbah*.

The custom is mentioned without a source by Rabbi Reuven Bulka, *The RCA Lifecycle Madrikh*, New York, 1995, p. 182.

deceased] to show him that he had visited his grave.”

3. Joachim Schoenfeld in his book on Jewish life in Galicia before the Holocaust maintains that the goal was “to notify the person buried [there] that he might rest in peace, wherever he was.”<sup>27</sup>

4. Rabbi Gavriel Goldman (*Mei'olam Ve'ad Olam... Likhlal Edot Yisrael*, Jerusalem, 2006, p. 217) suggests an additional explanation: “In the past, when there were no stone monuments, they used to erect piles of stones on the grave. The piles would scatter over the course of time. Part of visiting a grave is also to mark the grave by adding stones to the grave.” This is a clever explanation, but it is not hinted at nor mentioned in any ancient source.

5. Rabbi Abner Weiss<sup>28</sup> suggests that this is reminiscent of the ancient practice of *setimat hagolel*—that they would block the burial cave with a huge stone to prevent animals and robbers from entering. Indeed, I too thought of this explanation, but there is no hint in the sources at a connection between the Talmudic practice and the custom of Maharash in the 15<sup>th</sup> century.

6. Finally, Rabbi Abner Weiss and Rabbi Maurice Lamm<sup>29</sup> mention a custom that Jews place a small stone on the grave after the burial and they ask forgiveness from the deceased for any injustice they may have committed against the deceased. Rabbi Lamm also maintains that this is an Israeli custom, but I have never seen a combination of these two things in Israel since making Aliyah in 1972. According to *Minhag Yerushalayim* [the custom of Jerusalem], after the burial, the head of the *Hevra Kadisha* asks forgiveness from the deceased, lest they showed disrespect to him during the *Tohorah* [washing of the body], funeral or burial. After that, all those present place a small stone on the grave. But there is no connection between the two customs.<sup>30</sup>

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<sup>27</sup> Joachim Schoenfeld, *Jewish Life in Galicia... 1898-1939*, Hoboken, New Jersey, 1985, p. 41.

<sup>28</sup> Rabbi Abner Weiss, *Death and Bereavement: A Halakhic Guide*, Hoboken and New York, 1991, p. 88.

<sup>29</sup> Rabbi Maurice Lamm, *The Jewish Way in Death and Mourning*, New York, 1969, p. 67; revised edition, 2000, p. 64.

<sup>30</sup> Regarding this custom, cf. Frazer, pp. 21-22 for a number of explanations of the custom to place stones on or near the graves of saints.

### **Summary and Conclusions**

In this responsum we have seen three customs related to dirt, grass and stones at the end of the burial service and after visiting a cemetery:

1. To cleanse the hands with dirt after burying the dead: This custom is mentioned by the Geonim, but they preferred to wash the hands with water. As a result, this custom is mentioned by the Ramban, Ritva and Tur, and then it disappeared. The original reason was probably to clean the hands symbolically from *tumat hamet*—the impurity of the dead.
2. To throw grass and dirt over the shoulder while reciting certain verses after the burial: This custom is mentioned in dozens, if not hundreds, of sources from the 11<sup>th</sup> century until today, even though it is little-known today. The original reason was to chase away demons or evil spirits or the soul of the deceased upon leaving the grave or the cemetery. Later on, many explanations were given in connection with the different verses that were recited as the grass and dirt were thrown.
3. To place grass or pebbles on the grave after the burial or after visiting a grave: This custom is first mentioned by Rabbi Shalom of Neustadt at the beginning of the 15<sup>th</sup> century and is practiced by many Jews, especially Ashkenazim, until today. On the one hand, it may be a later permutation of the second custom, without throwing the grass and dirt. On the other hand, Rabbi Shalom himself maintained, “It is because of *kevod hamet* [respect for the deceased], to show him that he had visited his grave.” This is a beautiful and simple explanation to which any modern Jew can relate.

David Golinkin

Jerusalem

19 Tevet 5777

**Halakhic literature regarding plucking grass and dirt  
from the beginning of the 19<sup>th</sup> century until today  
(in chronological order, Hebrew and then English)**

Rabbi Avraham Danzig, *Hokhmah Adam* 158:29.

Avraham Lewisohn, *Mekorey Minhagim*, Berlin, 1846, parag. 96, p. 134.

Rabbi Shlomo Ganzfried, *Kitzur Shulhan Arukh* 199:10.

Eliezer Landshuthe, *Seder Bikkur Holim Ma'avar Yabok Vesefer Hahayyim*, Berlin 1867, p. LXIX.

Rabbi Yehiel Michel Epstein, *Arukh Hashulhan*, Yoreh Deah 376:10.

Y. D. Eisenstein, *Otzar Dinim Uminhagim*, New York, 1917, s.v. "Kevurah," p. 354.

Rabbi Avraham Eliezer Hirschowitz, *Otzar Kol Minhagey Yeshurun*, Lvov, 5690, pp. 318-319.

Rabbi Yekuti'el Greenwald, *Kol Bo Al Avelut*, Jerusalem-New York, 5733, I:216.

Rabbi Yehiel Michel Tukachinsky, *Gesher Hahayyim*, 2nd ed., Jerusalem, 5620, I:153.

Rabbi Hayyim David Halevi, *Mekor Hayyim Hashalem* 282:16, V:375.

Rabbi Aaron Levine, *Zikhron Me'ir Al Aveylut*, Toronto, 5745, I:447-448; which summarizes six explanations given for the custom.

Rabbi Hayyim Binyamin Goldberg, *Sefer Peney Barukh: Avelut Bahalakhah*, Jerusalem, 5746, p. 65.

Shaul Maizlish, *Hayyey Adam: Zikkaron Livrakha: Minhagey Petirah Va'avelut Bemasoret Yisrael*, Tel Aviv, 1987, p. 53.

Asher Wassertiel, ed., *Yalkut Minhagim Miminhagey Shivtey Yisra'el*, 3rd ed., Jerusalem, 5756, p. 259.

Rabbi Gavriel Goldman, *Meolam Vead Olam... Likhlal Edot Yisra'el*, Jerusalem, 2006, p. 96; which summarizes four explanations given for the custom.

Rabbi Ovadia Yosef, *Hazon Ovadyah, Hilkhos Avelut*, Jerusalem, 5770, I:330.

Rabbi Joshua Sperka, *Eternal Life*, New York, 1939, p. 61.

Hyman Goldin, *Hamadrikh: The Rabbi's Guide*, Hebrew Publishing Company, New York 1939 and 1956, p. 134.

Rabbi Aaron Felder, *Yesodei Smochos*, revised edition, New York, 1976, p. 50.

Rabbi Isaac Klein, *A Time to Be Born, A Time to Die*, United Synagogue Youth, New York

1976, pp. 36-37 = עמ' 36 = רבי יצחק קליין ודוד גולינקין, עת ללדת ועת למות, ירושלים, תשנ"ב, עמ' 36-37 = Rabbi Isaac Klein, *A Guide to Jewish Religious Practice*, The Jewish Theological Seminary, New York 1979, p. 281.

Rabbi Abraham Rosenfeld, סדר תפילת זכרון לבית אבל, *Prayer Book for a House of Mourning*, second edition, Jerusalem 1981, p. 226.

Rabbi Tzvi Rabinowitz, *A Guide to Life: Jewish Laws and Customs of Mourning*, Northvale, New Jersey and London 1989, p. 42.

Dr. Ron Wolfson, *A Time to Mourn, A Time to Comfort*, New York, 1993, p. 138.

Rabbi Reuven Bulka, *The RCA Lifecycle Madrikh*, New York, 1995, p. 162.

### **Academic literature about the plucking of grass and dirt**

#### **(in chronological order from 1880 until today)**

Moshe Güdemann, *Sefer Hatorah Vehahayyim Be'artzot Hama'arav Bimey Habeynayim*, Warsaw, 5657, I:169. (The German original was published in 1880).

Joseph Jacobs, *The Jewish Encyclopedia*, Vol. XI, New York, 1905, p. 599.

James G. Frazer, *The Golden Bough*, Part VI, *The Scapegoat*, third edition, London, 1913, pp. 15ff. and especially p. 19.

Avraham Marmorstein, *Tziyyon II*, 5687, pp. 25-27; which gives several explanations for the custom.

Joshua Trachtenberg, *Jewish Magic and Superstition*, New York, 1939, pp. 178-179, 301.

Hayyim Schauss, *The Lifetime of a Jew*, New York, 1950, pp. 267, 288.

Theodor Gaster, *The Holy and the Profane*, New York, 1955, pp. 175-176, 247.

Shelomoh Eidelberg (*PAAJR* LIX 1993), Hebrew section, pp. 7-14, which includes the picture from Bodenschatz on p. 14 [= Shelomoh Eidelberg, *Bintivey Ashkenaz*, New York, 5761, pp. 36-43 (without picture)].

Daniel Sperber, *Minhagey Yisrael: Mekorot Vetoledot*, Jerusalem, 5758, VI: 116-117 with the picture from Bodenschatz on p. 345.

Ivan Marcus, *The Jewish Life Cycle*, Seattle and London, 2004, 213-214, 295.

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## ***Addir Addirenu On Shabbat and Beyond***

Jonah Rank

*Dedicated to Rabbi Dr. Raymond Scheindlin's many years of inspiring scholarship on Jewish liturgy and Arabic and Hebrew literature and language.*

### **Question:**

On what days is it proper to include *Addir Addirenu*<sup>1</sup> in the *Kedushah*<sup>2</sup>?

### **Answer:**

Over the course of Jewish liturgical history, varying parameters have determined differing limitations on and reasons for reciting *Addir Addirenu*. Those who have concluded different answers to the above question have considered several myths embedded in *midrashim* (מדרשים, “interpretations”) and *peyrushim* (פירושים, “commentaries”) that render *Addir Addirenu*

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<sup>1</sup> For the purposes of this *teshuvah* (תשובה, “responsum”), “*Addir Addirenu*” refers to the following short prayer:

אָדיר אָדירנו, יי אָדנינו, מָה אָדיר שְׁמֶךָ בְּכָל־הָאָרֶץ. יְהִיָּה יי לְמִלְךָ עַל כָּל־הָאָרֶץ, בְּיוֹם הַהוּא יְהִיָּה יי אֶחָד וְשֶׁמוֹ אֶחָד.

The glory of our glory, Adonai our Lord, how glorious is Your name throughout the earth! Adonai will be sovereign over all the earth; on that day, Adonai will be One, and Adonai's name One.

All translations in this *teshuvah* by the author unless noted otherwise.

<sup>2</sup> The *Kedushah* (קְדוּשָׁה, “holiness”) is the traditional title of the part of the core *tefillah* (תְּפִלָּה, “prayer”) during which those praying recite words reflecting on God's transcendental and holy nature on earth and in the heavens. Throughout every service of the entire year, the *Kedushah* is recited as the third blessing of the *Amidah* (עֲמִידָה, the “standing” prayer recited traditionally at least thrice daily and constituting one of the earliest strata of rabbinically authored prayers designed specifically to replace the daily offerings of the sacrificial cult at the ancient Temple in Jerusalem) as well as this third blessing's extended prelude. For a critical yet lay-accessible introduction to the *Amidah*, see Lawrence Hoffman (ed.), *My People's Prayer Book Vol. 2: The Amidah* (Woodstock, VT: Jewish Lights Publishing 1998). For a brief history of the *Kedushah*, from its biblical precedents and early rabbinic preformulations to its medieval formalizations, see Ismar Elbogen, *Jewish Liturgy: A Comprehensive History* (trans. Raymond P. Scheindlin) (Philadelphia, PA: Jewish Publication Society 1993), pp. 54-57.



appropriate or inappropriate to recite at different times of the year. Before exploring the practical answers given by different *posekim* (פוסקים, “decisors” of Jewish law), it is important to seek an understanding of the homiletics and polemics that underlie the rationales justifying the omission or recitation of *Addir Addirenu*.<sup>3</sup> This *teshuvah* therefore considers the historical origins of *Addir Addirenu*, the *aggadah* (אגדה, “lore”) that ushered in the evolution of practices surrounding *Addir Addirenu* and, lastly, the legalistic sources ruling on the recitation of *Addir Addirenu* and contemporary practice.

### The Literary Emergence of *Addir Addirenu*

*Addir Addirenu* never appeared in the liturgical works and commentaries attributed to Amram Ga’on (of 9th century Babylonia) and Sa’adiah Ga’on (of Babylonia; b.<sup>4</sup> c.<sup>5</sup> 882, d.<sup>6</sup> c. 942). It is possible that zero rabbis who preceded the 11th century C.E. knew of *Addir Addirenu*. Rabbi Ismar Elbogen (of Germany; b. 1874, d. 1943) determined that *Addir Addirenu* is “Ashkenazic in origin” and with “its wording appear[ing] to be influenced by a piyyut [פיוט, liturgical ‘poem’] of R. Meshulam b. Kalonymus” (whose death Elbogen dated to occurring circa 1000).<sup>7</sup> Specifically, Elbogen pointed to the *kerova* (קרובה, the metonymic term for the total sum of—as infixed between the earlier fixed texts of the *Amidah*—the liturgical poetry inserted throughout the *Amidah* by, literally the *kerova*, “the one who has come near” the Ark to lead services)<sup>8</sup> in the standardized Ashkenazic recitation of *Shaharit* (שחרית, the “morning” service)

<sup>3</sup> This author is writing a forthcoming study on the evolution of the multiple aggadic branches that connect the words of *Addir Addirenu* with the underlying and intertextual considerations that inform the decisions of *posekim* in determining when to recite *Addir Addirenu*. The *teshuvah* here will deal with the values and narratives jointly expressed by the treatment of the words of *Addir Addirenu* in the multiple agreeing (albeit often divergent) aggadic strands.

<sup>4</sup> Henceforth, “b.” Is an abbreviation for “born.”

<sup>5</sup> Henceforth, “c.” is an abbreviation for “circa.”

<sup>6</sup> Henceforth, “d.” Is an abbreviation for “died.”

<sup>7</sup> Elbogen, p. 58.

<sup>8</sup> For this explanation of the term *kerova*, see Daniel Goldschmidt (ed.), *Maḥzor LaYamim HaNora'im Leḥi Minhagey Beney Ashkenaz Lekhol Anfeyhem Kolel Minhag Ashkenaz (HaMa'aravi) Minhag Polin UMinhag Tzorfat LeShe'Avar*, vol. I (Jerusalem, Israel: Leo Baeck 1970), pp. XXXII (לב), esp. fn. 6, (Hebrew) i.e.:

דניאל גולדשמידט (עורך), מחזור לימים הנוראים לפי מנהגי בני אשכנז לכל ענפיהם כולל מנהג אשכנז (המערבי) מנהג פולין ומנהג צרפת לשעבר, כרך א' (ירושלים, ישראל: ח' קורן ה'תש"ל), עמ' לב, הע' 6.

on Yom Kippur. Elbogen suggested that, throughout these poetic punctuations, “the word *adir* [i.e., אָדִיר, “the glory”] plays a special role; particular notice should be paid to the last part of the version of the Kedushah in which the repeating words are [אֲדֹנָינוּ, *Adonai adonenu*: ‘Adonai our Lord’] and מַה אָדִיר שְׁמֶךָ [*mah addir shimkha*, ‘how glorious is Your name’].”<sup>9</sup> Current scholarship demands that a critical lens review this claim. Daniel Goldschmidt (of Germany and, later, Israel; b. 1895, d. 1972) noted that Rabbi Leopold Zunz (also of Germany; b. 1794, d. 1886) identified only a portion of this *piyyut* as work originally composed by Rabbenu Meshullam.<sup>10</sup> Moreover, many parts of the *kerova* that are known to be authored by Rabbenu Meshullam contain no hint of the mythical themes (to be discussed later in this *teshuvah*) or *alef-dalet-reysh* (א ד ר) trilateral root that would later develop into *Addir Addirenu*.<sup>11</sup> Still, several passages of unknowable authorship (perhaps by, earlier than, contemporaneous with, or later than Rabbenu Meshullam) do utilize the *alef-dalet-reysh* root.<sup>12</sup> And occasionally, authorship of

<sup>9</sup> Elbogen, p. 402, n. 17.

<sup>10</sup> See Goldschmidt, vol. II, pp. לו, לז (XXXVI, XXXVII) (Hebrew), i.e.:

דניאל גולדשמידט (עורך), מחזור לימים הנוראים לפי מנהגי בני אשכנז לכל ענפיהם כולל מנהג אשכנז (המערבי) מנהג פולין ומנהג צרפת לשעבר, כרך ב' (ירושלים, ישראל: ה' קורן ה'תש"ל), עמ' לו, לז.

<sup>11</sup> Note the absence of anything relatable to *Addir Addirenu* in the following sections: *Emekha Nasati* (אֶמְכָּה נָשָׂאתִי) in Goldschmidt, vol. II, pp. 112-113; *Immatzta Asor* (אִמְצַטָּא אֶסּוֹר) at pp. 113-115; *Ta'avat Nefesh* (תַּאֲוַת נֶפֶשׁ) at pp. 115-117; and *Ihadta Yom* (אֶחָדְתִּי יוֹם) at pp. 119-121.

<sup>12</sup> The incipient lines of *Mi Khamokha Addir BaMeromim* (מִי כְמוֹךָ אָדִיר בַּמְרוֹמִים), “Who is like You, glorious in the heights?” in Goldschmidt, vol. II, p. 141 and *Eyn Kamokha Be'addirey Malah* (אֵין כְּמוֹךָ בְּאֲדִירֵי מַלָּאךְ), “There is none like You, among the glorious of above” at p. 142 share not only the trilateral root of *alef-dalet-reysh* but also the ambiguity of authorship presented by their nature as alphabetical acrostics not necessarily demonstrable to be in the style of specifically Rabbenu Meshullam (or anybody in particular). See Goldschmidt’s comment, p. XXXVI (לו). Of similar ilk of unknown authorship and relevance within the first three words, we find *Romemu Addir VeNora* (רֹמְמוּ אָדִיר וְנוֹרָא), “Exalt the glorious and the awed” (pp. 146 and XXXVI). History has also not clarified exactly who authored *Eyn Mispar* (אֵין מִסְפָּר), “There is no number” (pp. 153-155), in which the worshiper reads about *hannedar bakkodesh* (הַנְּעָדָר בְּקֹדֶשׁ), “the glorified among the sacred”, through which the trilateral root *alef-dalet-reysh* appears just once (p. 153, line 5). Of similarly unknown authorship, we find *Mi Yetanneh* (מִי יִתְּנֶה), “Who will give” (pp. 156-169). This lengthy *piyyut* references God *va'adoney ha'adonim* (וְאֲדֹנֵי הָאֲדֹנִים), “and the lord of the lords” (p. 158, line 33), language similar to the beginning of Psalm 8:2. Further, it depicts humanity as of evil nature, which the circumlocution of the *midrash* cited in this *teshuvah* by *Sefer HaPardes* surrounding whether angels or humans are more deserving of the Torah implies in verifying that humanity’s lowly nature onsets the Torah’s relevance to human life. For this *midrash*, see in this *teshuvah*, pp. 73-75; for the relevant theme in the *piyyut* text, see Goldschmidt, vol. II, pp. 161-162, lines 84-92. And, lastly, note that *Mi Yetanneh* incorporates *alef-dalet-reysh* in its declaration that

passages in this *kerova* with the themes or linguistic root of *addir* can be identified to be somebody who was definitively not Rabbenu Meshullam.<sup>13</sup> Still, evidence corroborates

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the mighty ones *yadirukha* (יָאֲדִירְכָּה, “will glorify You”) (p. 169, line 195).

<sup>13</sup> Although *enosh mah yizkeh* (אֲנוֹשׁ מַה יִּזְכֶּה, “What may humanity merit?”) does not appear in the *Kedushah* of the Amidah (but precedes the blessing immediately preceding the *Kedushah*), it is notable that its incipient words echo some of the language and themes of *mah enosh ki tizkerennu* (מַה אֲנוֹשׁ כִּי תִזְכְּרֵנוּ, “What is a human—that You should recall one!?”) in Psalm 8:5, which is cited in the midrashic narratives that introduce *Addir Addirenu* cited in this *teshuvah*. For the *midrash*, see in this *teshuvah*, pp. 73-75. For the relevant *piyyut* text, see Goldschmidt, vol. II, pp. 117-119. Moreover, this particular *tokhehah* (תּוֹכְהָה, poetic composition of “rebuke”) speaks in line 5 of *haddan yehidi / vehu ve’ehad* (הַדָּן יְהִידִי / וְהוּא בְּאֶחָד, “The singular Judge / and the Judge is amidst Oneness”), which (in addition to its resonance with Job 23:13) recalls the themes of judgment that *Sefer Hasidim* would later develop and the emphasis on God’s unity in the Zechariah verse appended to the most popular recitation of *Addir Addirenu*; see in this *teshuvah*, pp. 82-90, and Goldschmidt, vol. II, p. 117. Goldschmidt understood though that *Enosh Mah Yizkeh* was authored by someone other than Rabbenu Meshullam. See p. XXXVII [לז].

The insertion *Ha’adderet VeHa’emunah* (הָאֲדֶרֶת וְהָאֱמוּנָה, “the glory and the faith”), found in Goldschmidt, p. 143, appears as the third continuous liturgical composition to begin with a line including the trilateral root; however, the origins of this particular *piyyut* can be found to be in the *Heykhalot* [הַיְכָלוֹת, “palaces”] genre of Jewish mystical literature. See p. XXXVII.

Likewise, though Goldschmidt considered it a product of the pen of Rabbi El’azar Kalliri, who flourished in the land of Israel and centuries earlier than the European Rabbenu Meshullam, we encounter an alphabetical acrostic where each hemistich ends, alternating, with a cry of *Adonai adonenu* or *mah addir shimkha* (מַה אֲדִיר שִׁמְכָּה, “how glorious is Your name”), both endings based on Psalm 8:2 (p. 176, line 1). The reader may recall that Elbogen had highlighted this particular passage in reference to Rabbenu Meshullam’s authorship

The theme and language return in what the *Shaharit* of Yom Kippur features as its *rahit* (רְהִיט, literally “running”) sequence—the form of *piyyut* stylized by, among other features, rhyming alphabetical acrostics built on the repetition of an individual word or phrase in a Biblical verse that is revealed with each subsequent *rahit* revealing the next word or phrase in the Biblical verse that punctuates and precedes the next *rahit* until the Biblical quote reaches its end. Regarding this poetic form, see Aharon Mirsky, *Reshit HaPiyyut* (Jerusalem, Israel: Jewish Agency c. 1975) as accessed at <http://www.daat.ac.il/daat/sifrut/maamarim/reshit7-2.htm> on May 22, 2017 (Hebrew), i.e.:

אהרון מירסקי, ראשית הפיוט, (ירושלים, ישראל: הוצאת הסוכנות היהודית, ה'תשכ"ה).

Manuscripts attribute the *rahit* in Yom Kippur’s *Shaharit* service to the pen of *R’ Kalonimos*, (“R. Kalonymos”), sometimes with the appended title of *hazzaken* (הַזָּקֵן, “the Elder”) at the end, and Zunz identified this Rabbi Kalonymos to be the father of Rabbenu Meshullam. See Goldschmidt, vol. II, p. XXXVI-XXXVII. In the first *rahit*, the reader may note that the first word to follow the word *mi* (מִי, “who”) from the Biblical verse is indeed *addir*—as in: *Mi Addir Afsekha* (מִי אֲדִיר אֶפְסָכָה, “Who is glorious if not You?”) (p. 182). The third *rahit* describes God as *dagul* (דָּגוּל, “eminent”), which later readers might have come to associate with the episode of the human envy of the angelic *degalim* (דְּגָלִים, the plural of *degel*: דֶּגֶל, “flag”) (pp. 184-185; esp. P. 184, line 2); for this *midrash*, see pp. 103-107 of this *teshuvah*.

Elbogen's linking *Addir Addirenu* with Rabbenu Meshullam's *kerova*, for several passages by Rabbenu Meshullam do indeed include language and themes associated with *Addir Addirenu*.<sup>14</sup> Likewise, some passages seeming to be (but not provable to be) by Rabbenu Meshullam integrate the language and themes of *Addir Addirenu*.<sup>15</sup>

The *rahit* of *Lekha Eder Na'eh MiKol Peh* (לְךָ אֶדֶר נְאֻה מִכָּל-פֶּה, “for You there is pleasing glory from every mouth”) also includes the root of *alef-dalet-reysh* in its second word (pp. 189-190; esp. p. 190). The next section, *Ya'atah Tehillah* (יָאֵתָה תְהִלָּה, “prayer has been seemly”) produces the terms *nedar* (נֶאֱדָר, “glorified”) and *le'addar* (לְאֶדֶר, “for glory”) within its first stich (pp. 190-191; esp. p. 190). Following, *Hakhmey Tom* (הַחֲמֵי תוֹם, “the sages of innocence”) refers to those who understand *tzeruf otiiyyot shem illumekha* (צִרּוּף אוֹתִיּוֹת שֵׁם עֲלוּמֶךָ, “the permutation of the letters of the name of Your hiddenness”) (pp. 194-195; esp. P. 194, line 3), a secret, mystical tradition directly mentioning *otiiyyot* (אוֹתִיּוֹת, “letters”), interconnected with the mythos that upholds the intertwined term *dagul* (see in this *teshuvah*, pp. 102-106).

<sup>14</sup> See for example, Rabbenu Meshullam's *Eder Yekar* (אֶדֶר יְקָר, “the glory of the dearness of...”), which, in its incipient words, incorporates the trilateral root of *alef-dalet-reysh* (in Goldschmidt, vol. II, pp. 125-126). And so do its phrases *hanne'edar mikkolot mayim* (הַנֶּאֱדָר מִקּוֹלוֹת מַיִם, “the glorified above the sounds of water”) (p. 125, line 5) and *ve'addir* (וְאֶדֶר, “and glorious”) (*ibid.*, line 14). Note the false iterations of the trilateral root in *bahadaro* (בְּהֶדְרוֹ with *heh-dalet-reysh*: ה ה ד ר) and *edro* (עֶדְרוֹ with *ayin-dalet-reysh*: ע ד ר) in the same line as the appearance of *ve'addir* (line 14, *ibid.*); in these phrases the *alef* of the trilateral root are replaced by a ה (*heh*) and an *ayin* (ע) respectively.

<sup>15</sup> Goldschmidt noted that Zunz found himself not completely—but quite—certain that *Imru Lelohim Erekh Appayim* (אִמְרוּ לַאלֹהִים אֶרְכָּךְ אַפַּיִם, “Say to God, [‘With] a face of long [patience]”) (vol. II, pp. 130-135) was authored by Rabbenu Meshullam (pp. XXXVI-XXXVII). In this alphabetical acrostic, דָּגוּל מִרְבִּבוֹת / וְנֶאֱדָר בְּקֹדֶשׁ (*dagul merivevot kodesh / venedar bakkodesh*, “eminent among tens of thousands of sanctity / and glorified amidst sanctity”) includes the trilateral root. In this particular stiche, דָּגוּל מִרְבִּבוֹת (*dagul merivevot*, “eminent among tens of thousands”)—especially with the word *dagul* sharing a root with the word *degel*—alludes to the *midrash* in *Tanhuma* that, in later history, the Apter would cite as an etiology for the specific times during which *Addir Addirenu* is to be recited. (See pp. 102-106 of this *teshuvah*.) In this same composition, God is described as *sovel elyonim vetahtonim* (סוֹבֵל עֲלִיּוֹנִים וְתַתּוֹנִים, “sufferer of the supernal ones and the underlings”)—whereby angels and humans are contrasted yet equal in their subservience to God—(p. 133, line 43) *va'adoney ha'adonim* (וְאֶדְנֵי הָאֲדוֹנִים, “and the Lord over all lords”). The latter paraphrases the incipient words of Psalm 8:2, which appears in *Addir Addirenu* (*ibid.*, line 45). Indeed, the entirety of *Adonai adoneynu mah addir shimkha bekhoh ha'aretz* (אֲדֹנָי אֲדֹנֵינוּ מַה אֲדִיר שִׁמְךָ בְּכָל-הָאָרֶץ, “Adonai our Lord, how glorious is Your name throughout the earth!”), which appears in both Psalm 8:2 and *Addir Addirenu*, appears in the final line of this composition (p. 135, line 66). Goldschmidt also credits Rabbenu Meshullam as the likely author of the alphabetical acrostic *Ha'addir BiShmey Aliyyot* (הָאֲדִיר בִּשְׁמֵי עֲלִיּוֹת, “the glorious amidst the heavens of the ascents”) (pp. XXXVI-XXXVII). In *Ha'addir BiShmey Aliyyot*, the incipient word gives voice to the trilateral root of *alef-dalet-reysh*, and the hemistich for *dalet* refers to God as *HaDan BeTzedek Beriyyot* (הַדָּן בְּצֶדֶק בְּרִיּוֹת, “the one who judges creatures amidst righteousness”) (p. 178, lines 1 and 4), thereby alluding to God in a judicial position akin to that imagined in *Sefer Hasidim*. See in this *teshuvah*, pp. 81-89.

Through much of the *kerova*, themes relating to foreign nations' inferiority to the majesty of God or the unity of God do appear; however, these themes are common themes in the scheme of any texts that would naturally surround or appear amidst a *kerova*. Moreover, though *alef-dalet-reysh* can be found in the *kerova* with greater frequency than several other recurring trilateral roots, the reader may question the usefulness of Elbogen's claim that the term *addir* "plays a special role" in this *kerova*.<sup>16</sup> Considering the quantity of the several dozen *piyyutim* (פיוטים, the plural of *piyyut*) attributable to Rabbenu Meshullam or even the quantity of *piyyutim* appearing in this *kerova* (which occupy 91 pages of Goldschmidt's print of the Yom Kippur service<sup>17</sup>), the occurrences of *addir*'s root letters number relatively few (as do the appearance of themes mythically linked exclusively to the development of *Addir Addirenu*). As present as the root and backstory of *addir* may be in the *kerova* of Yom Kippur's *Shaharit*, critical thinkers may reserve the right to doubt whether this *piyyut* truly served as a major inspiration for the development of *Addir Addirenu*.

Though Elbogen's suggestion suffers from certain faults, we will see that at least one medieval French Jew believed that the origins of *Addir Addirenu* lied in abandoned liturgical poetry.<sup>18</sup>

### Stories From Rashi's School

Due to the historical layers of his disciples' authorship lying on top one another, the complexities of dating the writings attributed to the school of Rashi (רש"י—the acronym of Rabbi Shelomoh Yitzchaki [רבי שלמה יצחקי] of France, b. c. 1028<sup>19</sup>, d. c. 1105) make it difficult

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Within the scope of unknown authorship that is nonetheless almost certainly attributable to Rabbenu Meshullam is *Eyley Shahak* (אֵילֵי שָׁחַק, "the mighty ones of the sky") (pp. 149-152), which has in its second stiche the term *אֲדִירִי* ("the glorious ones of") (p. 149). Regarding the author's identity, see pp. XXXVI-XXXVII.

<sup>16</sup> See Elbogen, p. 402, n. 17.

<sup>17</sup> See Goldschmidt, vol. II, pp. 112-202.

<sup>18</sup> See pp. 77-79.

<sup>19</sup> For this dating (despite a popular dating of 1040 as Rashi's birth), see Victor Aptowitzer (אביגדור) *Sefer Ra'avayah* (ספר ראבי"ה), (Jerusalem c. 1938), p. 395. Kirsten Fudeman follows his dating methodology. See, for example, Kirsten Fudeman, "The Old French Glosses In Joseph Kara's Isaiah Commentary" in *Revue des Études juives*, 165 (1-2), janvier-juin 2006 pp. 147-177, esp. p. 149.

to ascertain if they were indeed the earliest to write of *Addir Addirenu*. Rachel Zohn Mincer has described *Sefer HaPardes* (ספר הפרדס) as a “twelfth century school-of-Rashi book,”<sup>20</sup> which could make the work the earliest to mention *Addir Addirenu*. The *editio princeps* of *Sefer HaPardes* records Rashi’s school teaching the following:

ואין אומר אדיר אדירינו בקדושה, אלא בראש השנה ליום<sup>21</sup> הכיפורים, לא יותר, לפי שהוא שיר של מלאכים, ולא התירו לאומרה אלא באילו הימים שהן ימי הדין. אבל בשאר ימים טובים ובכל שבתות של כל השנה אין אומר. אבל רבי אליקים גזר לשליח צבור לאומרו פעם אחת בעצרת משום האי טעמא דאמר, הלא אותו שיר לא אמרוהו מלאכים אלא בשעת מתן תורה כדגרסינן במסכת שבת: בשעה שנתן הקב"ה תורה לישראל אמרו מלאכי השרת, "ה' הדונינו"<sup>22</sup> מה אדיר שמך בכל הארץ, תנה הודך על השמים!?" לך, בדין לאומרו בעצרת משום מתן תורה בו ביום.

One does not recite *Addir Addirenu* during the *Kedushah* except on Rosh HaShanah for<sup>23</sup> Yom Kippur—not more [frequently], for it is a song of angels, and they did not permit us to recite it except on these days that are the days of judgment. But on the remaining days of *Yom Tov*<sup>24</sup> and any other Shabbat of the whole year, one does not recite [*Addir Addirenu*]. Yet Rabbenu Elyakim [of Speyer; b. c. 1030, d. c. 1100] decreed that the emissary of the community [leading prayer on their behalf] should recite it once—on Shavu’ot—on account of this reason: For he said: Is this not the same song that the angels did not recite except during the moment of the giving of the Torah—just as they teach us in the [Babylonian Talmud’s] tractate Shabbat: At the moment that the Holy Blessed One give the Torah to Israel, the ministering angels said, “Adonai *hadoneynu*”<sup>25</sup>, how glorious is Your name throughout the earth! Give of Your glory over the

<sup>20</sup> Rachel Zohn Mincer, “Liturgical Minhagim Books: The Increasing Reliance on Written Texts in Late Medieval Ashkenaz” (dissertation; Jewish Theological Seminary 2012), p. 59, fn. 171.

<sup>21</sup> Undoubtedly, the word ליום (*leYom*, “for Yom”) here should be amended so as to read as ויום (*veYom*, “and Yom”).

<sup>22</sup> The word הדונינו (*hadoneynu*) constitutes either a misprint of אדונינו (*adonenu*, “our Lord”) or a means of avoiding approximating writing a referent to the Divine name in vain by replacing the letter א (*alef*) with *heh*.

<sup>23</sup> See fn. 21.

<sup>24</sup> *Yom Tov*, (יום טוב, a “good day” of a Jewish festival) is specifically a Jewish festival day on which the tradition, for instance, prohibits nearly all of the same actions as prohibited on Shabbat. Days of *Yom Tov* fall during Rosh HaShanah, Yom Kippur, the first day of Sukkot (as well as the second day in the Diaspora outside the Land of Israel), Shemini Atzeret and Simḥat Torah, Passover’s first day and last day (and on the second and penultimate days in the Diaspora), and the entirety of Shavu’ot.

<sup>25</sup> See fn. 22.

heavens (Psalm 8:2)!?” Therefore, it is the law to recite it on Shavu’ot on account of the giving of the Torah being on that very day.<sup>26</sup>

In the realm of *aggadah*, it must be noted that *Sefer HaPardes* references an integral *midrash* in the Babylonian Talmud, Shabbat 88b-89a. In it, angels express their envy when God gifts the Torah to humans and not to the angels. Though *Sefer HaPardes* and two other medieval narrative-etiological sources presented in this *teshuvah* and citing this *midrash*<sup>27</sup> are rooted in rabbinic traditions that precede them,<sup>28</sup> those earlier teachings never reference *Addir Addirenu*

<sup>26</sup> *Sefer HaPardes* (Constantinople, Ottoman Empire: Refa’el Hayyim Eliyyah Pardo c. 1802) p. 83/42a (Hebrew), i.e.:

ספר הפרדס (קושטאנדינה: רפאל חיים אליה פארדו ה'תקס"ב), מב ע"א (עמ' 83).

Note that Ehrenreich’s critical edition of this work erroneously assigns a date for this first printed edition of *Sefer HaPardes* as being published five years later than the title page of the *editio princeps* indicates. See H. L. Ehrenreich (ed.), *Sepher Ha-Pardes: an[sic] liturgical and ritual work, attributed to Rashi* (Budapest, Hungary: the Brothers Katzburg, c. 1924), title page and p. ו (vav) and following (Hebrew), i.e.:

חיים יהודה עהרענרייך, ספר הפרדס לרש"י ז"ל, (בודאפעשט, הונגריה: האחים קאטצבורג, ה'תרפ"ד), שער ועמ' ו וגו'.

<sup>27</sup> See pp. 80-96 of this *teshuvah*.

<sup>28</sup> The following rabbinic works present some aspect of this narrative tradition surrounding the Biblical words referenced above by Rabbi El’azar: Tosefta (Lieberman), Sotah 6:5; *Mekhil’ta DeRabbi Yishma’el*, *BeShallah*, *Massekhta DeShira* (מסכתא דשירה) at the end of *Parashah* I; *Mekhil’ta DeRabbi Shim’on Bar Yohai* 15:1, s.v. *sus verokhevo* (“סוס ורכבו”); *Bereshit Rabbah* (Vilna) 8:6; *Bereshit Rabbah* (Theodor-Albeck) 8:1:1; *Midrash Tehillim* 8:2; *Shir HaShirim Zuta* at the end of I:1; *Pesik’ta Rabbati* (Friedman), second half of XX, *Mattan Torah* (מתן תורה) and XXV, *Asser Te’asser* (עשר תעשר); *Midrash Tanhuma* (Warsaw), *BeShallah* XI on Exodus 15:1 and *Terumah* X (middle) on Exodus 26:7; *Midrash Tanhuma* (Buber), *Korah* 11; and nearly the entirety of *Sefer Me’eyn HaHokhmah* (Eisenstein). As aforementioned, an analysis of the development of the rabbinic narratives surrounding these words will be published in a future study. Suffice it to say for the meantime, one branch of rabbinic myth surrounding the words of Psalm 8:2 associate these words with angels praising God at the Israelites’ crossing of the Sea of Reeds but not necessarily competitively. A later stratum of this *aggadah* introduces the contention over who is most deserving of the Torah.

Also of note is that in the first-cited selection from *Pesik’ta Rabbati* (as well as *Sefer Me’eyn HaHokhmah* [Eisenstein], which seems to be largely based on the *Pesik’ta Rabbati* passage under discussion), the Biblical quotations in question appear in the context of angelic conversation that follows and includes the words of the *Kedushah*. This ascent narrative that describes the visual experience of the Heavenly abode nearly complies with the practice of reciting mythical narrative surrounding the traditional core of Jewish liturgy (as often occurs in *piyyutim*, suggesting that the midrashic text here may have once (or more than once) been utilized as a poetic expansion of the liturgy. A similar theory regarding large portions of the mystical text *Shi’ur Komah* has been previously suggested. (See Marvin A. Sweeney, “Dimensions of the Shekhinah: The Meaning of the Shiur Qomah in Jewish Mysticism,

specifically. In every earlier version of this *midrash*, God concludes that the Torah will be gifted to *Beney Yisra'el* (בְּנֵי יִשְׂרָאֵל, “the children of Israel”) and not to the angels (who beg otherwise). In this tale, God establishes that those heavenly beings’ transcendental and incorporeal lives have no relevance to the mundane concerns of the Torah’s laws guiding social living.

Beyond the *aggadah* embedded in this part of *Sefer HaPardes*, the reader must still consider its pertinence to *halakhah* (הִלְכָּה, the “path” of Jewish law). Elbogen interpreted this passage from *Sefer HaPardes* as teaching that some time lapsed during which *Addir Addirenu* was recited only on the High Holidays before Rabbenu Elyakim (of the 11th century) ruled it most appropriate to include this passage on Shavu’ot.<sup>29</sup> But the present tense of the verbs in *Sefer HaPardes*’ ruling regarding the recitation of *Addir Addirenu* on only the High Holidays (despite the text’s giving voice to Rabbenu Elyakim) poses a challenge to Elbogen’s reading: How could one accept Rashi’s school’s ruling that the worshipper recites *Addir Addirenu* only on the High Holidays if Rabbenu Elyakim ruled otherwise far earlier? One must question whether *Addir Addirenu* was sung on the High Holidays for more than a few years before Rabbi Elyakim decreed its recitation on Shavu’ot. Unless Rashi himself—and not merely his disciples—knew of *Addir Addirenu*, Rabbenu Elyakim would be the oldest and sole authority to whom knowledge of *Addir Addirenu* has been attributed. That no written record of this prayer predates Rabbenu Elyakim leaves the reader doubting whether Rabbenu Elyakim in fact changed the practice of reciting *Addir Addirenu* or perhaps innovated (or knew of) the practice of reciting *Addir Addirenu*. Especially given that Rashi’s school wrote in the present tense of only reciting *Addir Addirenu* on the High Holidays, the possibility remains that Rabbenu Elyakim never demanded any change in practice as described by Rashi’s disciples. It is plausible that oral traditions crafted

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Liturgy, and Rabbinic Thought” in *Hebrew Studies*, Vol. 54 [2013], pp. 107-120. There, Sweeney condensed Martin S. Cohen’s hypothesis regarding liturgical usage of *Shi’ur Komah*.) *Pesik’ta Rabbati*, like any other text whose origins precede the 10th century C.E. and attempts similarly a mythic depiction of the recitation of the *Kedushah* in the heavenly abode, preserves a *Kedushah* that precedes the inclusion of the two words *Addir Addirenu* but not the Biblical words that these two words eventually introduced.

<sup>29</sup> Elbogen, p. 290. See also Dan, p. 402, fn. 17. Note that Elbogen in his note, without stating anywhere in his book explicitly, references the aforementioned *editio princeps*. In the foreword to Scheindlin’s translation, the translator notes, “In the German editions [of the book], Elbogen gave... references in a very crabbed and incomplete form, rarely citing a title in full, giving an author’s first name only on occasion, and almost never providing complete publication data.” Scheindlin notes among the other difficulties of navigating Elbogen’s masterpiece the work’s lacking any “alphabetized bibliography.” See Elbogen, p. xv.



by Rashi's students attributed to Rabbenu Elyakim—as he was a contemporary of their master—the expanding practice of reciting *Addir Addirenu* at one other time of the year (even though Rabbenu Elyakim is not presumed to have recited *Addir Addirenu* on the High Holidays at all). Ascribing to two contemporaneous sages the discrepancy over the frequency with which *Addir Addirenu* should be recited would have allayed the anxiety of any pupils afraid to challenge custom as presented by their primary authority, Rashi.

The echoes of competing authorities resound clearly in *Sefer HaPardes* even beyond the anonymized collective voice of Rashi's school contrasted with the teaching in Rabbenu Elyakim's name. Rashi's students do not simply state that the correct practice is to recite *Addir Addirenu* on the High Holidays, but they also go out of their way to denounce reciting these words on Shabbat and any day of Yom Tov other than the High Holidays. Just as one would not expect a legal code to reject the recitation of *Ne'ilah* on Rosh HaShanah—for *Ne'ilah* was composed exclusively for and thematically linked to Yom Kippur—no reason would necessitate the rejection of reciting High Holiday liturgy on other days of Yom Tov or Shabbat—unless *Addir Addirenu* were already thematically linked to, or actually recited on, other days of Yom Tov or Shabbat. *Sefer HaPardes'* verbosity in repudiating *Addir Addirenu* as a text for Shabbat or Yom Tov steers the reader towards the conjecture that Rashi's school knew deviant Jews who recited *Addir Addirenu* over a dozen times or several dozen times a year. Indeed, *Mahzor Vitry* (מחזור ויטרי, composed by a circle of Rashi's disciples and recognized by other halakhic authorities by the 13th century)<sup>30</sup> indeed stipulates that *Addir Addirenu* be sung every Shabbat<sup>31</sup> (and less astonishingly also deems it appropriate to recite on Yom Tov)<sup>32</sup>.

Another literary tradent from Rashi's school, *Seder Troyes*, by Rabbi Menahem ben HaRav Yosef HaLevi Hazzan (c. end of 13th century), in chapter 10 (פרק י'), recorded his community's practice of reciting *Addir Addirenu* not necessarily every Shabbat, but certainly

<sup>30</sup> See Zohn Mincer, p. i.

<sup>31</sup> Shim'on HaLevi Ish Horovitz (ed.), *Mahzor Vitri LeRabbeynu Simḥah Eḥad MiTalmidey RaSh"Y Z"L* (Jerusalem, Israel: "ALEF" 1963), p. 175, par. 192.

שמעון הלוי איש הורוויץ (עורך), מחזור ויטרי לרבנו שמחה אחד מתלמידי רש"י ז"ל (ירושלים, ישראל: מכון להוצאת ספרים, ה'תשכ"ג), עמ' 175, סי' קצב.

Note that the Shabbat contextualization of this part of *Mahzor Vitri* may be clarified in reading the immediately preceding passage.

<sup>32</sup> See also pars. 356 and 383.

more frequently than *Sefer HaPardes* deemed acceptable. As it turns out, several of the times *Seder Troyes* lists for the recitation of *Addir Addirenu* are occasions that no authority before or after is recorded to have specifically advised:

אזכיר תחילה כי מנהגנו לומר אדיר אדירנו בכל ימים טובים, גם בשבת ר"ה ושבת נישואין ושבת דברות: יתרו, ואתחנן, אבל לא בשבת בשלח והאזינו, וגם לא בשבת שמסיימין כל אחד מה' חומשי תורה. ואין אנו רגילים לומר אלהיכם אני פצתי לפי שאין בו לשון צה כמו באדיר אדירנו וגם ההיות בוערות הניחו לאמר' אבי זצ"ל לפי שאין בו לשון צה.

I will first mention that our practice is to recite *Addir Addirenu* on all days of Yom Tov, and also on Shabbat of *Rosh Hodesh* (ראש החדש, “the beginning of the [new] month”), and the Shabbat [preceding] a wedding, and a Shabbat when reading the [ten] utterances—*Yitro* and *Va’ethannan*— but not on the Shabbat of *Beshallah* and *Ha’azinu*, and not on a Shabbat when we complete any of the five books of the Torah, and we are not accustomed to reciting [the *piyyut*] “*Eloheykhem Ani Patzti*” (אֱלֹהֵיכֶם אֲנִי פָצְתִּי),<sup>33</sup> for the language in it is not as clear as that in *Addir Addirenu*. And also they permitted my father [not]<sup>34</sup> to recite [the *piyyut*] *HaHayyot Bo’arot* (הַחַיִּיִּם בּוֹעֲרוֹת, “the [celestial] creatures burning”),<sup>35</sup> for the language in it is not clear.

From the language of prohibition, it would seem that, in addition to the times the author saw fit for *Addir Addirenu* (every day of Yom Tov, every Shabbat coinciding with *Rosh Hodesh*, when communities read the Decalogue in *Parashat Yitro* and *Parashat Va’ethannan*, and the Shabbat preceding a wedding), there were communities that also recited *Addir Addirenu* on those *Shabbatot* (שַׁבָּתוֹת, the plural of Shabbat) during which the readings of *Beshallah* and *Ha’azinu* or any final pericope of the five books of the Torah were read. Moreover, it seems plausible that *Addir Addirenu* replaced at least one rather impenetrable (and now forgotten) *piyyut* sung on

<sup>33</sup> A *piyyut* with this exact incipient text is unknown. See Israel Davidson, *Thesaurus of Mediaeval Hebrew Poetry* (New York, NY: Jewish Theological Seminary of America 1924), vol. I, p. 209 (Hebrew), i.e.:

ישראל דוידזון, *אוצר השירה והפיוט*, (נוי יורק, ארה"ב: בית המדרש לרבנים באמריקה, ה'תרפ"ה), כרך א: עמ' 209.

<sup>34</sup> Although the Hebrew text does not present any indication of the word “not” here, context suggests this emendation, which, Mei’r Tzevi ben Yosef Weiss’ critical edition does not note explicitly. See Rabbi Menahem ben HaRav Yosef HaLevi Hazzan, *Seder Troyes*, Me’ir Tzevi ben Yosef Weiss (ed.) (Frankfurt am Main, Germany: c. 1905), p. 31 (Hebrew), i.e.:

סדר טרוייש, מאיר צבי ב"ר יוסף ווייס (עורך) (פראנקפורט דמיין, גרמניה: ה'תרס"ה), עמ' 31.

<sup>35</sup> A *piyyut* with this exact incipient text is unknown. See Davidson, vol. II, p. 132.

special occasions.<sup>36</sup> It may have taken the place of either *Elohim Ani Patzti* (the two incipient words of which, like *Addir Addirenu*, began with *alef*<sup>37</sup>), or *HaHayyot Bo'arot* (the incipient words of which verify the esotericism of its speculative content that may have been far from a crowd-pleaser).<sup>38</sup>

Yet, Rashi's school delineated elsewhere a limited familiarity with *Addir Addirenu*, further intimating the likelihood that no unanimity determined the correct practice of reciting *Addir Addirenu* among Rashi's followers. *Siddur Rashi* par. 216 (סדור רש"י סי' רטז)—which, despite including Rashi's signature, might not have been authored by Rashi himself<sup>39</sup>—references in passing just the two incipient words of *Addir Addirenu* as an addition to

<sup>36</sup> On the forgottenness of this poetry, see fnn. 33 and 35.

<sup>37</sup> Given the poetic proclivity towards alphabetical acrostics among even the earliest authors of Jewish liturgical poetry, it is perhaps worth noting, the potential import, not necessarily mystically, but literarily and structurally, of *Addir Addirenu* containing, according to Rabbi El'azar's count in his *peyrush*, 22 words—a quantity equal to the number of letters in the Hebrew alphabet. (See pp. 91-95 of this *teshuvah*.) If both *Addir Addirenu* and the *piyyut* it replaced both began with two words each that began with *alef*, it is possible that *Addir Addirenu* and possibly the *piyyut* it replaced were significantly longer alphabetical acrostics the remnants of which are unknown today. It is possible that *Addir Addirenu* in particular followed a pattern of the first two words of each strophe being composed of a repetitive superlative reference to God (just as the two words *Addir Addirenu* themselves comprise), each word-pairing beginning with the subsequent letter of the *alef bet* (and possibly each strophe being composed of 22 words, just like the lone strophe known today). That *Addir Addirenu* was once a significantly longer *piyyut* would moreover corroborate with the theory heretofore suggested that at least one long liturgical narrative formula surrounding various verses recited in *Kedushah* has been preserved in *Pesik'ta Rabbati* as aforementioned.

<sup>38</sup> The language of the above passage suggests that HaRav Yosef HaLevi Hazzan (the father of Rabbi Menahem), especially in his capacity as an authority on ritual, perhaps took issue with *HaHayyot Bo'arot* and successfully suggested substituting it with *Addir Addirenu*.

<sup>39</sup> See the footnotes at Salomon Buber (ed.), *Siddur Raschi* (Berlin, Germany: Jakob Freimann 1911), p. 100 (Hebrew), i.e.:

ר' שלמה באבער (עורך), סדור רש"י (ברלין, גרמניה: יעקב פריימאן ה'תרע"ב), עמ' 100.

Buber did not directly attribute authorship of *Siddur Rashi* to Rashi. The anthology was evidently aggregated by students of this French sage well after his death. In the foreword ("פתח דבר" to his critical edition, Buber refers to this collection as "המיוחס לרש"י" ("that which is attributed to Rashi"). See p. VIII. In his introduction ("מבוא"), Buber remarks that two out of the three manuscripts the editor consulted for *Siddur Rashi* indicate at various points that Rashi had passed away by the time each manuscript's copyist had put these words into writing. (Buber also notes here that Mahzor Vitry, often attributed traditionally to being a liturgical collection meeting Rashi's approval, similarly contains references to Rashi as a sage who had died.) See pp. IX-X.

the *Kedushah* of the *Amidah* during *Ne'ilah* (נֵעִלָּה), the final service of Yom Kippur.<sup>40</sup> *Siddur Rashi* evidently knew of no such recitation of *Addir Addirenu* on the other High Holiday, Rosh HaShanah (or, for that matter, during any other service occurring on Yom Kippur). Between *Siddur Rashi*, *Mahzor Vitry*, *Seder Troyes* and *Sefer HaPardes*, the records of Rashi's school report that *Addir Addirenu* had been recited (though not always properly) in accordance with at least seven different customs: (1) according to *Siddur Rashi*, only during *Ne'ilah*; (2) according to *Sefer HaPardes*' incipient authority, on all High Holidays; (3) according to *Sefer HaPardes*' ascription to Rabbenu Elyakim, on only Shavu'ot; (4) according to the unnamed but rejected authority known to *Sefer HaPardes*, on the High Holidays and Shabbat, (5) or on the High Holidays and Yom Tov, (6) or on the High Holidays and Shabbat and all days of Yom Tov; and (7) according to the authority in *Seder Troyes*, on all days of Yom Tov, any Shabbat that coincides with Rosh Hodesh, any Shabbat when the Decalogue is read, and the Shabbat preceding a community member's nuptials. Lastly, were we to consider all of the possible combinations of improperly scheduling the recitation of *Addir Addirenu* as implied by the authority of *Seder Troyes*, the simple mathematic equation of  $7!$  demonstrates that Jews were capable of reciting (or not reciting) *Addir Addirenu* according to 5,040 further distinct methodologies of including or excluding *Addir Addirenu* on days of Yom Tov, any Shabbat on Rosh Hodesh, a Shabbat when the Decalogue is read, a Shabbat preceding a community member's wedding, the Shabbat during which *Beshallah* is read, the Shabbat when *Ha'azinu* is read, and any Shabbat during which the finale pericope of the Pentateuch's five books is read. Although the math yields that 5,047 different possible practices surrounding the recitation of *Addir Addirenu* could have been known to Rashi's school, the historian must imagine that the quantity of learned medieval Jewish communities familiar with *Addir Addirenu* could not have permitted so many different permutations of practice. Moreover, given that no medieval authority beyond *Seder Troyes* advised reciting *Addir Addirenu* on only any of the specified occasions listed by *Seder Troyes*, other than Yom Tov, we can conclude that Rashi's school was most familiar with communities practicing in accordance with the seven fully articulated (non-factorialized) systems above.

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<sup>40</sup> This teaching appears at *ibid.*, p. 100.

### ***Addir Addirenu In the Rhineland***

Born about a century later than Rashi, the German Rabbi Yehudah ben Shemu'el HeHasid (b. c. 1140, d. 1217)<sup>41</sup> may have written extensively on *Addir Addirenu* in his *Sefer Hasidim*. Scholars however have typically presumed that *Sefer Hasidim* contains at least three later recensions of a single work once composed by Rabbi Yehudah.<sup>42</sup> Thus, one cannot be certain that Rabbi Yehudah authored the commentary on *Addir Addirenu* that appears in only a few select versions of *Sefer Hasidim*. In fact, that only two out of nineteen manuscripts of this work contain any reference to *Addir Addirenu* urges the reader to presume that it was a scribe who lived after Rabbi Yehudah who inserted into this work an ample commentary on *Addir Addirenu*. One might be tempted to hypothesize that Rabbi Yehudah did not write about *Addir Addirenu* before anyone from the school of Rashi, for we cannot even determine if Rabbi Yehudah wrote about *Addir Addirenu* at all.

Without attributing knowledge of *Addir Addirenu* to Rabbi Yehudah himself, Elbogen wrote that *Sefer Hasidim* “§501 knows this custom already [of reciting *Addir Addirenu*] for all three pilgrim festivals.”<sup>43</sup> The enumeration Elbogen cited (without any full bibliographic indication elsewhere in his book) evidently references the corresponding Hebrew section קפ"א (representing “501” in *gematriyyah*) in the Parma H 3280 manuscript (written in Ashkenaz—the geographic region that today largely comprises Germany<sup>44</sup>—circa 1300<sup>45</sup>), fols. 55r-v.<sup>46</sup> The

<sup>41</sup> For this dating, see Shalom A. Singer, “An Introduction to ‘*Sefer Hasidim*’” in *Hebrew Union College Annual*, vol. 35 (1964), pp. 145-155, esp. p. 146.

<sup>42</sup> See Singer, *ibid.*, esp. pp. 149-150. Moreover, Haym Soloveitchik has cautioned that the first 152 paragraphs of what eventually became a standardized printed text of *Sefer Hasidim* constitute a composition different from and later than than Rabbi Yehudah’s work, and these sections present the thought of a pietist school different from the one to which Rabbi Yehudah adhered. See Haym Soloveitchik, “Piety, Pietism and German Pietism: ‘*Sefer Hasidim* I’ and the Influence of *Hasidei Ashkenaz*” in *The Jewish Quarterly Review*, vol. 92, no. 3/4 (Jan.-Apr., 2002), pp. 455-493, esp pp. 455-457.

<sup>43</sup> Elbogen, *ibid.*, p. 402, n. 17.

<sup>44</sup> For a brief history of the geographic identity of Ashkenaz and its synonymity with Germany, see Michael Berenbaum and Fred Skolnik (ed.), “Ashkenaz” in *Encyclopaedia Judaica*, 2nd ed., vol. 2 (New York, NY: Macmillan Reference USA, 2007), pp. 569-571, esp. pp. 569-570.

<sup>45</sup> This bibliographic information has been found in the Princeton University *Sefer Hasidim* Database (as accessed at [https://etc.princeton.edu/sefer\\_hasidim/index.php?a=about](https://etc.princeton.edu/sefer_hasidim/index.php?a=about) on May 9, 2017).

only other manuscript (or textual witness that is not simply a copy of either manuscript) of a version of *Sefer Hasidim* mentioning *Addir Addirenu*, JTS Boesky 45, par. 217 (fol. 71r-v), appears to copy from (and occasionally to emend) the Parma manuscript.<sup>47</sup> *Sefer Hasidim*, as transmitted in the Parma manuscript, elucidates:

בימי קדם היו חלוקים חכמים פירוש הקדמונים אומרים רק בראש השנ' וביום הכפורים בקדושה  
אדיר אדירנו <תחילת המזמור> "י' אדונינו מה אדיר שמך בכל הארץ אשר תנה הודך על השמים"  
(תהלים ח: ב) ונמשך למעלה שאמ' "אודה יי' בצדקו"<sup>48</sup> ואזמרה שם יי' עליון" (תהלים ז: יח) וכתוב

<sup>46</sup> Note that the text of the Parma manuscript is reproduced both by the Princeton University *Sefer Hasidim* Database (as accessed at [https://etc.princeton.edu/sefer\\_hasidim/manuscripts.php](https://etc.princeton.edu/sefer_hasidim/manuscripts.php) on May 9, 2017) and in Jehuda Wistinetzki (ed.), *Das Buch der Frommen nach der Rezension in Cod. de Rossi No. 1133* (Berlin, Germany: H. Itzkowski 1891), pp. 142-143 (Hebrew), i.e.:

יהודה הכהן וויסטינעצקי (עורך), ספר חסידים על פי נוסח כתב יד אשר בפארמא (ברלין, גרמיה: צבי הירש ברי יצחק איטצקאווסקי ה'תרנ"א), עמ' 142 143.

<sup>47</sup> The text of the Boesky manuscript can be found at the Princeton University *Sefer Hasidim* Database, *ibid.*

<sup>48</sup> Note that, in the Masoretic text of Psalm 7:18 (and as reflected in the Boesky 45 manuscript), in lieu of the term בצדקו (*betzidko*, “in Adonai’s righteousness”), כצדקו (*ketzidko*, “in accordance with Adonai’s righteousness”) appears. Given both the similarities in shapes of the letters and the similarities in their meaning, discrepancies over whether prefixal ב (*bet*, “in”) or prefixal כ (*kaf*, “in accordance with”) is original to a variety of texts commonly arise in the reception of the Masoretic Text.

Evidently the authority that determined the *kerey* (קרי, the “recited” version of the Masoretic Text) and the authority who fixed the *ketiv* (כתיב, the “written” version of the Masoretic Text) did not always agree on which prefixal letter was correct. Readers may encounter two such instances of disagreement in Joshua 4:18 and 6:5. The French philologist and Biblical commentator Rabbi David Kimḥi (רבי דוד קמחי), also known by the initials of RaDaK—רד"ק; b. c. 1160, d. c. 1235) wrote of this phenomenon in his commentary on the latter passage (s.v. “בשמעכם,” [“at the time of your hearing of”]):

כתיב בבי"ת וקרי בכ"ף והענין א'.

The *ketiv* is with a *bet*, but the *kerey* is with a *kaf*, yet the concept is one [and the same].

Further, Kimḥi evidently anticipated, met or heard of those who questioned whether the term כאמר (*ke'emor*, “at around the time of the saying of”) in Joshua 6:8 should begin with a prefixal *kaf* or instead a prefixal *bet*. Kimḥi saw a possible discrepancy where Masoretes did not; the Masoretic Text’s *kerey* and *ketiv* agree that *ke'emor* should begin with a *kaf*. Kimḥi likely wrote his succinct but telling comment (“בכ"ף,” [“with a *kaf*”]) in response to students nonetheless debating whether the written text before them seemed sensible. See *ad locum*, s.v. (“ויהי כאמר,” [“it was at around the time of the saying of”]). Such fixation on debating (or reinforcing the conclusions of) presumably resolved questions of orthography intimates that even heavily educated readerships contemporaneous with Rabbi Yehudah still encountered variant traditions regarding *kaf* and *bet* prefixes. For brief biographic and bibliographic information surrounding Kimḥi, see Frank Talmage, “Kimḥi, David” in Berenbaum and Skolnik (eds.), *Encyclopaedia*

"אלהים שופט צדיק" (תהלים ז: יב). "י' ידין עמים שופטניו"<sup>49</sup> י' בצדקו"<sup>50</sup> (תהלים ז: ט), "ועורה

*Judaica*, 2nd ed., vol. 12, pp. 155-156.

<sup>49</sup> Note that the Parma manuscript presents here the spelling of שופטניו (*shofeteynu*, which yields “our Judges”—a literal meaning of *eloheynu* [אלהינו, often translated as “our God”])—or is an erroneous spelling of שפטנו [*shoftenu*], meaning “judge us”). But the Masoretic Text of Psalm 7:9 (and the Boesky manuscript) offer שפטני (*shofteni*, “judge me”). It is possible that Parma’s transcription simply errs, but intentionality might still lie beneath the three critical areas of discrepancy between these two words: the infixed *vav* (ו), the *yod* (י) in the suffix, and the *vav* in the suffix.

One can explain the ו between the ש (*shin*) and פ (*feh*) of *shofeteynu* as the inclusion of a *mater lectionis*, assisting the reader with identifying the proper vowel. This particular attempt at a *mater lectionis* may though mislead the reader. Following the long vowel of the *vav*, rules of pronunciation should alter the vocalization of the letter *feh* here, giving it a mobile *sheva*. Long vowels followed by a consonant marked with a *sheva* turn that *sheva* into a mobile *sheva*. In reality, the original Masoretic Text’s vowel beneath the *shin* here is a short vowel, a *kamatz katan*, which does not independently lead to an immediately subsequent consonant with a *sheva* (שוא) being mobile. Moreover, philologists have noted that the vowel-sounds produced by the *o* of a *kamatz katan* (קמץ קטן), , , and the *o* of a *vav* with *holom* (חולם)—that is, ו—differ from one another.

The inclusion of the letter י in *shofeteynu* might indeed implicate a plural referent for God (if this is how the scribe of this version of *Sefer Hasidim* understood the meaning of the Psalmic verse), or might yield another misleading *mater lectionis*, for a *yod* in a suffix of ינו (spelled *yod-nun-vav*) should only result in a first-person plural possessive suffix meaning “our.” If the infixed *vav* represents a *vav* with *holom*, yielding *shofetenno* (“who judges that entity [perhaps, that collective of non-Israelite nations]”), the *yod* obstructs the ט (*tet*) of the verb from connecting with the third-person masculine singular direct object suffix נו (*nu*, spelled *nun-vav*), which ought to be connected by a *segol* (סגול)—that is, ו—beneath the last consonant of the verbal root (which, in our case, is ש פ ט: *shin-feh-tet*). Were the infixed *vav* to stand in for a *kamatz katan*, yielding the jussive *shofetenno* (“judge that entity”), the *yod* would still function as an unnecessary block between the *tet* and the *nun*. The probability remains that the scribe simply erred (or misled potential readers) by including the *yod* in the *yod-nun-vav* suffix, which should indicate a plural noun being possessed, and a suffix of *nun-vav* following a *tzerey* (צרי)—that is, ו—should have appeared (still implying first-person plural possession, but of a singular noun—namely “judge”). (The possibility that the *yod-nun-vav* suffix here implies the ending of a feminine jussive verb with a first-person plural direct object, yielding *shoftinu*—“judge us”—seems utterly unlikely, for the Divinity and no other addressed entity here appears otherwise to be nominally feminine.)

The reader will find the most critical distinction between *shofeteynu* and *shofteni* in the last consonant. Whether the object of God’s judgment is to be anything implied by a *vav* (“us” or “that entity”) or the speaker implied by the *yod* (“me”), yields two theologically different conceptions of the Divine Judge. The letters *yod* and *vav*—by looking quite similar to each other (the *vav* appearing as an elongated *yod*, or the *yod* appearing as a truncated *vav*)—have often been confused for one another. Thus, the reader of the Hebrew Bible will note the example of Joshua 6:9, whereat the editorship of the *ketiv* saw a *vav* in the word *take’u* (תקעו) that those responsible for the *kerey* pronounced a *yod* in the word *toke’ey* (תקעי); similarly, see Isaiah 49:13’s *kerey* of *ufitzhu* (ופצחו) and *ketiv* of *yiftzehu* (יפצחו). Such visual ambiguities regarding the letters *yod* and *vav* undoubtedly caused many such orthographic and semantic confusions in

אלי משפט צוית" (תהלים ז: ז). מתי שמו עליון? בראש השנה, דכת' "ויגבה יי' צבאות במשפט והאל הקדוש נקדש בצדקה" (ישעיה ה: טז), ובסוף המזמור, "יי' אדונינו מה אדיר שמך בכל הארץ" (תהלים ח: ב), ונמשך למטה "אשמחה ואעלצה בך" (תהלים ט: ג) וג' "שמך עליון" (תהלים ט: ג) ביום הכפורים? "ויגבה יי' צבאות במשפט" (ישעיה ה: טז) "כי עשית משפטי ודיני ישבת לכסא שופט צדיק"<sup>51</sup> (תהלים ט: ה) "ויי' לעולם ישב כונן למשפט לכסאו"<sup>52</sup> (תהלים ט: ח), "והוא ישפוט תבל בצדק" (תהלים ט: ט) כו' "ונודע"<sup>53</sup> משפט" (תהלים ט: יז) וג'. "קומה יי' אל יעוז אנוש" (תהלים ט: כ) וג'. "לשפוט יתום ודך"<sup>54</sup> בל יוסיף<sup>55</sup> לערוץ אנוש מן הארץ" (תהלים י: יח). ולא מצינו מלאכים שיאמרו "יי' אלהינו", אלא "יי'" סתם מפני שהקב"ה נתן כח במלאכים<sup>56</sup> וחכמתו לדעת רצון יי' ולעשות כאשר יי' חפץ. וזהו "כי שמי בקרבנו" (שמות כג: כא). שם יכולת החפץ השם הממונה על אותו חפץ ששולחו ולכך המלאך הדובר בעצמו. "ויאמר לה מלאך יי' הרבה ארבה את זרעך" (בראשית טז: י). ואחר כך אמר "כי שמע יי' אל עונייך" (בראשית טז: יא), וכתוב, "דשליט עליי במלכות אינשא" (דניאל ד: יד), וכתוב "דשליט אלהיא עלייא" (דניאל ה: כא), וכת' "מן דתנדע די שליטין שמיא" (דניאל ד: כג). הרי "שליטין" מדבר במלאכים, ונתן חכמתו בהם ונתן להם רשות לדון. זהו כל השנה. אבל בר"ה ויום הכפורים, שדן על כל העולם כולו, ואף על המלאכים שדנו כל העולם כולו כל השנה ועל הנשמות ועל השדים. וזהו שכתוב "ובמלאכיו ישים תהלה" (איוב ד: יח) לכך אין אומרים ונתנה תוקף קדושת היום אלא בראש השנה וביום הכפורים, שיש בו "ומלאכים

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the course of the transmission of Jewish texts.

<sup>50</sup> In the Masoretic Text of Psalm 7:9, the word בצדק (*betzidko*, "in Adonai's righteousness") does not appear, but the visually similar word כצדקי (*ketzidki*, "in accordance with my righteousness") appears here. On the confusion over prefixal *bet* and *kaf*, see fn. 48. On the mix-up between *yod* and *vav*, see fn. 49.

<sup>51</sup> The word צדיק (*tzaddik*, "the righteous") does not appear in the Masoretic Text, where the word צדק (*tzdek*, "righteousness") does appear. The intervening *yod* likely is a scribal error rather than a deviant tradition. The Boesky manuscript does not include this *yod*.

<sup>52</sup> Here, the Boesky manuscript follows the Masoretic Text and, instead of including לכסאו (*lekhis'o*, "for Adonai's throne"), states כסאו (*kis'o*, "Adonai's throne").

<sup>53</sup> The Masoretic Text includes, immediately after this word נודע ("has become known"), the subject of this clause: God's four-letter-name.

<sup>54</sup> In place of ודך (*vadakh*, "and the crushed"), the Masoretic Text (as well as Boesky) place here ורך (*varakh*, "and the oppressed"). The letters *dalet* (ד) and *reysh* (ר) long looked similar to one another, and it is common for transcriptions of Hebrew texts to mix up these two letters.

Note that such miscommunication evidently took place in the process of determining the identity of the main offender in Joshua 7. Whereas the Masoretic Text was familiar with זבדי (*Zavdi*), the Codex Alexandrinus, capturing one Septuagint tradition believed to be derivative of the Hebrew text, includes mention in Joshua 7:1 of this Ζαβρι (*Zabri*). See Robert G. Boling, *Joshua: A New Translation with Notes and Commentary* (Garden City, New York: Doubleday 1982), p. 218.

<sup>55</sup> The word עוד (*od*, "more") appears in Boesky and the Masoretic Text, but not in Parma.

<sup>56</sup> This garbled incoherent word of במלאכים (*bammalakhim*) is corrected in Boesky: במלאכים (*bammal'akhim*, "to the angels").



יחפזון וחיל ורעדה יאחזון." ואז המלאכים אומרים, אדיר אדירנו לפי ששרי האומות אז עומדים לפני הכבוד לשמוע מה יגזור על כל גוי. וזהו "אשר אני קצפתי מעט והמה עזרו לרעה" (זכריה א: טו) שרי האומות. וכתוב, "עתה אשוב להלחם עם שרי פרס" (דניאל י: כ). וכי יש מלחמה למעלה? והלא אין שנאה ואין קנאה למעלה ואין תחרות? אלא כמו "עד שיכנסו בעלי תריסין," כלומר להתווכח ולגזור בגזירת עירין פתגמיה ולכך אין אומרים "אלהינו." אבל בראש השנה בחיל ורעדה, לכך אומרים "אדונינו אדיר שמך בכל הארץ, כך תלויים כל הגזירות היום!" ופירוש "אדיר" למעלה כל "אדיריהם שלחו צעיריהם למים" (ירמיה יד: ג). היום תלויים כל הגזירות באדיר. יפיל<sup>57</sup> {מלך} בגדול כגון מלך.<sup>59</sup> וזהו "אדיר," שבכל המלאכים הוא אדיר אות בצבאיו<sup>60</sup>. "אדירינו," מלך עלינו. וזהו, "והיה יי' למלך על כל הארץ" (זכריה יד: ט) ולפי שאמ' "כל שתה תחת רגליו" (תהלים ח: ז). ואמ' דוד, "יי' אדונינו" (תהלים ח: ב), ולא אומות העולם, כלומר, לא "בעלוננו אדונים זולתיך" (ישעיה כו: ג). ויש מקום שרק בשבועות אומר לפי שבמתן תורה אמרו מלאכי השרת, "מה אנוש כי תזכרנו" וגומ' (תהלים ח: ה).

ויש שאומרים בכל יום טוב כי בכל יום טוב דנים על דברי, והקב"ה אדון על כל הגוזרים, וממנו כל הגזירות.

<sup>57</sup> The term יפיל (*yippol*, "is to fall down") appears in the Boesky manuscript as יפיל (*yappil*, "is to bring down"). On the discrepancy of the *vav* and *yod*, see fn. 49.

<sup>58</sup> The Parma manuscript shows that the word מלך (*melekh*, "a sovereign") was written here but intended to be removed. Boesky does not include this word. Read without this word, it seems that the subject of this sentence should merely be Adonai.

<sup>59</sup> The exact meaning of יפיל {מלך} בגדול כגון מלך (*yappil {melekh} begadol kegon melekh*, translated above as "A sovereign is to bring down with greatness as a sovereign") is unclear. It is possible that the middle word of the text, בגדול (*begadol*, "with greatness") would be better off if emended as בגורל (*begoral*, "with a lot"), suggesting that, just as royalty might yield a decree by lottery (as performed by King Achashverosh in Esther 3:7), the author of *Sefer Hasidim* conceived of Judaism's God as determining nations' fates at random. Note that the spelling of *begadol* (with a *dalet* followed by a *vav*) and the spelling בגודל (*begodel*, "with size") yield similar meanings in the Hebrew. It is plausible that a scribe believed that they were copying *begodel* correctly while inadvertently reversing the order of the vocal *vav* and the consonantal *dalet* that was at one point included in the word *begoral* in this text. See fn. 54 regarding the visual similarities of the *dalet* and *resh* that are the major consonantal difference between *begodel* and *begoral*.

<sup>60</sup> Instead of אדיר אות בצבאיו (*addir ot bitzva'av*, "the glory of the signification among Adonai's hosts"), Boesky includes אות בצביון (*ot betzivyon*, "the signification of desire"), with no *addir* here. Both manuscripts' formulations read awkwardly. Note that the letter ן (*nun sofit*) appears as an elongated *vav*. Had the Boesky scribe encountered a difficulty deciphering especially the *alef* in בצבאיו (*bitzva'av*, "among Adonai's hosts"), בצביון (*betzivyon*, "of desire") would qualify as a reasonable guess at the intended word here. Regardless of what the inventor of this tradition intended to write, the teaching here intends to convey God's supremacy above the merits of the angels.

Separately, note that discussions of *Addir Addirenu* to be noted later in this *teshuvah* (in the cluster of *midrashim* referenced by the Apter) refer to the significance of אות (*ot*, "signification") by which humans look to angels to recognize Divine ideals. See pp. 102-106.

והקדמונים שלא היו אומרים "אדיר אדירנו" אלא בראש השנה וביום הכפורים לפי שאומ' המלך הקדוש וראוי אז לומר "והיה יי' למלך על כל הארץ".<sup>61</sup>

In the days of yore, sages were divided. The commentary of the earliest ones: Only on Rosh HaShanah and Yom Kippur during the Kedushah do we recite *Addir Addirenu* <[with] the beginning of the Psalm[ic verse]> "Adonai our Lord, how glorious is Your name throughout the earth! Give Your glory over the Heavens!" (Psalm 8:2). And it is drawn upwards! For [the tradition] has said, "I will praise Adonai in accordance in Adonai's righteousness,"<sup>62</sup> and I will sing the name of Adonai above" (Psalm 7:18), and it is written, "God is the Judge of the righteous" (Psalm 7:12). "Adonai judges the nations. Judge us"<sup>63</sup> in Adonai's righteousness.<sup>64</sup> "Awaken for me; You have commanded justice" (Psalm 7:7). When is Adonai's name above? On Rosh HaShanah, for it is written: "Adonai of the hosts is exalted in justice, and the holy God sanctified through righteousness" (Isaiah 5:16), and, at the end of the Psalm[ic verse], "Adonai, our God, how mighty is Your name throughout the earth!" (Psalm 8:2), and it is drawn downwards: "Let me rejoice and be glad because of You" (Psalm 9:3) etc.. "Your great name" (Psalm 9:3). On Yom Kippur? "Adonai of the hosts is exalted in justice, and the holy God sanctified through righteousness" (Isaiah 5:16), "for You have dealt with my justice and my decree; You have sat as on the throne of the Judge of the righteous"<sup>65</sup> (Psalm 9:5), "and Adonai eternally sits, having established for justice for Adonai's throne"<sup>66</sup> (Psalm 9:8), "and Adonai will judge earth in righteousness" (Psalm 9:9), etc., "and has become known"<sup>67</sup> for justice" (Psalm 9:17), etc.. "Arise, Adonai; let not humanity gloat" (Psalm 9:20), etc.. "To give justice to the orphan and the crushed; no more"<sup>68</sup> shall a human of the earth continue to torment" (Psalm 10:18). But we have not found angels who would

<sup>61</sup> Note that the commentary here has only noted when major orthographic differences between the quotations from the Masoretic Text and the Parma manuscript significantly alter the meaning of the theology. Still further variants in spelling occur (and the later Boesky manuscript has mistranscribed certain parts of the earlier Parma text). Into the Hebrew text here, the author of this *teshuvah* has appended quotes' citational information in rounded parentheses, and within angles (in the Hebrew and in the English translation) any relevant insertion appearing only in the Boesky manuscript.

<sup>62</sup> See fn. 48.

<sup>63</sup> See fn. 49.

<sup>64</sup> See fn. 50.

<sup>65</sup> See fn. 51.

<sup>66</sup> See fn. 52.

<sup>67</sup> See fn. 53.

<sup>68</sup> See fn. 55.

say, “Adonai our God,” but rather just “Adonai” because the Holy Blessed One gave power [to the angels]<sup>69</sup> and [also gave to them] Adonai’s wisdom so as to know the will of Adonai and to perform according to that which Adonai desires. And that is “For My name will be within that entity’s midst” [in reference to the emissary whom God had declared to send] (Exodus 33:21). There, the potential of the desire of the [One possessing the ineffable] name is appointed to that desire, such that Adonai sends that [emissary], and thereby the angel himself speaks. “The emissary of Adonai said to her [i.e., Hagar], ‘I will make many your offspring’” (Genesis 16:10). And afterwards that individual [emissary] said, “for Adonai has heard your torture” (Genesis 16:11), and also written is “that the Supernal rules over the sovereignty of humanity” (Daniel 4:14), and also written is “that the supernal God rules” (Daniel 5:21), and also written is, “after you have come to know that the heavens rule” (Daniel 4:23). Behold, [the word] “rule” [in these quotes] speaks of the angels, and Adonai gave them Adonai’s wisdom, and gave them the permission to judge. That is [throughout] the whole year. But on Rosh HaShanah and Yom Kippur, when Adonai judges over all the universe—and even over all the judges who have judged the whole universe throughout the whole year and [also] over the souls and [also] over the demons. And this is [what is meant by] that which is written: “But within angels, [Adonai] places folly” (Job 4:18). Therefore, we do not recite [the liturgical composition the incipient words of which are] *UNTanneh Tokef* (ונתנה תקף, “and let us grant power”),<sup>70</sup> except on Rosh HaShanah and Yom Kippur, for in this [piece, it is written:] “And angels will rush, and they shall grasp might and trembling.” Then the angels recite *Addir Addirenu*, for the ministering angels of the nations [of the world] are then standing before the Glory [of Adonai] to hear what Adonai will decree over each nation. And this is [that which is meant by] “that I have been angered some, but they have helped evil” (Zechariah 1:15)—[they,] ministering angels of the nations [of the world]. And also written is, “Now I am to return to battle with minister of Persia” (Daniel 10:20). But is there war above [in the Heavenly abode]? Is it not that there is no hatred, and there is no envy, and there is no competition [above in Heaven]?<sup>71</sup> Rather, it is like [the tranquility] “until the shield-bearers [for debate]

<sup>69</sup> See fn. 56.

<sup>70</sup> For one accessible introduction to this prayer text, see David Golinkin, “Do ‘Repentance, Prayer and Tzedakah Avert the Severe Decree?’” (September 16, 2005; accessed at <http://www.schechter.edu/do-repentance-prayer-and-tzedakah-avert-the-severe-decree/> on May 10, 2017).

<sup>71</sup> Cf. Babylonian Talmud, Berakhot 17a.

enter” (Babylonian Talmud, Berakhot 27a)<sup>72</sup>, that is to say, in order to deliberate and to decree the decree of the guarding angels: proclamations. And therefore, [angels] do not say אֱלֹהֵינוּ (*eloheynu*, “our Judge”) except on Rosh HaShanah with valor and with trembling. Therefore, we say “our Lord, [how] glorious is Your name throughout the earth!” (Psalm 8:2). [It is as if the angels were to say,] “Dependent upon You are all of the decrees today!” And the interpretation [is that] “the glory” [Adonai] is above all of “their glories[, those foreign rulers, who] sent their younglings to the water” (Jeremiah 14:3). [It is as if the angels were to say,] “Today, all decrees are dependent upon the glory [Adonai].” A sovereign<sup>73</sup> is to bring down<sup>74</sup> with greatness as a sovereign.<sup>75</sup> And this is [the meaning of] “Glory,” for, among all of the angels, Adonai is the glory of the signification among Adonai’s hosts.<sup>76</sup> “Our Lord:” [it is as if the angels are saying,] “a sovereign over us!” And this is [that which is meant by] “Adonai will be sovereign over all the earth” (Zechariah 14:9), and it is in accordance with that which is said: “You have placed all beneath the feet of that entity<sup>77</sup>” (Psalm 8:7). And [similarly], David<sup>78</sup> said, “Adonai our Lord” (Psalm 8:2), but not [that] the nations of the world [would be his lords], as if to say, that it is not that “[human] lords have becomes masters to us aside from You” (Isaiah 26:13). But there is a place that, only on Shavu’ot, recites [*Addir Addirenu*] on account of how, at the giving of the Torah, the ministering angels said, “What is a human—that You should recall one!?” (Psalm 8:5). And there are those who recite [*Addir Addirenu*] on each day of Yom Tov, for on each day of Yom Tov, they judge matters, and the Holy Blessed One is the master over all who issue decrees, for from Adonai are all decrees. But the early [sages were those] who would not recite *Addir Addirenu* except on Rosh HaShanah and Yom Kippur, on account of their reciting [as the concluding

<sup>72</sup> Note that in the context of the Babylonian Talmud, Berakhot 27a, the term “shield-bearers” (בעלי תריסין, *ba’aley terisin*) refers to scholars debating with one another.

<sup>73</sup> See fn. 58.

<sup>74</sup> See fn. 57.

<sup>75</sup> See fn. 59.

<sup>76</sup> See fn. 60.

<sup>77</sup> Curiously, the entity being referenced in the cited Biblical context is humanity; however, the author of this section of *Sefer Hasidim* quotes this verse with the understanding that all is beneath the feet of God. This *teshuvah* will not determine whether the sage holding the quill misunderstood the verse or applied to it an inventive interpretation.

<sup>78</sup> For the Talmudic rabbinic collective largely attributed to King David authorship of the Psalms. See in the Babylonian Talmud, Pesahim 117a and Bava Batra 14b.

words of the *Kedushah*] “the holy sovereign” [which are the *Kedushah*’s Talmudically designated concluding words on and between Rosh HaShanah and Yom Kippur],<sup>79</sup> and it is then seemly to recite “Adonai will be sovereign over all the earth” (Zechariah 14:9).

While the majority of this text expresses itself clearly as an imaginative reflection on God’s calendrical establishment and dismantling of the heavenly hierarchy, five idiosyncrasies demand attention.

First, prior to the 21st century, *Sefer Hasidim* and no other text recalled the first recitations of *Addir Addirenu* as something over which authorities were truly divided (חלוקים, *halukim*<sup>80</sup>). All other texts referencing a diversity of practice record a moment of social rupture as solely a phenomenon occurring in or around the author’s lifetime.

Second, no text reflecting on *Addir Addirenu* or Psalm 8:2 presents the same sequence of homiletic interpretations of this collection of Biblical texts—several of which never before were or have since been (independently of *Sefer Hasidim*) associated with *Addir Addirenu*.<sup>81</sup>

Third, of all texts referenced in this *teshuvah*, none but *Sefer Hasidim* acknowledge that demons not only inhabit the world but can be quelled by the proclamation of *Addir Addirenu*. In *Sefer Hasidim*, demons commonly appear,<sup>82</sup> so their presence in this text comes as no surprise. But the intersection of the demonic and *Addir Addirenu*—as a prayer of major theurgical powers that can fend off demons—remains a unique (albeit brief) theme to *Sefer Hasidim*.<sup>83</sup>

<sup>79</sup> See Babylonian Talmud, Berakhot 12b. If reciting the ending המלך הקדוש (*hammelekh hakkadosh*, “the holy sovereign”) ever actually served as the impetus for reciting *Addir Addirenu*, the historian may wonder why *Addir Addirenu* has never been reported to be recited on the days between Rosh HaShanah and Yom Kippur.

<sup>80</sup> The Boesky manuscript records here a more standard חולקים (*holekim*), rendering effectively the same sense of divisiveness.

<sup>81</sup> One can find the closest parallel to this Biblical-exegetical stream in the Pesik’ta Rabbati text and its parallels in which Rabbi El’azar of Worms rooted his comments on *Addir Addirenu*. See fn. 72.

<sup>82</sup> For one such study in the presence of demons in *Sefer Hasidim*, see Monford Harris, “Dreams in ‘*Sefer Hasidim*’” in *Proceedings of the American Academy for Jewish Research*, Vol. 31 (1963), pp. 51-80, esp. pp. 58-60, 72-75, and 78.

<sup>83</sup> The possibility exists that השדים (*hashedim*, “the demons”) was produced by an erroneous misread (or miswrite) of השרים (*hassarim*, “the ministers”—presumably angelic or of the earthly kind governing foreign nations). On this common orthographic confusion, see fn. 54. But the possibility of this error taking place seems weak. Magical and mystical writings like *Sefer Hasidim* typically find fascinating the

Fourth, *Sefer Hasidim* begs the question of why a certain fourth practice never developed: the recitation of *Addir Addirenu* throughout *Aseret Yemey Teshuvah* (עשרת ימי תשובה, “The Ten Days of Repentance”), lasting from the first day of Rosh HaShanah until the end of Yom Kippur. The text references those who recite *Addir Addirenu* “on Rosh HaShanah and Yom Kippur on account of their reciting [as the concluding words of the *Kedushah*] ‘the holy sovereign’” (בראש “השנה וביום הכפורים לפי שאומ' המלך הקדוש”). The Babylonian Talmud dictates that the words “the holy sovereign” (המלך הקדוש, *hammelekh hakkadosh*) be recited throughout *Aseret Yemey Teshuvah*.<sup>84</sup> If reciting *hammelekh hakkadosh* ever actually served as the impetus for reciting *Addir Addirenu*, the historian may wonder why *Addir Addirenu* has never been reported to be recited on the days between Rosh HaShanah and Yom Kippur. Given how punctiliously nearly all authorities quoted throughout this *teshuvah* note that *Addir Addirenu* is to be said only at certain specific times of the year, the absence of any reference to recitation of *Addir Addirenu* during *Aseret Yemey Teshuvah* suggests that *Addir Addirenu* never was recited on the weekdays between Rosh HaShanah and Yom Kippur. We can conclude with near certainty that the presence of the words *hammelekh hakkadosh* has in fact never triggered a communal need to recite *Addir Addirenu*.

Fifth, we must consider a matter that is absent. Despite the long commentary touching on Psalm 8:2, the trope of the Torah being inappropriate for angels but appropriate for humans does not appear here. Precedent for applying these verses still in the context of angels envying humans and God asking them to see the Torah as a useless gift in Heaven (but awfully practical for humans) can be found in several very early *midrashim*.<sup>85</sup> Yet, rabbinic writers by the turn from the first millennium into the second millennium had already become accustomed to discussing Psalm 8:2 as part of a story debating the utility of the Torah (which is a trope almost inextricable from medieval commentaries narrating the mythic origins of *Addir Addirenu*). For the author of this strand of *Sefer Hasidim*, the point of *Addir Addirenu* has almost nothing to do with humans surpassing angels in the category of room-for-growth. Instead, this version of *Sefer Hasidim*

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demonic, especially as a counterbalance to human souls, and *hanneshamot* (הנשמות, “the souls”) earn mention in our text immediately before *hashedim*.

<sup>84</sup> See fn. 79.

<sup>85</sup> Most notably, consider *Mekhil'ta DeRabbi Yisha'el*, *BeShallah*, *Massekhta DeShira* (מסכתא דשירה) at the end of *Parashah I*; *Mekhil'ta DeRabbi Shim'on Bar Yohai* 15:1, s.v. *sus verokhevo* (“סוס ורכבו”). See above at fn. 28 for related sources.

views *Addir Addirenu* as the declaration of God's dominance over the most domineering forces of the upper echelons (and perhaps the demonic as well).

Of the four medieval narrative-etiological histories preserved on the subject of the recitation of *Addir Addirenu* (these four being found in *Sefer HaPardes*, *Sefer Hasidim*, and—to be discussed below—the commentary of Rabbi El'azar of Worms and *Sefer Mahkim*<sup>86</sup>), *Sefer Hasidim* is the only source that omits linking *Addir Addirenu* to the *midrash* (מִדְרָשׁ, the singular of *midrashim*) referenced above in *Sefer HaPardes* where angels articulate humans' unworthiness for the Torah (even though, at the end of the day, the humans receive the Torah, but the angels do not).<sup>87</sup>

Depending on the exact (and not necessarily knowable) sequence of events—that is, if the teaching in *Sefer Hasidim* appeared some time after Rabbi Yehudah died, if Rashi's school was particularly late in writing about *Addir Addirenu*, and if Rabbi El'azar of Worms (of Germany; b. c. 1165, d. c. 1240) was especially young when he wrote his relevant commentary—a small probability permits that Rabbi El'azar, a German pietist like Rabbi Yehudah, was perhaps the first to pen any commentary on *Addir Addirenu*.<sup>88</sup> A teacher and student of the short-lived but influential mystical school of *hasidey Ashkenaz* (חֲסִידֵי אֲשְׁכְנַז, the “pietists of Ashkenaz”),<sup>89</sup> Rabbi El'azar not only referenced the *midrash* intimated in *Sefer HaPardes*, but he also offered mystical insight into the meaning of the words of *Addir Addirenu*:

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<sup>86</sup> See below until p. 96 of this *teshuvah*.

<sup>87</sup> See pp. 73-75 of this *teshuvah*.

<sup>88</sup> That Rabbi El'azar could have been the first Jewish sage to author any commentary on *Addir Addirenu* speaks volumes to the import of Rabbi El'azar's work. Joseph Dan notes that indeed, “Eleazar is the author of the first extensive commentary on the prayers that has reached us. It is extant in three manuscripts that differ considerably from each other.” Whereas many works have hardly survived in even one manuscript, a work thrice copied may intimate the wide circulation of the work, the author's persistence in publishing the work, or both phenomena. Given the longevity of each manuscript, the vast differences between them, and the autobiographical reflections found throughout them (implying Rabbi El'azar's own hand in the scribal process), evidence suggests that both the readership and the authorship valued this radical commentary. See Joseph Dan, “Prayer as Text and Prayer as Mystical Experience” in *Jewish Mysticism*, vol. II (*The Middle Ages*) (Northvale, NJ: Jason Aronson 1998), p. 269.

<sup>89</sup> Regarding this movement, Shalom A. Singer wrote: “The creative period of the movement was relatively short, the century from about 1150 to 1250... While... the movement itself never achieved... a mass movement, the teachings and leadership did enjoy wide popularity, authority, and prestige.” See Shalom Singer, “An Introduction to 'Sefer Hasidim'” in *Hebrew Union College Annual*, vol. 35 (1964), pp. 145-155, esp. p. 145.

בראש השנה וביום כפורים אומרים אני ה' אלהיכם אדיר אדירנו ה' אדונינו על שם שהוא אדיר בקודש ואדיר במשפט.  
 "ה' אדונינו תנה הודך על השמים," ה' שם הנכבד והנורא הוא.  
 "אדונינו" ובו אנו בוטחים.  
 "מה אדיר שמך בכל הארץ" (כמו) [כמה] חזק ומאודר שמך הקדוש בכל יושבי הארץ, וגם לעתיד ולעובדו שכם אחד.  
 "והיה ה' למלך על כל הארץ," ויראה כבוד מלכותו בנקמת אדום וקיום מלכותו על כל עם הארץ.  
 "ביום ההוא יהיה ה' אחד" הוא בורא כל.  
 "ה'" שם העצם. "ושמו אחד," כבודו לאחר לא יתן, ויקראו כולם שמו המיוחד הקדוש.  
 "אדיר" עד "אחד" כ"ב תיבות; זהו "נגילה ונשמחה ב"ך:" כ"ב אותיות התורה.  
 ועוד "ה' אדונינו תנה הודך על השמים:" אמרו המלאכים בהר סיני כדאמרינן במסכת שבת שלא רצו שיוריד משה הוד התורה למטה ואמרו, "תנה הודך על השמים." לך, "מה אדיר שמך כל הארץ."  
 תקח מ' של "מה," ותסיר א' של "אדירות." קח ש' של "שמך," ותסיר ב' של "בכל." תקח ה' של "הארץ." הרי: מש"ה ובין שמו א"ב; על שם כשהלך אחר כ"ב אותיות א"ב.  
 "מה אנוש כי תזכרנו:" אנוש בגימ' ז"ה מש"ה. "מה אנוש" בגימ' ב"ן עמר"ם.  
 שמעתי שאין אומרים "אדיר אדירנו" כי אם בראש השנה וביום הכפורים בקדושה, אבל במגנצא אומרים אותו בכל יום טוב בקול רם בכוונה בניגון טוב.

On Rosh HaShanah and Yom Kippur, we say [in the *Kedushah*] "I am Adonai, your God" (Numbers 15:41) [followed by] "The glory of our glory [אֲדִיר אֲדִירנו], Adonai, our Lord [אֲדִירנו, Adonai adonenu] (Psalm 8:2)<sup>90</sup>" on account of God being glorious in holiness and glorious in justice.

"Adonai, our Lord," "give Your glory over the Heavens [תִּנֶּה הוֹדְךָ עַל-הַשָּׁמַיִם, *tenah hodekha al hashamayim*]:" Adonai is the honored name, and awe-inspiring is God.

"Our Lord [אֲדִירנו, *adonenu*]," for in God we trust.

"How glorious is Your name throughout all the earth:" how mighty and glorified is Your holy name among all those who dwell on the earth, and for eternity—that they may serve that [name] as one.

"Adonai will be sovereign over all the earth," and the honor of God's sovereignty will be seen in the vengeance against Edom<sup>91</sup> and the establishment of God's sovereignty upon every nation of the earth. "On that day Adonai will be One:" that is, the Creator of all.

<sup>90</sup> Note that the words *Addir Addirenu* are not a Biblical quote, but *Adonai adonenu* is the beginning of a quotation from Psalm 8:2.

<sup>91</sup> Isaiah 63 articulates this messianic vision of God meting out the evil of the world.



“Adonai” is the personal noun. “And God’s name will be One:” God’s honor shall be given to no other,<sup>92</sup> and all will call upon God’s unified holy name.

From *addir* (אָדיר, “the glory”) until *ehad* (אֶחָד, “One”) [the last word of *Addir Addirenu*], there are twenty-two words [in the Hebrew]<sup>93</sup>. This [number] 22, which in *gimatriyyah* (גִּמְטְרִיָּה, the rabbinic assigning of numerical values to Hebrew letters and words<sup>94</sup>), is equal to *kaf-beyt* (כ"ב, which is 22 in *gimatriyyah*) is an allusion to *bakh* [בך, “in You,” which is equal to 22 in *gimatriyyah*] in *nagilah venismehah bakh* (נִגִּילָה וְנִשְׂמְחָה בְּךָ, “let us be glad and rejoice in You”) (Song of Songs 1:4), [a reference to] the twenty-two letters of the [language of the] Torah [i.e. Hebrew].

And another [interpretation of] “Adonai our Lord, give Your glory over the Heavens” (Psalm 8:2): The angels said at Mount Sinai, as we said in [the Babylonian Talmud,] Tractate Shabbat, that they did not want God to let Moses bring down the glory of Torah, and they said, “Give Your glory over the Heavens” (Psalm 8:2).

Take the letter *mem* (מ) of *mah* (מה, “How”), and remove the letter *alef* (א) of

<sup>92</sup> In light of the *midrash* surrounding the angels complaining about God giving the Torah to the Israelites and to the heavenly hosts, our reading here suggests that God granting “God’s honor” (“כְּבוֹדוֹ,” *kevido*) is in fact God’s granting God’s Torah. The literary juxtaposition here of God’s honor as embodied in the Torah alongside God’s unified name hints at the mystical tradition that the Torah’s letters comprise a mystical name of God. This tradition is most fully articulated for the first time by Rabbi El’azar’s younger distant colleague and mystic of another bend—Nachmanides, Rabbi Mosheh ben Nahman (רַבִּי מֹשֶׁה בֶּן נַחֲמָן), also abbreviated as RaMBaN (רַמְבַּ"ן) of Spain (b. c. 1194, d. 1270) in his introduction to Genesis: “יֵשׁ בְּיָדֵינוּ קְבִלָה שֶׁל אֱמֶת, כִּי כָל הַתּוֹרָה כּוֹלֵה שְׁמוֹתָיו שֶׁל הַקָּב"ה” (“We have in our hands a tradition of truth: that the entire Torah itself is the names of the Holy Blessed One”). For another medieval (albeit later) and popular parallel expression of this concept, see Zohar II: 90b: “דָּהָא אֱוֵרִיתָא שְׁמָא דְקֹדֶשׁא בְּרִיךְ הוּא ” (“for this Torah is the name of the Holy Blessed One”). Read through this lens, one may note that “and all will call” (“וַיִּקְרְאוּ”), as in “and all will call upon God’s holy unified name” (“וַיִּקְרְאוּ כּוֹלָם שְׁמוֹ”) may better be translated “and all will read,” for Rabbi El’azar seemingly prophesied a messianic vision of all the nations of the world studying the Torah that constitutes God’s very name.

<sup>93</sup> Rabbi El’azar of Worms evidently did not count words conjoined by a *makkef* (מַקֵּף, Hebrew’s connective upper-dash between two words: -) as one word, which was the Masoretic method of counting words. Had he counted conjoined word-pairs as one word each, he would have counted only twenty words in *Addir Addirenu*. A less likely alternative is that Rabbi El’azar followed a system of vocalizing the Hebrew words of *Addir Addirenu* that disagreed with the Masoretic vocalization of the text of Psalm 8:2. His punctiliousness in preserving Hebrew traditions would lead us to the former conclusion instead—that he counted contrary to convention but vocalized as commonly practiced.

<sup>94</sup> On the Greek origins and etymology of *gimatriyyah*, see Samuel Sambursky, “The Term Gematria: Source and Meaning” in *Tarbiz* 25:3/4 (spring-fall 1976), pp. 268-271 (Hebrew), i.e.:

שמואל סמבורסקי, “מקורו ומשמעותו של המונח ‘גימטריה,’” *תרביץ* מה: ג/ד (ניסן אלול תשל"ו) עמ' 268 271.

*addirut* (אֲדִירוּת, “gloriousness”)<sup>95</sup>. Take the letter *shin* of (ש) *shimkha* (שִׁמְכָּה, “Your name”), and remove the letter *beyt* (ב) from *bekhol* (בְּכָל, “in all of”). Take the letter *heh* (ה) of *ha’arets* (הָאָרֶץ, “the earth”). Behold: *Mosheh* (מֹשֶׁה, “Moses”) is spelled, and between his name is *alef-beyt* (א"ב, the first two letters of, and the name of, the Hebrew alphabet), for he went after the twenty-two letters of the *alef-beyt*.

“What is a human—that You should recall one!?” (Psalm 8:5): *Enosh* (אֱנוֹשׁ, “human”) in *gimatriyyah* is equal to *zeh Mosheh* (זֶה מֹשֶׁה, “this is Moses”). *Mah enosh* (מַה־אֱנוֹשׁ, “what is a human”) in *gimatriyyah* is equal to *ben Amram* (בֶּן אֲמֶרָם, “[Moses, the] son of Amram”)<sup>96</sup>.

I heard that we do not recite *Addir Addirenu*, except on Rosh HaShanah and Yom Kippur during the Kedushah; however, in Mainz (in Germany), we say it on every *Yom Tov* in a loud voice, with intention, and with good melody.<sup>97</sup>

We have quoted at length Rabbi El’azar’s commentary, for his constitutes the most comprehensive (if not only) medieval commentary to offer theurgic and mythic meaning behind the full text of *Addir Addirenu*. In the theosophic philosophy of the Ashkenazic pietists like Rabbi El’azar of Worms:

The letters have profound significance, for there is not a single unnecessary letter in the prayers, nor is a letter lacking; their number and order have mystical meaning. Therefore, the Ashkenazic pietists used to count the words and letters in each of the benedictions of the *Amida*; they asserted repeatedly that one may not add or drop a single one... for the whole structure was erected for a particular purpose, and whoever changes a word in the “most holy” prayers will have to

<sup>95</sup> Using the word *addirut* here instead of *addir* appears to be an error from Rabbi El’azar or a copyist of his. It seems that a scribe mistakenly wrote “אֲדִירוּת קַח” (*addirut kah*, ‘...“gloriousness.” Take...’),” and, in so doing, shifted the placement of the *vav* (ו) and *tav* (ת) from “אֲדִיר וְתַקַּח” (*addir vetikkah*, ‘...“gloriness,” and take...’).”

<sup>96</sup> The genealogy of Moses as a son of Amram appears in Exodus 6:20.

<sup>97</sup> This commentary is as presented (and reproduced from previously unpublished manuscripts) in Moshe Hershler and Yehudah Alter Hershler (eds.), *Peyrushey Siddur HaTefillah LaRoke’ah: Peyrush HaTefillah VeSodoteha LeKhol Yemot HaShanah* (Jerusalem, Israel: Mekhon HaRav Hershler c. 1992), Vol. II, pp. 572-573 (Hebrew); i.e.:

הרב משה הרשלר והרב יהודה אלטר הרשלר (עורכים), פירושי סידור התפילה לרוקח: פירוש התפילה וסודותיה לכל ימות השנה לרבנו אלעזר ב"ר יהודה מגרמיזא (ירושלים, ישראל: מכון הרב הרשלר, ה'תשנ"ב) חלק ב: עמ' תקעב, תקעג.

render account to God.<sup>98</sup>

One can better appreciate this mystic's valuing specifically the carefully-crafted 22 words of *Addir Addirenu* as an allusion to the word *bakh* (equaling 22 in *gimatriyyah*) in Song of Songs 1:4. Rabbi El'azar rendered the loud and musical recitation of these 22 words as akin to uttering a magical formula that transports the reader through the gateway of *bakh*, the door of which opens into the expanse of Song of Songs 1:4. Indeed, Rabbi El'azar's commentary on Song of Songs reveals greater insight into Rabbi El'azar's connecting *Addir Addirenu* to the days of Yom Tov. His commentary is preserved as follows:

נגילה ונשמחה בך: ונשמחה, ד' [פעמים שמופיעה המילה "ונשמחה" במקרא: כאן, וכן ישעיה כה: ס; ותהלים צ: יד ושם, קיח: כד], שלוש רגלים בשנה ושמיני של חג... ונשמחה: גי' "יום שמחה" וכתוב "ביום שמחתכם ובמועדיכם" [במדבר י: י]. ונשמחה בך: ובתורתך, כ"ב אותיות.

*Nagilah venishmehah bakh* (נגילה ונשמחה בך, "We will be glad, and we will rejoice in You"): [The exact term] *venishmehah* (נשמחה, "and we will rejoice") appears 4 times [in the Hebrew Bible: here; Isaiah 25:60; and Psalms 90:14 and 118:24]: [paralleling] the 3 pilgrimage-festivals [Sukkot, Passover and Shavu'ot], plus the eighth [day] of the festival [of Sukkot; i.e., Shemini Atzeret].

*Venishmehah*: is equal in *gimatriyyah* to *yom simhah* (יום שמחה, "a day of joy"), and [along a similar theme of joy], it is written, "on the day of your joy and on your sacred gatherings" (Numbers 10:10).

*Venishmehah bakh* ("And we will rejoice in You"): and in Your Torah—of [the] 22 [Hebrew] letters.<sup>99</sup>

<sup>98</sup> Ismar Elbogen, *Jewish Liturgy: A Comprehensive History* (trans. Raymond P. Scheindlin) (Philadelphia, PA: Jewish Publication Society 1993), p. 290. See also Dan, pp. 267-268.

<sup>99</sup> This commentary is as presented (and reproduced from previously unpublished manuscripts) in Moshe Hershler (ed.), *Haggadah Shel Pesah VeShir haShirim Im Peyrush HaRoke'ah UVi'urey Halakhot UMinhagey Leyl HaSeder LeRabbeynu El'azar MiGermaiza ZLH''H Ba'al HaRoke'ah* (Jerusalem, Israel: Mekhon Shalem - Tzefunot Kadmonim c. 1994), p. 203 (Hebrew), i.e.:

משה הרשלה (עורך), הגדה של פסח ושיר השירים עם פירוש הרוקח וביאורי הלכות ומנהגי ליל הסדר לרבנו אלעזר מגרמייזא זלה"ה בעל הרקח (ירושלים, ישראל: הוצאת מכון שלם צפונות קדמונים, ה'שדמ"ת) עמ' רג.

Note that the equation of *bakh* here with the 22 letters of the language in which the Torah is written is a theme that appears elsewhere in midrashic literature. See *Devarim Rabbah* (Lieberman), *Devarim* 27; *Shir HaShirim Rabbah* 1:1:3; *Pesik'ta DeRav Kahana* (Mandelbaum), 28 (*BaYom HaShemini Atzeret*): 9; *Pesik'ta Rabbati* (Friedman), *Hosafah* 1: 4 (*BaYom HaShemini*) at end; *Midrash Tehillim* (*Shoher Tov*)

Through the lens of mystical hermeneutics, Song of Songs 1:4, in including the term *venismehah*, which appears only 4 times in the Hebrew Bible, alludes intentionally to the quintennial days of *Yom Tov* (paired in the Diaspora) that are not the High Holidays of Rosh HaShanah and Yom Kippur. Read through this lens, the two words *venismehah bakh* themselves serve as a supportive proof-text for the chanting of the 22-word-long *Addir Addirenu* on any day of *Yom Tov*.

Rabbi El'azar insisted that the worshiper accurately conserve the intentionally ordered 22 words of *Addir Addirenu*. The incipient letter of the third through seventh words of the prayer spell an allusion to Moses seeking the holy Hebrew alphabet of the Torah, hidden in the crevices between the letters of his own name. And Rabbi El'azar utilized the words of Psalm 8:2 specifically to remind the cognoscenti of a particularly disparaging scene from the *midrash* of angels envying humans for receiving the Torah. Recalling that midrashic moment when the angels stooped so low as to ask, in the words of Psalm 8:5, “What is a human—that you should recall one!?”—the worshiper is reminded further of the genealogy of that Divine-truth-chaser Moses, son of Amram: son of a human, son of the earth,<sup>100</sup> far beneath the heavenly hosts above. But to recall this *midrash* fully is to recall, most importantly, its upshot: that, holy as the angels are, the Torah is a gift given in order to sanctify humans. To sing *Addir Addirenu*, Rabbi El'azar thereby taught, is to bring harmony to the Divine cosmos amidst a moment of dissonance in Heaven.<sup>101</sup>

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(Buber) 7:4 on Psalm 7:2, 9:6 on 9:3, and 25:5 on 25:2; and *Pesik'ta Zu'trata (Lekah Tov)* on Song of Songs 1:4.

<sup>100</sup> In all tellings of the *midrash* where Moses is present, Moses is presented as being in the upper echelons, in the Heavens, eye-to-eye with the angels. Moses, though human, acquires the status literally of a demigod. He is at the very least an intermediary: the medium whereby earth and God connect. Tellingly the *midrash* does not seek to praise Moses himself but to praise the humans he represents, for Jewish theology, especially in contrast to theology developing among Christians living in the 1st millennium C.E., tends to minimize the possibility of any single person being a vehicle for the Divine. Despite the potential for Moses' heavenly elevation to gain him Godly powers, the rabbinic imagination understood Moses here more as a liaison between heaven and earth and not a unique instrument of the Divine beyond the role of any other human.

<sup>101</sup> Rabbi El'azar's writings make clear that the exact recitation and transmission of the letters and words as he knows them must be followed precisely, for the proper utterances reflect cosmogonic, angelic and Divine truths. Note that his caution against subtracting or adding words or letters for traditional prayer

Rabbi El'azar's commentary turns from the theoretical to the practical as we reach its end. Rabbi El'azar's words express the author's familiarity with the practice of reciting *Addir Addirenu* on only the High Holidays (though he does not specify during which services), even though in Mainz the custom was to recite it every Yom Tov.

### ***Addir Addirenu Narrated In Spain***

Between the 13th and 15th century, rabbinic scholars assembled legal and liturgical works wherein they adjudicated the proper times for reciting *Addir Addirenu*; however, amidst this sea of literature, only one sole articulation of rabbinic lore surrounding *Addir Addirenu* surfaced. Rabbi Natan ben Rabbi Yehudah (of Spain; c. 13th-14th century)<sup>102</sup> wrote in *Sefer Mahkim*:

ויש אומרים אדיר אדירנו בכל שבת ושבת מפני שאותו מזמור נאמר על מתן תורה (על) לישראל  
ואמרו המלאכים תנה הודך על השמים.

And there are those who say *Addir Addirenu* on each and every Shabbat because that song was said regarding the granting of the Torah to Israel, and the angels said, "Give your glory over the Heavens."<sup>103</sup>

Clearly, Rabbi Natan understood *Addir Addirenu* as connected to the exact same (evolving) *midrash* that Rabbi El'azar had mentioned in his *peyrush* (פירוש, the singular of *peyrushim*). What is less clear is how *Addir Addirenu*, which was once recited only once a year (during *Ne'ilah* of Yom Kippur), came to be recited on every single Shabbat just a few centuries after it first appeared as part of Jewish liturgy. In further acts of omission, Rabbi Natan recorded neither whose practice it was to recite *Addir Addirenu* every Shabbat nor if *Addir Addirenu* was ever recited by its Shabbat-sayers on Yom Tov. Rabbi Natan, distancing himself from *Addir*

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formulae is consistently preceded or followed by references to creation, God as creator, the angels or revelation (which, as previously demonstrated in this responsum, was a moment of great tension for the angels in the rabbinic imagination). See Hershler and Hershler (ed.), *Peyrushey Siddur HaTefillah LaRoke'ah*, vol. I, pp. 229, 256, 259, 268 and 275; and vol. II, p. 421.

<sup>102</sup> Jakob Freimann (ed.), *Sefer Mahkim LeRabbi Natan Ben Rabbi Yehudah* (Krakow, Poland: c. 1889), p. V (Hebrew), i.e.:

יעקב פריימאנן (עורך), ספר מחכים לר' נתן ב"ר יהודה (קראקא: ה'תרמ"ט [בערך 1888 או 1889 לספה"נ]), עמ' V.

<sup>103</sup> Note that, due to the brevity of the small book *Sefer Mahkim*, no citation has been included here.

*Addirenu*, remained mum on what his own practice was, if he even ever recited *Addir Addirenu* or only knew about it.

Beyond the praxis, another curiosity etched by Rabbi Natan riddles the reader: If the granting of the Torah to Israel is indeed the reason for reciting *Addir Addirenu* on Shabbat—and, if, presumably, the reader is reminded on Shabbat of the granting of the Torah to Israel since the Torah is read on Shabbat—why would *Addir Addirenu* not also be recited on Mondays and Thursdays, when the Torah is also read? Sadly, several centuries have passed since Rabbi Natan would be found to be in any condition to offer us any clarifications to help resolve these lingering queries.

### ***Addir Addirenu* and the Messianic Exemption**

Whereas the history of *Addir Addirenu* until the 16th century had witnessed increasing familiarity with increased recitation of the prayer throughout the course of the year, Rabbi Mordechai Jaffe (b. c. 1530, d. 1612) posed and penned a particular problem for the prayer:

ושליח ציבור חוזר התפלה... ומוסיף אדיר אדירינו, וכן בכל יו"ט מתפללים שיבא בן דוד והיה יי' מלך על כל הארץ וכו', ובשבת אין אומרים אותו דגמירי שלא יבא משיח בשבת (ובפוזנא וגלילותיה אומרים אדיר אדירנו אף בשבת).

Then the *sheli'ah tzibbur* (שְׁלִיחַ צִבּוּר, “emissary of the community” for leading prayer) repeats the *Tefillah* [of the *Amidah*]... and adds *Addir Addirenu*. And so one does every Yom Tov, praying that the son of [King] David will come, “and Adonai will be sovereign over all the earth, etc.” But on Shabbat we do not say this, for our sages teach that the messiah will not come on Shabbat (but in Posen and its surroundings, they say *Addir Addirenu*, even on Shabbat).<sup>104</sup>

Despite whatever they did in Posen and its outskirts, Rabbi Jaffe suggested that reciting *Addir Addirenu* is an utterance that could nearly command a violation of Shabbat should its recitation hasten the coming of the Messiah. Notably, approximately half a millennium after the emergence of *Addir Addirenu*, no commentator had heretofore articulated a messianic impetus for reciting *Addir Addirenu*. Rabbi Jaffe stands out in this regard. One must take further pause in noting that Rabbi Jaffe did not cite the incipit words of *Addir Addirenu* and the excerpt of Psalm 8:2 as the

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<sup>104</sup> *Levush* (לְבוּשׁ) on Shulhan Arukh, Orah Hayyim 488:3.

problematic aspects of reciting *Addir Addirenu* on Shabbat, but he saw the quote of Zechariah 14:9 as inappropriate to the seventh day of the week. Curiously enough, Rabbi Jaffe made no such proclamation decrying the recitation on Shabbat of the daily recited prayer known commonly by its incipit word *Aleynu* (עֲלֵינוּ, “It is upon us”), which also includes Zechariah 14:9 and also is recited on Shabbat.<sup>105</sup> Still Rabbi Jaffe’s concern must be considered.

That the Messiah’s arrival will not alight on Shabbat is an anxiety commonly drawn from readings of the Babylonian Talmud, Eruvin 43a-b. This stretch of the Talmud poses a question that, in the days of its authors, must have sounded utterly hypothetical to all except those who foresaw the possibility of God’s more cherished characters descending from the sky: “אִין תְּחוּמִין” (“Are the laws prohibiting traveling beyond a certain distance on Shabbat operative at and above the altitude of ten handbreadths above the ground?”). Indeed, this lofty question had some grounding in mythic truth. Whereas the rabbis of the Talmud did not witness any human commoners flying over land, rabbinic tradition well remembered Elijah the prophet’s fiery ascent to Heaven in II Kings 2:11. Elevated in rabbinic lore as nearly immortal, Elijah left no reason for rabbinic culture to conclude that he ever died. The question many Talmudic sages therefore asked was: Would it be a violation of Shabbat or Yom Tov for Elijah to leave the heavenly realms to return to earth to tell us the news of the Messiah’s impending arrival? Or is airborne travel above 10 handbreadths not subject to the strictures of Shabbat as earthlings have known them?

The Talmud does attempt to answer the question. The text brings a *baraita* (בִּרְיָיְתָא, an “outside” teaching previously not included in the compilation of the Mishnah) that teaches that one who declares that they will begin to refrain from strong drink on the day that the Messiah has arrived is permitted wine on Shabbat and Yom Tov. The presumption of the *baraita* is that the Messiah in fact would observe Shabbat and Yom Tov like any other person and would refrain from traveling to Earth on Shabbat or Yom Tov.<sup>106</sup> In accordance with this logic, if a person knows at the start of Shabbat that the Messiah has not yet come, this oath-taker can drink wine

<sup>105</sup> See Jeffrey Hoffman, “The Image of The Other in Jewish Interpretations of Aleynu” in *Studies in Christian-Jewish Relations* vol. 10 (2015), pp. 1-41, esp. pp. 4-11, for a review of the history of the development of *Aleynu*, which happens to date to not much earlier than *Addir Addirenu*.

<sup>106</sup> This strand of thought does not accord with rabbinic images of the Messiah in fact residing on Earth already.

with the knowledge that the Messiah will not come on Shabbat itself.

However, the Talmud previously dared to ask if the strictures on Shabbat and Yom Tov travel apply at and over ten handbreadths above the ground—and this is not answered. As this passage of the Talmud progresses, the rabbinic collective begins to distinguish with greater nuance the difference between the arrival of Elijah (who is expected to arrive at least one day ahead of the Messiah to announce the Messiah's coming) and the arrival of the Messiah. The Talmud reassures: “כבר מובטח להן לישראל שאין אליהו בא לא בערבי שבתות ולא בערבי ימים טובים מפני” “הטורח” (“It has already been promised to Israel that Elijah will not come on the eve preceding a Shabbat or Yom Tov because of the disturbance [his arrival would cause]”). Rejecting this notion, the Talmud suggests that, were Elijah to come to announce the arrival of the Messiah, all of the nations of the world would serve the Jewish people, and there would be no disturbance in the Jews' preparation for Shabbat or Yom Tov (for those who are not Jewish would attend to whatever preparations for Shabbat or Yom Tov were unfinished at the time by the Jews). Despite the presupposition one can extrapolate from the *baraita*, the Talmud steers away from the question of whether or not high-altitude travel would be a violation of Shabbat, and this question remains unanswered. Moreover, the greater question of whether or not the Messiah would arrive on Shabbat or Yom Tov itself awaits its own answer. Though many rabbis through the ages recognized that the Talmud here does not determine that the Messiah definitely could not come on Shabbat or Yom Tov, few ever had the gall to assert this. Most straightforward in his assertion, Rabbi Yitzhak Minkowsky (b. c. 1788, d. 1851) of Belarus wrote in his commentary *Keren Orah* (קרן אורה) on the Babylonian Talmud, Sanhedrin 66a: “ספק אם יבא בשבת וי"ט” (“It is unclear whether the Messiah would come on Shabbat or Yom Tov”).

Rabbi Isaiah Berlin (b. c. 1725, d. 1799) of Germany noted that, in accordance with the interpretation of the aforementioned *baraita* that the Messiah would not come on Shabbat, the Messiah would in fact also not come on Yom Tov. According to Rabbi Berlin, Rabbi Jaffe would therefore be incorrect to teach that the Messiah might arrive on Yom Tov but not on Shabbat and that this particular logic should prevent us from reciting *Addir Addirenu* on Shabbat. Rabbi Berlin, conceding mostly to the authority of his predecessor in typically reciting *Addir Addirenu* on Yom Tov and rarely on Shabbat, took pride in his own post-Jaffe liturgical idiosyncrasy:

(ויפה מנהגנו שנוהגי' שאנו אומרים פה אדיר אדירינו בכל יו"ט אפי' כשחל בשבת הואיל דבביאת בן



דוד יו"ט ושבת דין אחד לשניהם).

(But our custom is appropriate as we practice: that we say *Addir Addirenu* here even when Yom Tov falls on Shabbat since, when it comes to the coming of the son of David, the law treats both Yom Tov and Shabbat the same as one another.)<sup>107</sup>

Rabbi Yisra'el Hayyim Friedman (b. c. 1852-d. 1922) of Poland, perhaps hoping to put in a few good words in support of reciting *Addir Addirenu* on Shabbat before he accepted the ruling of Rabbi Jaffe's *Levush*, wrote:

והנה ביו"ט מוסיפין כאן, "אדיר אדירנו" וכו'. והובא במנהגים ובלבוש והטעם עיין בלבוש... ועיין במחזור ויטרי שם איתא לאמרו רק בשבת אבל ביו"ט יש שם נוסחא אחרת: "אלקיכם אני ואתם עמי" וכו', וביו"ט שחל בשבת יש ג"כ נוסחא אחרת; ע"ש. ובמדינותינו אין נוהגין כן רק במנהג הלבוש והמנהגים, והיכי דנהוג נהוג.

Behold, on Yom Tov, we add here [in the *Kedushah*], *Addir Addirenu*, etc.. And this is brought in *Sefer HaMinhagim* and *Levush*; for the reason, see *Levush*... and see *Mahzor Vitry*, where it is appropriate to recite it on Shabbat, but on Yom Tov there is a different formula: "I am your God, and you are My nation," etc., and on Yom Tov that falls on Shabbat, there is yet another version; see there. And in our countries, we do not practice as such, but [we follow] the custom of *Levush* and *Sefer HaMinhagim*, and however it is practiced it is practiced.<sup>108</sup>

Rabbi Friedman in an act of educative defiance (surrounded by submission to Rabbi Jaffe's influence) highlighted the peculiar case of *Mahzor Vitry*. And indeed, the case is that

<sup>107</sup>Isaiah Berlin, "*Peyrushim Venimmukim Al Pi Ketav Yad MiMahzor Shello Im Defus Altona Shnat TKL 'G'*" in Leon Schlossberg, *Sefer Halakhot Pesukot O Hilkhoteh Re'u HaMyuhasot LeTalmidey Rav Yehudai Ga'on* (Versailles, France: 1886), pp. 49-67, esp. p. 67 (Hebrew), i.e.:

ר' ישעיה ברלין ז"ל, "פירושים ונימוקים על פי כ"י ממחזור שלו עם פירוש דפוס אלטונא שנת תקל"ג" בספרו של אריה לייב שלאסבערג, ספר הלכות פסוקות או הלכות ראו המיוחסות לתלמידי רב יהודאי גאון (ווירסייליס, צרפת: 1886), מעמ' 49 עד עמ' 67, ובמיוחד מעמ' 59 עד עמ' 60.

Rabbi Berlin had precedent for including *Addir Addirenu* on days of Yom Tov falling on Shabbat. Rabbi Yitzhak Aizik of Tirna's *Sefer HaMinhagim* records in *Minhag Shel Shabbat* that *Addir Addirenu* would be recited when Yom Tov fell on Shabbat.

<sup>108</sup>Yisra'el Hayyim ben Yehudah Friedman, *Likkutey Mahari'ah* (Ya'akov Tzevi Kaufman, ed.)

(Romania: Me'ir Leib Hirsch Satmar, c. 1931), *Seder Tefillat Musaf*, II: 66a-b (Hebrew), i.e.:

ר' ישראל חיים בן יהודה פרידמאן, לקוטי מהרי"ח (מהדורת יעקב צבי קויפמאן) (רומעניען [רומניה]: מאיר לייב הירש סאטמאר, ה'תרצ"ב [משנת 1931 עד שנת 1932 לספה"נ]), ח"ב, סדר תפלת מוסף ח"ב, סו ע"א ע"ב.

*Sefer HaMinhagim* of Rabbi Avraham Hildik (c. 2nd half of the 13th century)<sup>109</sup> includes *Addir Addirenu* for only Yom Tov, as indicated in the section *Minhagey Hag HaSukkot*.

Rabbi Yehiel Mikhl HaLevi Epstein (b. 1829, d. 1908) of Belarus honored the prevalence of *Addir Addirenu* as Yom Tov liturgy (as made evident in his *Arukh HaShulhan*, Orah Hayyim 659:1), but codified a practice reported by none of his predecessors who refrained from *Addir Addirenu* on Shabbat:

שבת של חולו של מועד... ובמוסף מתפלל של יו"ט... ואומרים אדיר אדירינו בקדושה.

Regarding Shabbat during *Hol HaMo'ed* [חול המועד, the intermediary days between the days of Yom Tov at the beginnings and ends of Sukkot and Passover]... then during *Musaf*, one prays the liturgy of Yom Tov... and we recite *Addir Addirenu* during the *Kedushah*.<sup>110</sup>

Despite those who made their exceptions known as indicated above, Rabbi Jaffe's position still dominated Jewish law and became a norm surviving in the majority of North American and Israeli prayer books printed in the 20th and 21st centuries to date.<sup>111</sup>

### ***Addir Addirenu* on Hoshana Rabbah**

For all of the debating of whether *Addir Addirenu* may be recited on Shabbat, curiously no source ever explicitly forbade reciting *Addir Addirenu* on Hoshana Rabbah. All sources that mention Hoshana Rabbah—*Minhagey Zalman Yent* (whose author lived in the Rhineland and moved to Italy near the beginning of the 15th century)<sup>112</sup>, *Sefer HaMinhagim* of Rabbi Avraham

<sup>109</sup> On the authorial context of this work, see Zohn Mincer, pp. 193-195, esp. p. 194.

<sup>110</sup> See Epstein's *Arukh HaShulhan*, Orah Hayyim 663:4.

<sup>111</sup> Most *posekim* in fact never mention *Addir Addirenu* by name in their legal codes and commentaries. The unspoken acceptance of Rabbi Jaffe's ruling penetrates this silence. Among the few who mention their complete concession to Rabbi Jaffe's position is Rabbi Yeshayah Wiener (b. c. 1726, d. c. 1798) in Isaiah Wiener, *Bigdey Yesha* (Prague, Poland: *Defus Mosheh Katz*, c. 1774), vol. II on Orah Hayyim 488:3, p. 227 (Hebrew), i.e.:

הר' ישעיה בן שמחה וינר, בגדי ישע (פראג, פולין: דפוס משה כ"ץ, ה'תקל"ד), ח"ב על א"ח תפח: ג, עמ' רכז.

See below at pp. 108-110 on contemporary practice.

<sup>112</sup> See the middle of his short book.

Hildik<sup>113</sup>, Rabbi Ya'akov HaLevi ben Mosheh Mullin (b. c. 1360, d. 1427) of Germany<sup>114</sup>, Mahzor Vitry 383, Rabbi Yitzhak Aizik of Tirna (15th century) of Eastern Europe<sup>115</sup>, Rabbi Yitzhak ben Rabbi Me'ir HaLevi of Düren, Germany (c. 13th-14th century)<sup>116</sup>, *Sefer HaMinhagim* of Rabbi Avraham Kloyzner (c. 13th-14th century in Vienna) 58, *Seder Troyes* 10 by Rabbi Menahem ben HaRav Yosef HaLevi Hazzan, Rabbi El'azar of Worms' *Sefer HaRoke'ah*<sup>117</sup>, Rabbi Mordekhai Benet (b. c. 1753, d. 1829) of Moravia in *MaHaRaM*<sup>118</sup>, and the Arukh HaShulhan on Orah Hayyim 684:12—deem Hoshana Rabbah a day appropriate for the recitation of *Addir Addirenu*. As soon as Hoshana Rabbah is offered as a possibility—though it is not fully a day of Yom Tov—Hoshana Rabbah finds legalists in favor of its including *Addir Addirenu*.

### The Mystical Letters of *Addir Addirenu*

Just a few centuries after Rabbi Jaffe limited the frequency of *Addir Addirenu* in the calendrical cycle, Rabbi Avraham Yehoshu'a Heschel (b. c. 1748, d. 1825) of Opatów (in Poland) attached (or perhaps uncovered) yet another new mythical, mystical meaning to the prayer. The Apter Rebbe, as Rabbi Heschel was known after the namesake of his town, connected *Addir Addirenu* to a *midrash* found in *Midrash Tanhuma* (Warsaw), *BeMidbar* 2:2, s.v. *ish al diglo be'otot* (“<sup>119</sup>איש על דגלו באתת,” “each person, according to their flag, with signs”). The *midrash* imagines 22,000 angelic chariots descending upon Mount Sinai at the moment of God's revelation. So great were the flags that each chariot held that the Israelites desired that each tribe have their own flag, each symbolizing God's love. The eisegetical author of this

<sup>113</sup>See the section *Minhagey Hag HaSukkot*.

<sup>114</sup>*Sefer MaHaRYL (Minhagim): Seder Tefillot Hag HaSukkot V* (Hebrew), i.e.:

ספר מהרי"ל (מנהגים): סדר תפילות חג הסוכות ה.

<sup>115</sup>See the section *Hag HaSukkot*.

<sup>116</sup>Yitzhak ben Me'ir HaLevi, 'ir HaLevi, *Minhagim Yeshanim MiDura* (Israel Elfenbein, ed.) (New York, NY: 1948), p. 157 (Hebrew), i.e.:

רבי יצחק בן רבי מאיר הלוי מדורא, מנהגים ישנים מדורא, ישראל אלפנביין (עורך) (ניו יורק: ה'תש"ח), עמ' 157.

<sup>117</sup>*Hilkhos Sukkot*, 223.

<sup>118</sup>On *Shulhan Arukh*, *Orah Hayyim* 684.

<sup>119</sup>Note though that the *Tanhuma* text spells *be'otot* differently from and with more letters than the Masoretic text: באותות.

*midrash* taught that all of this accords with the words of the female heterosexual lover in Song of Songs 2:4: “for his banner upon me is love” (“וְדִגְלוֹ עָלַי אֶהְיֶה,” *vediglo alai ahavah*). The rabbinic collective understood, as much of *Shir HaShirim Rabbah* well attests, that Song of Songs’ female lover represents the congregation of Israel seeking the revelation of her male lover, God. Upon God’s revelation at Sinai, *Midrash Tanhuma* here reports, God commanded Moses to create flags for Israel like the flags of the angelic hosts just as the Israelites had wanted.

The first mention of the desire for such flags is described in this *midrash* with the word *shennit’avvu* (שֶׁנִּיתְּאוּ, “that they desired”). The root of this verb tends to be associated with a seduced longing for food or sexual intimacy. Aside from referencing the Song of Songs, the author of this *midrash* selected the word *shennit’avvu* likely purposefully, recognizing that *shennit’avvu* contains the letters of *ot* (אוֹת, “a sign”) rearranged. The Apter read into this *midrash* his own familiarity of the word *ot* (which is the singular noun at the root of *be’otot*: בְּאוֹת, “with signs”) not meaning just any kind of sign but an expanse covering a wide range of the signification of that which could be signified. In its most commonplace definition, an *ot* refers to “a letter” of an alphabet, but at its most transcendental, an *ot* takes the form of “a Divine act.” Both the latter and, as previously demonstrated, the former meanings yield theologically significant symbols.<sup>120</sup>

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<sup>120</sup> It can further be argued that this broad spectral understanding of *ot*, along with the English word “sign,” likely has theological import to traditions beyond Judaism. Examining the plural of the Arabic cognate of *ot*, Elliot Wolfson has written:

...a precise analogue... is found in Islamic mysticism... As with so much of Islamic occultism, the starting point is an expression in the Qur’ān in a section that delineates various signs (*āyāt*) of the divine in the world, which serve as part of the liturgical glorification of Allah in the evening and morning (30:17-27). The signs consist of the creation of man from dust and the creation of his spouse, the helpmate, with whom man can settle down and live harmoniously (20-22), the creation of the heavens and earth, and the diversity of ethnic and racial identities (22), the creation of patterns of human behavior and natural phenomena (23-24), and... the fact that all... in the heavens and earth arise by the command, or will, of Allah (25). Everything that is in the cosmos, therefore, may be viewed as a sign marking the way to one that is both within and outside the cosmos.

See Elliot R. Wolfson, *Language, Eros, Being: Kabbalistic Hermeneutics & Poetic Imagination* (New York, NY: Fordham University Press 2005), p. 205. Wolfson refers to آيات (*aayaat*), the plural of آية (*aayah*), which, in Arabic, can mean “a verse from the Quran,” “a word,” “an utterance,” “a mark,” “a miracle,” “a miracle,” “a wonder,” or “a marvel.” See Hans Wehr, *A*

Though Hebrew conventions proclaim “a letter” and “a Divine act” as homophonous equals—both being *ot*—the plurals of these two signifiers differ: *otiyot* (אוֹתִיּוֹת) and *otot* (אוֹתוֹת) respectively (and the latter is the plural for nearly all possible meanings of *ot* other than “a letter”). Reading the above excerpt of *Midrash Tanhuma*, the Apter sought meaning in it by equating *otot* with *otiyot* themselves because of their shared singular form. This interpretive strand of thought in Jewish tradition dates back to at least the author of *Avot DeRabbi Natan* (*Nus’ha A*)<sup>121</sup> ch. 13, presumably a native of the Land of Israel living at some point either during or later than the end of the 2nd century C.E. and either during or prior to the 9th century.<sup>122</sup> *Avot DeRabbi Natan Nus’ha A* is not alone in finding parallel and synonymous meaning between *otot* and *otiyot*; many exegetical and eisegetical Jewish texts preceding and following it offer some teaching that depends on the connection between these words.<sup>123</sup>

Among the texts fascinated by *otot* as *otiyot* lies *Midrash Aggadah*, which emerged

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*Dictionary of Modern Written Arabic (Arabic-English)*, J Milton Cowan (ed.) (Urbana, IL: Spoken Language Services, 1960), p. 36., s. v. “أية.” Though our study here cannot determine whether such a parallel can extend to all other religious traditions, it seems that this expansive understanding of signage likely presents subtle statements of deeper theological import in contemporary religious traditions with bases in the ancient Near East.

<sup>121</sup> Scholars since Solomon Schechter have long divided *Avot DeRabbi Natan* into two major trends of recension: *Nus’ha A* and *Nus’ha B*. Of the former, at least three different versions are known. See Menahem Kister, “*Avot DeRabbi Natan Mahadurat Sh”Z Schechter: Akdamut Milin*” in Menahem Kister, *Avot DeRabbi Natan: Mahadurat Shechter* (New York, NY: Jewish Theological Seminary c. 1997), pp. 7-40, esp. p. 40 (Hebrew), i.e.:

מנחם קיסטר, “אבות דרבי נתן מהדורת ש”ז שכטר: אקדמות מילין” בתוך מנחם קיסטר, *אבות דרבי נתן: מהדורת ש”ז שכטר* עיונים למקבילות בין הנסחים ולתוספות שבמהדורת שכטר בתוספת “אקדמות מילין” (ניו יורק, ארה”ב: בית המדרש לרבנים באמריקה ה’תשנ”ז) עמ’ 7-40, ובמיוחד עמ’ 9.

Kister writes that it seems that hundreds of years separate the earlier compilation of *Nus’ha B* from the later compilation of *Nus’ha A*. See *ibid.*, p. 10.

<sup>122</sup> See *ibid.*, p. 13.

<sup>123</sup> See *Shir HaShirim Zuta* 1:1, s.v. “*shir hashirim*” (“שִׁיר הַשִּׁירִים”); *Midrash Aggadah*, BeMidbar 2:2; Rabbi Hizkeyah ben Mano’ah’s *Hizkuni* (13th century France) on Numbers 2:2; the Portuguese, Aragonese and Italian Rabbi Yitzhak ben Yehudah Abraban’el (b. c. 1437, d. 1508) on Isaiah 7; *Tzeror HaMor* by the Portuguese, Spanish and Italian Rabbi Avraham ben Ya’akov Sava (b. c. 1440, d. 1508) on BeMidbar; *Berit Shalom* by Rabbi Pin’has ben Pilta (b. c. 1620, d. c. 1663) of Włodawa in Poland on Va’era; *Me’or Eynayim* by Rabbi Menahem Nahum (b. c. 1730; d. 1797) of Chernobyl in Russia on BeMidbar; *Menahem Tziyyon* of Menahem Mendil (b. c. 1745, d. c. 1815) of Pristik and Rimanov on Vayyikra and the Haggadah of Passover; and *Ma’or VaShemesh* by Rabbi Kalonymos Kalman Epstein (b. c. 1751, d. 1823) of Poland on BeMidbar.

somewhere around the 12th or 13th century in Provence<sup>124</sup> and remains seemingly the earliest transmitter of a tradition critical to the Apter's reading of *Midrash Tanhuma. Midrash Aggadah* at *Bereshit* 2, s.v. “*ish al diglo be'otot*” details not only the pictorial representations that each tribe's banner displayed but also the permutations of letters derived from the names of the three forefathers as etched onto the four flags representing the four encampments of Judah, Reuben, Ephraim and Dan. According to *Midrash Aggadah*, divided among each flag were the first, second, third and fourth letters respectively of each forefather's four-lettered name (such that Judah's encampment waved *alef-yod-yod* [א י י], for the incipient letters of *Avram* [אברם], *Yitzhak* [יצחק] and *Ya'akov* [יעקב], and the three other tribes similarly divided the remaining nine letters). For unknowable reasons, not all future variants of this eisegetical kernel replicate the exact imagery presented here in *Midrash Aggadah*, and the Apter himself envisioned a different ordering of *otiyot* as those *otot* upon the banners of the encampments.

In *Ohev Yisra'el*, the most prominent anthology of the Apter's teachings on the Torah, Rabbi Heschel is recorded to have taught regarding *BeMidbar*:

ביאור על מדרש פליאה בפסוק “איש על דגלו באותות לבית אבותם.” אל תקרי באותות אלא באותיות... ויבואר דהנה... בשעת מתן תורה ראו ישראל שנתגלה עליהם הקדוש ברוך הוא בצבאות ומחמת דגלים של מלאכי השרת נתאוו ישראל לדגלים. והנה הדגלים היו דגל מחנה ראובן ויהודה אפרים ד"ן. ובוזה יבואר מה שאנו אומרים אדיר אדירנו בכל יום טוב. ומפני מה דווקא ביום טוב? אך דהנה דשבת מרמז נגד העולם האצילות, ויום טוב נגד עולם הבריאה. ובעולם הבריאה הוא המרכבה עם הדגלים. לזה אומרים אדיר. נוטריקון א' פרים ד' נ' י' הודה ר' אובן שהן המה הדגלים.

An elucidation of this amazing *midrash* on the Scriptural excerpt “each person, according to their flag, *be'otot* (בְּאוֹתוֹת, ‘with signs’) in accord with the house of their ancestors:” Do not read *be'otot* but rather *be'otiyot* (בְּאוֹתֵיאוֹת, “with letters”)... and it will be elucidated as, behold... at the moment of the giving of the Torah, Israel saw that the Holy Blessed One was revealed to them with heavenly hosts. And on account of the flags of the hosting angels, Israel desired flags. And behold, the flags were the flags of each camp: *Re'uven* (רְאוּבֵן, “Reuben”), *Yehudah* (יְהוּדָה, “Judah”) *Efrayim* (אֶפְרַיִם, “Ephraim”), [and] *Dan* (דָּן, “Dan”).

<sup>124</sup> See Ziva Kosofsky, “*HaHibbur HaMkhunneh ‘Midrash Aggadah’: Mavo VeHatz’a LeMahadurah Birkor’tit Helkit LeHumash Shemot ULFarshot Bereshit, Vayyikra, BeMidbar UDvarim*” (dissertation) (Jerusalem, Israel: Hebrew University, 2015), p. 3 (Hebrew), i.e.:

זיוה קוסופסקי, “החיבור המכונה ‘מדרש אגדה’: מבוא והצעה למהדורה ביקורתית חלקית לחומש שמות ולפרשות בראשית, ויקרא, במדבר ודברים” (דיסרטציה) (ירושלים, ישראל: האוניברסיטה העברית, ה'תשע"ה), עמ' 3.

Regarding this, it will be elucidated why we recite *Addir Addirenu* on every Yom Tov. And why specifically on Yom Tov? Alas, behold, Shabbat [mystically] alludes to *olam ha'atzilut* (עולם האצילות, “the world of emanation”), and Yom Tov to *olam habberi'ah* (עולם הבריאה, “the world of creation”). And in *olam habberi'ah* there are those chariots with those flags—and for this we proclaim *addir* (אדיר): a *notarikon* [נוטריקון, “notary’s shorthand”]<sup>125</sup> of the incipient letters of] *Efrayim, Dan, Yehudah, and Re'uven*—who are the flags.

The Apter evidently imagined the initiated disciple traversing the Jewish calendar and ascending the widespread Jewish mystical notion of the four worlds (from bottom to top: *olam ha'asiyyah* [עולם העשיה, “the world of doing”], *olam haytzirah* [עולם היצירה, “the world of making”] *olam habberi'ah* and *olam ha'atzilut*). The adept reached the uppermost echelons of *olam ha'atzilut* on Shabbat, but, on Yom Tov, the Apter’s students reached just one stratosphere below in *olam habberi'ah*, where the chariot-angels with their proud, lovely banners are revealed. Undoubtedly more rigid understandings of the four worlds would be an invention of early modern mysticism, especially under Lurianic influence,<sup>126</sup> with which Rabbi Heschel was familiar. Yet, Rabbi Heschel’s presumption of *olam habberi'ah* as a step above *olam haytzirah* and the linking of the words of Psalm 8:2 with Yom Tov corresponds well with a much earlier medieval fragment (of unknown dating) of a *midrash* uncovered by Jacob Mann (of Galicia, England and the United States; b. 1888, d. 1940):

כת' ייי אדונינו מה אדיר שמך ב' הא' וגו' (תהילים ח: ב) ייי אדונינו למה נאמ[ר, ייי, קודם] יצירתו שלעולם, שלא היה שם ברייה, אדונינו, אחר יצירתו שלעולם, שנקרא אדון לכל הבריות.

It is written: “Adonai, our lord, how glorious is Your name throughout the earth!”

<sup>125</sup> Jastrow understood *notarikon* to be derived from the Greek *νотаріχόν*. See Marcus Jastrow, *Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (Philadelphia, PA: 1903), pp. 886-887, s.v. *נוטריקון*. Evidently, no such Greek word ever existed. Rather, the Latin term *notarius* (“a short-hand writer”) seems metonymically more appropriate an etymology. For this Latin term and translation, see Charlton Lewis and Charles Short, *A Latin Dictionary*, s.v. “notarius,” accessed online at <http://www.perseus.tufts.edu/hopper/text?doc=Perseus%3Atext%3A1999.04.0059%3Aentry%3Dnotarius> on May 22, 2017.

<sup>126</sup> See, e.g., Lawrence Fine, *Physician of the Soul, Healer of the Cosmos: Isaac Luria and His Kabbalistic Fellowship* (Stanford, CA: Stanford University Press 2003), pp. 131-132.

(Psalm 8:2). “Adonai, our Lord.” Why is this said [in the order of “Adonai” preceding “our Lord” and not vice versa]? Adonai [the name] existed before *yetzirato* [יצירתו, “God’s creation”—etymologically related to *haytzirah*] of the world, where there was not yet any *beriyah* [ברייה, “creature”—etymologically related to *habberi’ah*]. “Our Lord” [was stated] after *yetzirato* of the world, when God was called “lord” to all *beriyot* [בריות, “creatures”—etymologically related to *habberi’ah*].<sup>127</sup>

The reader may safely hypothesize that this little-known lost fragment remained probably unknown to Rabbi Heschel himself but served as part of a larger and evolving exegetical tradition that eventually came to support the mystical schema that upheld the pillars of the Apter’s cosmology.

Perhaps of greater urgency for our extrapolation of a *hasidic* understanding of *Addir Addirenu*, *Ohev Yisra’el*, in contrast to all previously cited *midrashim* surrounding the circumstances of the recitation of *Addir Addirenu*, imagined not the angels envying Israel, but Israel envying the angels. The angels who hover above the Apter’s recitation of *Addir Addirenu* are not the angels whom Rabbi El’azar of Worms saw humiliated by God’s bequeathing the Torah to humans. The Apter’s angels proudly wave their sacred banners of love above us and entice us to imitate their lofty ways. The Apter expressed no regret that our chanting of *Addir Addirenu* would make us swallow the pride felt by Rabbi Natan every Shabbat as the predecessor weekly relived the revelation at Mount Sinai. As his mouth filled with the words of *Addir Addirenu*, Rabbi Heschel too felt the heavens open up but not quite as high as they did for Rabbi Natan and only on Yom Tov. The Apter looked to the sky and saw the fiery chariots as role models for humans. Rabbi Heschel knew that the Torah rendered us no greater than angels; we needed the Torah in order to attain anything resembling their level of holiness, and we could only sneak such a peek of that good life on the most sacred of occasions. And, as for God’s wonders, all we could ever paint on our own flags was our human history. We had not *otot* of our own, but *otiyot*. Rabbi El’azar recalled the *midrash* of the angels asking arrogantly, “What is a

<sup>127</sup>Jacob Mann, “*Peyrush Aggadati Al HaHaftarah Ve’Al HaMizmor LeShabbat Va’era*” in *The Bible as Read and Preached in the Old Synagogue* (Cincinnati, OH: 1940), vol. 1, Hebrew section, p. 146 (*Kit’ey Midrashim*, *Genizah*: XVIII: 6a).



human—that you should recall one!?” Rabbi El’azar’s angels said that humans cannot achieve angelic holiness, only the earthly qualities of Moses, son of Amram, the utterly human; but those angels were not rewarded. For the Apter, we are not even noticed by the angels; we use *otiyot* to imitate their *otot*, and we merely dream to live like them.

### ***Addir Addirenu Today***

To argue for a single universal praxis regarding *Addir Addirenu* based solely on the aforementioned theological underpinnings of *Addir Addirenu* would be to impose a single mythical-liturgical-spiritual experience of the prayer on all Jews. Given the variety of myths that speak to the spiritual needs and doctrinal beliefs of Jews and Jewish communities, this *teshuvah* cannot adequately articulate a singular practice for the recitations and omissions of *Addir Addirenu*.

This *teshuvah* encourages those considering the Jewish legal ramifications of breaking from or following familial or communal customs regarding the practices surrounding *Addir Addirenu* to remember the weight of the aphorism *minhag avoteynu beyadeynu* (מנהג אבותינו) בידינו, “the custom of our ancestors is in our hands”<sup>128</sup> and, at the opposite end of a range of attitude towards traditionalism, a whole litany of sources warning against upholding customs without meaning, well collected by Rabbi David Golinkin.<sup>129</sup>

The most frequently printed of Conservative and Orthodox *siddurim* (סידורים, “orders,” as in prayer-books) include *Addir Addirenu* in the Amidah in every Yom Tov *Musaf*. Many of these *siddurim* omit *Addir Addirenu* when Yom Tov falls on Shabbat,<sup>130</sup> but still a few Ashkenazic liturgical collections (for example, *ArtScroll* publications) offer no such qualification.<sup>131</sup> Reform

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<sup>128</sup> This dictum appears in many sources. One earlier such source is *Sekhel Tov* (Buber), *Vayyiggash* 46:34.

<sup>129</sup> See David Golinkin, “Rice, beans and *kitniyot* on Pesah - are they really forbidden” pp. 14-18, accessed at <https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/Golinkin-Kitniyot.pdf> on April 23, 2017.

<sup>130</sup> See Jules Harlow (ed.), *Siddur Sim Shalom: A Prayerbook for Shabbat, Festivals, and Weekdays* (New York, NY: Rabbinical Assembly 1985) pp. 458-459; Leonard S. Cahan (ed.), *Siddur Sim Shalom for Shabbat and Festivals* (New York, NY: Rabbinical Assembly 1998), p. 167; Raphaël Freeman (ed.), *The Koren Siddur* (Jerusalem, Israel: Koren 2009) pp. 808-809.

<sup>131</sup> See, e.g., Avie Gold (ed.), *The Complete ArtScroll Machzor: Succos (Nusach Ashkenaz)* (Brooklyn,

Jews reading this *teshuvah* might note the peculiarity of much of 20th and 21st century Reform liturgy featuring a weekly appearance of *Addir Addirenu* with neither the words from Zechariah 14:9 (which comprise the remnant of the prayer after the words from Psalm 8:2) nor any explanation for this practice in much of 20th and 21st century American Reform liturgy—regardless of whether the *Kedushah* being recited aloud occurs during *Musaf* or any other service.<sup>132</sup> Readers of contemporary Reconstructionist liturgy might note that—in the absence of a unified practice of reciting *Musaf*—the *Kedushah* in *Shaharit* of Yom Tov (and, unlike Reform practice, only on Yom Tov) includes *Addir Addirenu*, and we find no instruction to omit this passage when Yom Tov coincides with Shabbat.<sup>133</sup>

For those considering changing their inherited practice of reciting *Addir Addirenu* and thereby breaking from *minhag*, the most prominent halakhic concern remaining surrounds the interpretation of the passages referenced above from the Babylonian Talmud. Should *Addir Addirenu*—most especially the verse of Zechariah 14:9 that concludes its twenty-two words—be interpreted as calling for the quick coming of the Messiah, then it would be important that a worshiper consider the possibility of the Messiah violating Shabbat by traveling too far if indeed the laws surrounding travel should be upheld over ten handbreadths above the ground. Should that question be resolved as not worrisome to the worshiper, then the recitation of *Addir Addirenu* on Shabbat becomes not problematic from a purely halakhic standpoint. (Moreover, it could be argued that perhaps Reform liturgy, in its omission of Zechariah 14:9 from *Addir Addirenu*, resolved any conflict of the liturgy with Shabbat; however, whatever theurgical powers German pietists associated with the prayer's specificity of its twenty-two words inevitably vanish with the omission of Zechariah 14:9.)

Finally, past the halakhic concerns, the worshiper might want to consider the pragmatic and spiritual considerations of what adding or subtracting the recitation of *Addir Addirenu* from

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NY: Mesorah 1992), pp. 340-341 and the related pages and works in the series. See for a more popular read, Nosson Scherman (ed.), *The Rabbinical Council of America Edition of "Siddur Kol Yaakov / The Complete ArtScroll Siddur" - Nusach Ashkenaz* (Brooklyn, NY: Mesorah 1984), pp. 676-677. Notably, the *ArtScroll* series offers the option of reciting *Addir Addirenu* on the Shabbat of *Hol HaMo'ed*.

<sup>132</sup> See, e.g., *Union Prayer Book* (Cincinnati, Ohio: Central Conference of American Rabbis 1940), p. 127; and Elyse D. Frishman (ed.), *Mishkan T'filah: A Reform Siddur* (New York, NY: Central Conference of American Rabbis 2007), pp. 248, 327 and 476.

<sup>133</sup> See, e.g., David A. Teutsch (ed.), *Kol Haneshamah: Shabbat Vehagim* (Elkins Park, PA: Reconstructionist Press 2006), 3rd ed., pp. 338-339.

one's practice entails in various communities. It is recommended that a study of the myths surrounding the recitation of the prayer (as, for instance, included in this *teshuvah*) be studied by a community considering changing its practice of recitation or omission of *Addir Addirenu*.

Precedent supports the recitation of *Addir Addirenu* on any day of Yom Tov and on any Shabbat. The implementation of such recitations must be accompanied by the theological, spiritual, halakhic and pragmatic considerations that render the prayer meaningful and appropriate to the worshipper and worship community.<sup>134</sup>

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## **Judaism and American Civil/Political Society In the Age of Trump**

Richard L. Claman

### **The Challenge**

The United States is today (approaching Shavuot 5777) experiencing fundamental strains upon the foundational principles supporting the U.S. Constitution's vision of a civil/political society—that is, (i) of a 'civil society' in which we can all participate on equal terms, regardless of our particular background religious views (or other worldviews), and in particular, (ii) of a "public political culture,"<sup>1</sup> within which we can all express ourselves as we wish on public issues, subject to some sort of constraint of respect for each other, and of a shared commitment to what we might call (in a philosophic sense, not a political-party sense) the ideals of a liberal democracy.

Thus, for example, President Trump has questioned the legitimacy of millions of votes cast for his opponent (among other recent challenges to the principles of fair elections, and of "one-person, one-vote");<sup>2</sup> and the priority assigned by Superman<sup>3</sup> to "truth," in his slogan, "truth, justice and the American way," seems to have been replaced by "alternative facts."<sup>4</sup>

Does Judaism teach us anything as to how we, as Jews and Americans, might respond to the present crisis? Conversely, what if any obligations do we, as Jews and Americans living in the United States, owe to American civil/political society—for instance, to act affirmatively to support liberal-democratic ideals when they are threatened?

My concern here is not, 'should we as Jews endorse or oppose this or that particular policy of this or that government,' but rather something more fundamental.

As even David Novak—a Jewish-political philosopher who vehemently opposes the

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<sup>1</sup> See, e.g., John Rawls, "The Idea of Public Reason Revisited," in *The Law of Peoples* (Cambridge, MA: Harvard U.P.; 1999); idem., *A Theory of Justice* (Cambridge, MA: Harvard U.P.; 1971), and idem., *Political Liberalism* (New York: Columbia U.P.; 1993).

<sup>2</sup> See, e.g., Ari Berman, "Voting Rights in the Age of Trump," *New York Times*, 11/22/2016, p. A31 (available online).

<sup>3</sup> See, e.g., Harry Brod, *Superman is Jewish? How Comic Book Superheroes Came To Serve Truth, Justice and the Jewish-American Way* (NY: Free Press; 2012).

<sup>4</sup> Nicholas Fandos, "White House Pushes 'Alternative Facts,'" *New York Times*, 1/23/2017, p. A15 (available online).

vision of an ideal liberal-democratic state outlined by John Rawls<sup>5</sup>—has commented, liberal democracy has surely been good for the Jews:

Jews can well be seen as one of the chief beneficiaries of modern notions of rights... Prior to [the French Revolution], Jews faced the problem of being an alien minority community that was, at best, tolerated by an unsympathetic majority...; at worst, persecuted by a hostile majority.... But with rights-based political theories... one's religions and cultural distinctions were no longer to be matters of any normative concern...

Jews should realize that only in democracies have we been able to survive, let alone flourish, politically, economically—and even religiously.<sup>6</sup>

Additionally, however, I suggest that liberal democracy, with its characteristic separation of church and state,<sup>7</sup> has been good for Judaism as a belief system: in contrast, for example, as we have unfortunately seen in Israel, when religion and state become too entangled, religion

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<sup>5</sup> See fn. 1, *supra*.

<sup>6</sup> David Novak, *Covenantal Rights: A Study in Jewish Political Theory* (Princeton: Princeton U.P.; 2000), at 25-27. Novak's response to this realization is, however, very different from that here. To oversimplify the thrust of Novak's agenda [see also his *The Jewish Social Contract: An Essay in Political Theology* (Princeton: Princeton U.P.; 2005)]: he has sought to make American democracy a comfortable option for a modern Orthodox Jew by arguing that, if only everyone would accept a belief in God as foundational, then we could recharacterize a version of American democracy—albeit with some adjustments that many liberal-democratic theorists, such as Rawls, would surely reject—as just an application of the Talmudic fiction of a state governed in accordance with the 'Seven Commandments of the Sons of Noah.'

Whether Novak achieves his self-proclaimed goals, those are just not the goals addressed here. For a critique of Novak's agenda, see Allan Arkush, "Drawing Up *The Jewish Social Contract*," *JQR* vol. 98, no. 2 (Spring 2008) pp. 255-271.

<sup>7</sup> See, e.g., Martha C. Nussbaum, *Liberty of Conscience* (N.Y.: Basic Books; 2008) at 64 ("Rawls stresses that political society has a moral foundation. But he holds that this is a 'module' that can be linked to different doctrines and metaphysical justifications in a variety of ways"); and my essay, "Mishnah as a Model for a New Overlapping Consensus," *Conservative Judaism*, vol. 63, no. 2 (Winter 2012), pp. 49-77, esp. at 56 (pursuing this "module" metaphor and suggesting that the Mishnah, in seeking in the 2<sup>nd</sup> cent. to bring Jews together, correspondingly focused on the values and practices that we share, deliberately omitting discussions of the theoretical justifications therefor that could only lead to argument and division).

itself can become corrupted, and then may be rejected by a portion of the population because of that corruption.<sup>8</sup> (In U.S. history, the danger of such entanglement is often illustrated by reference to the Salem witch trials.)<sup>9</sup>

Thus, I suggest, it is not enough, on a number of levels (although it is certainly important and necessary, as a matter of practical politics), for example, in the face of President Trump's executive orders seeking to ban certain immigrants, for Jews to march at the airports with banners proclaiming, per Deuteronomy 10:19, that the Torah commands us to "love the stranger" ("ve-ahavtem et ha-ger"), because such advocacy fails to address a number of other fundamental Jewish concerns:

1. The Torah probably just doesn't say, however, on fair analysis, what we might want it to say. Thus, *ger*, as used in Deuteronomy, is probably not an immigrant, nor a stranger: rather, *ger* refers to the technical ancient legal category of "resident alien," a person who is allowed to live within the ancient Israelite political domain, subject however to certain obligations and legal disabilities. (See, e.g., the comment on Deut. 10:19 in Tigay's commentary; contrast, for example, Deut. 23:21, allowing Israelites to charge interest to a *nokhri*, or foreigner.<sup>10</sup>) This Torah category also excludes, we might remember, any "Canaanites," who were required to be expelled/exterminated—a concept that the Rabbis already found deeply troubling morally.<sup>11</sup> In

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<sup>8</sup> For an anecdotal response, see, e.g., Gil Troy, "Center Field: Save Israeli Judaism—End The Chief Rabbinate," *Jerusalem Post*, 12/22/2015 (available online). For a theoretical perspective, see, e.g., Suzanne Last Stone, "Religion and State: Models of Separation from Within Jewish Law," *Int'l J. of Constitutional Law*, vol. 6, no. 3-4 (2008), pp. 631-661 (available online), suggesting that the 'Ran' (Rabbeinu Nissim Gerondi), in the 14<sup>th</sup> Cent., and Yeshayahu Leibowitz in our day, can be read to support such a 'separation of church and state' in order to protect Judaism.

<sup>9</sup> See, e.g., Edmond S. Morgan, *American Heroes: Profiles of Men and Women Who Shaped Early America* (N.Y.: Norton; 2009). See chs. 9-10, a review of the Salem witch trials, and then a "Postscript: Philadelphia 1787," speculating as to the effect of those trials on the Constitutional Convention, noting, e.g., that Benjamin Franklin, a hero of the latter, had spoken in his youth to Cotton Matter—commonly remembered as one of the villains of the former.

<sup>10</sup> Jeffrey H. Tigay, *The JPS Torah Commentary: Deuteronomy* (Philadelphia: JPS; 1996). See generally James K. Hoffmeier, *The Immigration Crisis: Immigrants, Aliens and the Bible* (Wheaton, IL: Crossway; 2009), reviewing the use of the term *ger* in the Torah in its Ancient Near Eastern context.

<sup>11</sup> See various essays in the volume *The Gift of the Land and the Fate of the Canaanites in Jewish Thought*, Katell Berthelot, Joseph E. David, and Marc Hirshman, eds. (N.Y.; Oxford U.P.; 2014).

short, even if we today might want to read (selectively) the Torah as endorsing free immigration, our interpretation is unlikely to persuade others who may well (and indeed with some justification) read Deuteronomy differently. (Notoriously, in the years leading up to the American Civil War, both Abolitionists and pro-slavery clergy found support in the Hebrew Bible, as well as in the Christian Bible, for their competing views);<sup>12</sup>

2. We need to recall that the State of Israel has an immigration policy that, it has been argued, is discriminatory: i.e., the “Law of Return,” granting immediate citizenship to all immigrants with sufficient Jewish “roots.”<sup>13</sup> While I share the belief that the Law of Return can be defended (in that Israel, appropriately to her history, can legitimately aspire to be not a fully liberal-democratic state, but rather to be what Rawls calls a “decent” state<sup>14</sup>), some very careful analysis is necessary to establish the relevant distinctions;<sup>15</sup>

3. At the end of the day—and particularly in the present climate—I do not want to see American political discourse being taken over by religious discourse. We may be seeing shortly, for example, a revival of demands to ban all forms of abortion, and we want, I suggest, to be prepared, on that day, to respond to such claims by insisting (per, e.g., Ronald Dworkin<sup>16</sup>) that all religious argumentation should be kept out of our courts, and indeed out of our public discourse about our fundamental political institutions; and

4. religious advocacy too often fails to incorporate the competing values (values that indeed we also accept) involved in political decisions. For example, I don’t think that it helps to argue, as an absolute matter, that immigration should be allowed without any restrictions—for I

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<sup>12</sup> See, e.g., Mark A. Noll, *The Civil War As A Theological Crisis* (Chapel Hill: U.N.C. Press; 2006).

<sup>13</sup> See, e.g., Yehiel S. Kaplan, “Immigration Policy of Israel: The Unique Perspective of a Jewish State,” *Touro L. Rev.*, vol. 31, no. 4 (August 2015), pp. 1089-1135 (available online).

<sup>14</sup> See Rawls, *Law of Peoples*, supra fn. 1.

<sup>15</sup> See, e.g., Ruth Gavison, *The Law of Return at Sixty Years: History, Ideology, Justification* (Jerusalem: Metzilah Center for Zionist, Jewish, Liberal and Humanist Thought; 2010) (available online).

<sup>16</sup> See, e.g., Ronald Dworkin, *Freedom’s Law: The Moral Reading of the American Constitution* (Cambridge, MA: Harvard U.P., 1996), esp. at 85-104, arguing that the debate over abortion should be understood, for constitutional purposes, as a debate concerning persons’ fundamental religious beliefs—and the Constitution should not favor one religion as against another.

share the view (following, e.g., the Canadian legal scholar Colin Grey<sup>17</sup>) that there are legitimate reasons for a state to limit new immigration in the interest of building “community” amongst both existing citizens and previous immigrants. Conversely, however (per Grey), while I think that “community” is an important value, there is also an important countervailing value calling us to respond to humanitarian emergencies, so that an absolute no-new-immigrants rule might not only not be good policy, but might also be, depending on the context, immoral. How to balance these values is, I suggest, a complex matter, which is not helped by “absolutist” arguments from either side.

Accordingly, the question of present concern to me might be rephrased: Can our Jewish tradition be understood as calling for us to support, as a general proposition—and leaving aside our particular views on specific issues—the fundamental institutions and principles of a liberal-democratic United States, as a matter of what ethics, in all its complexity, requires as applied to civil/political society?

Unsurprisingly, traditional rabbinic sources offer us no assistance in this regard. One of our best contemporaneous legal/halakhic theorists, Suzanne Last Stone, thus began her article on “Jewish Tradition and [the Concept of] Civil Society,” by stating:

There is no term for, much less a theory of, civil society in classical Jewish texts....

Judaism thus lacks the building blocks, drawn largely from Christian conceptions of society and the individual and experience of European Christendom, that gave rise to the idea of civil society in the West. Given the comprehensiveness of the [*halakha*], Judaism could not develop... a concept of independent realms of experience, separate domains such as the household, the state, the economy, and society itself, each arranged according to its own logic or laws; nor even a sharp distinction between public and private spheres.<sup>18</sup>

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<sup>17</sup> See, e.g., Colin Grey, *Justice and Authority in Immigration Law* (Portland, OR: Hart Publishing [Bloomsbury]; 2015), esp. pp. 210-211.

<sup>18</sup> Suzanne Last Stone, “The Jewish Tradition and Civil Society,” ch. 8 in *Alternative Conceptions of Civil Society*, Simone Chambers and Will Kymlicka, eds. (Princeton: Princeton U.P.; 2002), quoting from pp.



On the one hand, this “lack” is not surprising, for the very concepts of civil society, and of a neutral liberal-democratic state, did not exist until shortly before the American Revolution. And recent efforts to articulate some new synthesis, or to find a basis within the tradition for liberal-democratic ideals, have focused on the State of Israel, and the challenge of defining the principles of a “Jewish and Democratic State.”<sup>19</sup> (I note that the Talmudic principle of “*dina demalchuta dina*,” i.e., that “the law of the land should be respected as the binding law, subject however to some moral constraints,” is not adequate to task at hand; that principle has historically endorsed a “passive”<sup>20</sup> acceptance of whatever government exists, so long as it is not too abusive, but fails to obligate us as Jews to be concerned with advocating for a better, more moral, government.)

On the other hand, Professor Stone’s statement (about the absence of building blocks within Rabbinic Judaism for construction of a basis for advocating for a liberal-democratic society) might appear surprising, given how we have all heard, typically on or around July 4 of each year, synagogue sermons about how American democracy and Judaism are compatible,

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151, 153-154.

Professor Stone speculates, in her conclusion, that there might be a way forward by appealing to the concept that all persons are, according to Genesis ch. 1, created in the image of God, and hence are in some sense all entitled to be regarded with equal dignity. The obvious problem is that a straightforward fundamental premise of equality would seem to preclude a belief that in some sense Judaism is special. I believe that it is possible to maintain both a conviction that Judaism is special, and a conviction that other belief systems are also worthy of respect (so long as they meet certain minimum moral criteria). But the argument is somewhat complex, and depends on, in effect, a ‘pluralistic’ conception of holiness as advocated herein. See also my essay “Is Theological Pluralism Possible?,” *Conservative Judaism*, vol. 64, no. 4 (Summer 2013), pp. 49-70.

<sup>19</sup> See, e.g., various essays in *The State of Israel: Between Judaism and Democracy*, Joseph E. David, ed. (Jerusalem: Israel Democracy Institute; 2003).

<sup>20</sup> See, at the theoretical level, Menachem Lorberbaum, “Commentary: Consent Theory in Dina de-Malkhuta Dina,” pp. 446-450 (quote from p. 447) in Michael Walzer, et al., ed., *The Jewish Political Tradition: Volume One – Authority* (New Haven: Yale U.P.; 2000). And at the practical level, see Jacob Katz, *Tradition and Crisis* (N.Y.: Schocken Books; 1993), Bernard Dov Cooperman, trans. (first published in Hebrew, 1957-1958), at pp. 14-15, noting that, in the face of the expulsion of the Jews from Vienna in 1670, and from Prague in 1745, “even the Jews themselves did not see expulsion per se as an infringement of their rights.”

and/or how the Constitution reflects Jewish values. As Arnold Eisen has reviewed, however, those sermons are just an apologetic tradition, dating back to the 1940s, that fails, however, to confront the real differences between traditional Jewish thought, and liberal democracy.<sup>21</sup> Concerning the right to vote, for instance: while, as the Israeli legal scholar Haim Shapira has discussed,<sup>22</sup> Jewish tradition might not actively oppose the idea that a poor person should have the same vote as a rich person, neither does Jewish tradition endorse a notion of a general right to vote and be counted; and, to take one historical example, in voting for the Jewish Council of the Four Lands of Poland in the early 1600s, not more than 5% of the households, and often only 1%, in the participating Jewish communities, were eligible to vote.<sup>23</sup> (Imagine, by contrast, what the impact on Western thought would have been if, when Moses grew old, he had declared a general election to name his successor.) Accordingly, again, while we, as Jews, may feel motivated by our current perceptions of Jewish values to oppose voter suppression efforts aimed at minorities, we need, I suggest, to identify a Jewish basis for articulating our opposition thereto through liberal-democratic principles, because it is difficult to directly defend, from traditional Jewish texts, a broad right to vote.

Notwithstanding Professor Stone, however, I am not prepared to give up the search for some deeper Jewish basis applicable to the political challenges that we face today in the U.S. Paul Weithman, a liberal Catholic philosopher, writing in support of a Rawlsian vision of a liberal-democratic state (in which persons wishing to advance ‘religious’ public arguments would be obligated to also show how their positions also comported with liberal-democratic ideals), has stated a flat-out challenge to religions in the U.S., asserting that if religions in America today cannot support a liberal-democratic America, then that would reflect a deficiency in our religions:

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<sup>21</sup> Arnold Eisen, *The Chosen People in America* (Bloomington: Indiana U.P.; 1983), esp. pp. 37-41.

<sup>22</sup> See Haim Shapira, “Majority Rule in the Jewish Legal Tradition” 82-83 *HUCA* (2011-2012) pp. 161-201; and “The Right to Political Participation in Jewish Tradition: Contribution and Challenges,” in *Religion and the Discourse of Human Rights*, Dagan, Lifshitz and Stern, eds. (Israel Democracy Institute; 2014), pp. 266-296 (both available online).

<sup>23</sup> See H.H. Ben-Sasson, “The Middle Ages,” in H.H. Ben-Sasson, ed., *A History of the Jewish People* (Cambridge, MA: Harvard U.P.; 1976), p. 679.

Religious teachings are typically said to provide insight and guidance bearing on the most basic features of the human condition. The claim that they do is greatly strengthened if religion provides insight and guidance into the moral demands of political life. If the truth about political life is that citizens should live together as free equals, then religions that are true should help citizens of faith to live that way and to see where their societies fall short. If they can do that, then the political measures that their adherents put forward should be amenable to support by some interpretation, perhaps a prophetic interpretation, of liberal democratic values.<sup>24</sup>

This essay is, accordingly, an attempt to begin to respond to Weithman's challenge, as made sharper by our present predicament.

Plainly, however, a single essay cannot even begin to sketch-out responses to all of the issues that would need to be addressed to construct a modern responsive Jewish 'political philosophy of life' as a minority people within a liberal-democratic political society.

Our aim here, accordingly, is very limited: we will first identify one traditional obstacle to an effective response, and then will consider how we might overcome or bypass it. The obstacle I propose to address here is a traditional concept of holiness (or '*kedushah*').

### **The Obstacle**

In a classic essay, written in 1963, in the context of Vatican II, "the Rav," Joseph Soloveitchik, addressed the extent to which Judaism should cooperate with the Church on matters of public policy. He argued that there was nothing wrong, for example, in case both we and the Church happen to favor public funding of religious schools, for us as Jews to participate with Christians in public political forums to advocate such public funding. But, he cautioned, we should not do this because we believe that there exists a "secular" society, i.e., a neutral civil/political sphere, that we share with persons of other religious beliefs:

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<sup>24</sup> Paul Weithman, "Inclusivism, Stability, and Assurance," in *Rawls and Religion*, Tom Bailey and Valentina Gentile, eds. (New York: Columbia U. P.; 2015), pp. 75-96, quoting from p. 93.

For the man of faith, this term [i.e., “secular” sphere] is a misnomer. God claims the whole, not a part of man, and whatever He established as an order within the scheme of creation is sacred.<sup>25</sup>

While Soloveitchik did not spell out in that essay his specific conception of *kedushah*—and as will be noted in a moment, there are, unsurprisingly, a number of different, alternative, conceptions of “sacred,” or ‘holy,’ or ‘*kadosh*,’ within our tradition—it is clear that he was adopting what we will label here an ‘imperialistic’ conception of holiness. That is, per his conception, (i) holiness is the ultimate value; (ii) there is, by contrast, at best zero value, or indeed perhaps a negative value, where holiness is absent; and (iii) accordingly, our efforts should be directed solely within the realm of holiness—although we might also seek to expand that realm.

In the following paragraphs, we will review three familiar alternative conceptions of *kedushah* that all share this characteristic of being “imperialistic.” Our aim is not to critique these views, but rather simply to identify their key features as relevant to the issues here, and in particular, to highlight how each of these understands the relationship between *kedushah* and general ethical conduct in the public sphere. (Also, we do not mean, by our use of the label ‘imperialistic,’ to denigrate these views: it may be that this ‘expansionist’ tendency corresponds to an important utopian yearning for a world that is completely suffused with and transformed by God’s presence. I am suggesting, however, that there might also be a Jewish value in confronting

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<sup>25</sup> Published in *Tradition*, vol. 6, no. 2 (1964) pp. 5-29, available online at <http://traditionarchive.org/news/originals/Volume%206/No.%202/Confrontation.pdf>, at fn. 8.

David Novak, *supra* fn. 6, in effect takes a similar position, in arguing that a common ‘secular’ society is only acceptable if its members all agree that such common secular society must be based on a common fundamental belief in God—and Novak believes that (orthodox) Jews and Christians share such a common foundational belief in God. But such a society plainly does not qualify as a Rawlsian secular liberal-democratic society; and Novak is clear that he rejects Rawls’ advocacy/defense of a liberal-democratic society.

Another much-published Jewish ‘political’ thinker, Lenn Goodman, likewise rejects Rawls’ program, see Lenn E. Goodman, *Religious Pluralism and Values in the Public Sphere* (NY: Cambridge U.P.; 2014).

the non-utopian present.<sup>26</sup>)

Accordingly, the question here might be yet again rephrased: Does our tradition recognize any non-“imperialist” conception of *kedushah*, i.e., a conception that allows that there can be positive value outside of the realm of holiness? If so, then there might also be room for Jews to attribute some positive value to a liberal-democratic civil/political society.

Three familiar “imperialistic” conceptions of *kedushah* are as follows:

1. Holiness as transcendence: Some Jewish thinkers have, in effect, adopted the picture articulated by Rudolf Otto, an early-20<sup>th</sup>-century Protestant theologian, who argued (in *The Idea of the Holy*, first published in German in 1917) that holiness is a non-rational characteristic of God as transcendent, awesome and powerful—simultaneously frightening but attracting. Thus, for example, in the entry on “Holiness” in *Contemporary Jewish Religious Thought*,<sup>27</sup> Allen Grossman (an award-winning poet, and a scholar, teaching then at Brandeis University) wrote:

Holiness, in Hebrew *kedushah*, indicates the highest value, or—more precisely—what can be said by men (or angels) when God comes immediately to mind.... Holiness is the word by which men describe God and therefore the ultimate doxological predicate....

The “highest value,” which holiness indicates and which the transactions of holiness produces, is not in its fundamental nature ethical value....

Our central task, then, according to Grossman’s summary, is to acknowledge God’s holiness through prayer and study—noting that we conclude both activities by reciting the *kaddish*, with its praise of God as “*kadosh, kadosh, kadosh*” (i.e., “holy, holy, holy”; see Isaiah

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<sup>26</sup> The reader might be reminded here of the debate concerning whether or not there is a basis within the tradition for an obligation of ‘*tikkun olam*,’ in the modern sense of ‘social action.’ See, e.g., addressing various aspects of that debate, the two collections of essays, *Tikkun Olam: Social Responsibility in Jewish Thought and Law* (vol. 6 in the Orthodox Forum series), David Shatz, Chaim I. Waxman and Nathan J. Diament, eds. (Northvale, NJ: Jason Aronson Inc.; 1997); and *Tikkun Olam: Judaism, Humanism and Transcendence*, David Birnbaum and Martin S. Cohen, eds. (NY: New Paradigm Matrix Publishing; 2015) (available online).

<sup>27</sup> Arthur A. Cohen and Paul Mendes-Flohr, eds. (NY: Free Press; 1987).

6:3).

Holiness, on this view, to oversimplify, is thus independent of ethics, so that, among other things, obedience to God's commands would take precedent over any human understanding of ethics. (Philosophers who follow such a view often focus on the *Akedah* as illustrative.) In a recent discussion of holiness, the philosopher Ken Seeskin noted that Martin Buber had toyed with such a holiness-as-transcendence view for a time, but ultimately recognized that an understanding of holiness that was not restrained by ethics could lead to terrible consequences (such as perversions of "holy war").<sup>28</sup>

There are also other reasons, from within our tradition, to question this holiness-as-transcendence view. For example, we might ask: if 'holiness' is the "highest value," then, why is God not referred to a *kadosh*, or holy, in, say, the 10 Commandments? (The only adjective used therein of God is "*El kana*," "a jealous/zealous God.") Rather, it appears that *kadosh* originally (e.g., in Akkadian) just meant "dedicated to God"<sup>29</sup>; and we see in, say, Greek mythology, that humans can view, e.g., places like Mt. Olympus as holy in the sense of having been dedicated to Zeus, without, however, also believing that Zeus is holy. (The phrase "ne'dar ba-kodesh" in the section of the 'Song of the Sea' known as the "mi chamocha," Ex. 15:11, arguably is not a reference to God as holy, but rather is best translated as parallel to the prior line, "ba-elim" ["amongst the other members of the divine council"], and so means in context "praised as strong by the subordinate members of the holy assembly;" compare Ps. 89:6-8).

As a general matter, accordingly, while Exodus and Deuteronomy refer to the people Israel as holy, they do not refer to God as holy.<sup>30</sup> One might then ask, why did Isaiah, and the 'Holiness Code' in Leviticus (e.g., Lev. 19:1), make the conceptual jump to viewing God as holy? And when they made that jump, what did they mean thereby? Did they mean, for example, to suggest that God was transcendent (in the sense of distant)?

In answer to this last question, the philosopher-of-Judaism Eliezer Berkovitz (1908-

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<sup>28</sup> See his chapter on "Ethics and Holiness: Leviticus 11:44" in Kenneth Seeskin, *Thinking About the Torah: A Philosopher Reads the Bible* (Philadelphia: JPS; 2016), 113-133, esp. at 127.

<sup>29</sup> See Jacob Milgrom, *Leviticus 17-22* (NY: Doubleday [Anchor Bible]; 2000) at 1711.

<sup>30</sup> See, e.g., Eyal Regev, "Priestly Dynamic Holiness and Deuteronomic Static Holiness" *VT*, vol. 51, no. 12 (April 2001), pp. 243-261.

1992)<sup>31</sup> argued that Rudolph Otto's picture was exactly backwards: '*kedushah*' referred, in Isaiah, not to God as transcendent, but rather to God as immanent—i.e., as involved and caring. Reading back into Isaiah the rabbinic midrashic view that each of God's names signifies a different aspect or attribute of God,<sup>32</sup> Berkovitz pointed, as illustrative, to a line from Isaiah (5:16) that was included, early in the Rabbinic period, into our High Holiday liturgy, "*va-yigbah Adonai Tz'vaot ba-mishpat; ve-ha-El ha-kadosh nikdash bitzdakah*"—which he paraphrased: "the Lord of Hosts [i.e., God in his Transcendent aspect] is exalted through justice, but God the Holy One is sanctified through righteousness [*tzedakah*, i.e., acts of caring, in this world, in interaction with humans]." (Berkovitz then, as a post-Holocaust thinker, goes on to consider the problem of *kedushah* in an age when it seems that God has "hidden" His presence.)

Again, my concern is not to provide anything like a full description of, let alone critique of, holiness-as-transcendence, nor of Berkovitz's counter-view. I hope only to have shown, for present purposes, that holiness-as-transcendence (a) is not the only possible Jewish view, and (b) might not even be a desirable picture, within overall Jewish thought, but (c) clearly is 'imperialist,' and so indeed, per Soloveitchik, denies the existence of any independent sphere of ethics or *tzedakah* (i.e., caring for persons in need);

2. Holiness as separateness: Perhaps the "mainline" Rabbinic picture of *kedushah* identified holiness with separation. According to an early rabbinic midrash, the command in (most famously) Leviticus 19:1, i.e., that we must be holy because God is holy, should be understood to mean that "just as God is separate from the world, so Israel must strive to separate itself from the nations:" "As I am separated, you shall be separate [*perushim*]." <sup>33</sup>

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<sup>31</sup> Eliezer Berkovitz, "The Concept of Holiness," in his *Essential Essays on Judaism*, David Hazoni, ed. (Jerusalem; Shalem Press; 2002) [first published in *Man and God, Studies in Biblical Theology* (Detroit: Wayne State U.P.; 1969)].

One might contrast Berkovitz's homiletic paraphrase with the translation of this verse in the current NJPS translation (1978): "And the Lord of Hosts is exalted by judgment; The Holy God proved by retribution." *Mahzor Lev Shalem* (e.g., at 88) follows Berkovitz's 'midrashic' paraphrase.

<sup>32</sup> See, e.g., Ephraim E. Urbach, *The Sages: Their Concepts and Beliefs*, Israel Abrahams, trans. (Cambridge, MA: Harvard U.P.; 1987) (first published in Hebrew in 1969).

<sup>33</sup> Milgrom, *supra* fn. 29, at 1603, quoting from Sifra Shemini 12:3; see also Sifra Qedoshim 1:1 and Num. Rab. 10:1.

This view too is plainly ‘imperialist,’ in the sense that it can (and indeed by some Jewish thinkers has been) expanded into a basic principle that would then control our understanding of Judaism. This is seen most notoriously in Judah Halevi’s *The Kuzari* (written between 1130-1140), arguing that Jewish souls are fundamentally different from, and indeed superior to, the souls of others. (This line of thought is continued in the Zohar, and in Hasidic thought to this day.)<sup>34</sup> This view is not only, I believe, deeply immoral in itself, but it is also plainly false as a fair reading of the tradition: as just noted by Berkovitz, God is not fundamentally separate from this world, for God is also, we believe, involved in, or at least deeply concerned with, this world—although there may be periods of Divine hiddenness (“*hester panim*”).

Thus Milgrom quotes Buber as, in effect, rewriting the old midrash as follows:<sup>35</sup>

God is the absolute authority over the world because he is separate from it and transcends it but He is not withdrawn from it. Israel, in imitating God by being a holy nation, similarly must not withdraw from the world of nations but rather radiate a positive influence on them through every aspect of Jewish living.

(Perhaps, to be charitable to the midrash, it was simply trying to proffer a play-on-words, since the Pharisees, considered by the Rabbis to be their predecessors, referred to themselves by the designation ‘*perushim*.’)

Again, what is relevant for present purposes is just to see how holiness, on this view, (a) is ‘imperialist,’ and (b) unrestrained by ethics; and

3. Holiness as ethical perfection: The great German-Jewish philosopher Hermann Cohen (1842-1918) rejected the foregoing attempts to separate holiness from ethics, and instead, to the contrary, argued that holiness is ethical perfection. As summarized by Seeskin:<sup>36</sup>

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<sup>34</sup> See, e.g., Elliot R. Wolfson, *Open Secret: Postmessianism and the Mystical Revision of Menahem Mendel Schneerson* (N.Y.: Columbia U.P.; 2009), p. 239.

<sup>35</sup> Milgrom, *supra* fn. 29, at 1605, quoting (and translating) from the Hebrew version of *The Way of the Bible* (1964), available in English as Martin Buber, *On The Bible* (N.M. Glatzer, trans.) (N.Y.: Schocken; 1982).

<sup>36</sup> *Supra* fn. 28, at 119.



God's holiness [for Cohen] is inseparable from his moral perfection. According to Cohen, there is no way for humans to relate to God on any other terms, "Religion itself", he tells us, "is moral teaching or it is not religion."

Holiness, then, accordingly to Cohen is the task of humans to pursue the "target" of moral "perfection."<sup>37</sup> In other words, for those who remember their high school trigonometry, holiness is the asymptote towards which our actions can attempt to approach, but never achieve.

As further summarized by Seeskin, this view has in turn influenced, among others, Franz Rosenzweig (1886-1929), and Emmanuel Levinas (1906-1995).

Again, this view is "imperialist"—although now in the direction of collapsing holiness into a theory of all-consuming moral perfection. Likewise, see, e.g., Levinas' assertion that our ethical obligation to "the Other" (i.e., to all other persons) is a matter of "infinite responsibility."<sup>38</sup>

Also, again, this view is problematic on its own terms. In particular, if "holiness" is just "ethics," then, what does "holiness" as a value add to our lives? For presumably it does add something—otherwise, we would not need the separate concepts of *kedushah* and *tzedakah*.

Also, following Isaiah Berlin, I reject the idea of ethics as an asymptotic ideal. Ethics is, rather, on Berlin's picture, a matter of constantly attempting to achieve a balance amongst competing values, as the problems, and the competing demands, that we face, shift.<sup>39</sup>

In any event, Cohen's concept of a combined, idealized, perfectionist, ethics/*kedushah*, appears to have the side-effect of by-passing, and failing to provide coherent responses to, the very practical problems of politics in our actual, present lives. Thus, Cohen not just failed to criticize, but rather indeed endorsed, Germany's war aims during (what we now call) the First World War—for he argued that Jewish culture (on his view), and German culture (on his view),

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<sup>37</sup>Id. at 120.

<sup>38</sup> See discussion in Hilary Putnam, *Jewish Philosophy as a Guide to Life: Rosenzweig, Buber, Levinas, Wittgenstein* (Bloomington, IN: Indiana U.P.; 2008), at 81.

<sup>39</sup> See, e.g., Berlin's "The Pursuit of the Ideal," in his *The Proper Study of Mankind*, Henry Hardy and Roger Hausheer, eds. (N.Y.: Farrar, Straus & Giroux; 1998) [first published in *N.Y. Review of Books* (3/17/1988)] at 10-12.

shared a common idealized target.<sup>40</sup> Conversely, Cohen saw no value in, and indeed opposed, Zionism.<sup>41</sup>

Plainly, none of these three “imperialist” models of *kedushah* suggests a way to attribute a positive value both to politics and to holiness.

### **An Alternative Model, And Possible Way-Out**

There is, however, yet another model of holiness, which (a) is not ‘imperialist,’ and (b) may allow us to avoid the Rav’s objection to a separate secular realm. Jacob Milgrom (1923-2010), a leading commentator on Leviticus, argued<sup>42</sup> that the ‘opposite’ of ‘holy,’ according to Leviticus, is not “unholy,” but rather is “common.” Milgrom pointed in this regard to Lev. 10:10, where the priests are commanded to distinguish (and then to instruct all Israel as to how to distinguish) “*bein ha-kodesh u-vein ha-chol, u-vein ha-tamei u-vein ha-tahor*,” i.e., “between the sacred and the common, and between the impure and the pure.”

We might contrast Milgrom’s translation of “*chol*” (“common”) in Lev. 10:10 with the NJPS translation: “between the sacred and the profane.” “Profane,” in contrast to “common,” has various negative connotations. Such a negative connotation is expressed, e.g., in the “*havdalah*” blessing chanted at the conclusion of Shabbat—for we contrast “*kodesh*” and “*chol*,” and then “light and darkness.”

But perhaps Milgrom’s translation is better—or perhaps, in any event, we can simply choose to build on Milgrom’s insight.<sup>43</sup>

Perhaps, then, there is a sphere of the ordinary, or of the common, that is neither holy nor

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<sup>40</sup>See, e.g., David N. Myers, “Hermann Cohen and the Quest for Protestant Judaism,” *Yearbook of the Leo Baeck Inst.*, vol. XLVI (2001), pp. 195-214, esp. p. 211.

<sup>41</sup>See, e.g., Rory Schacter, “Herman Cohen’s Secular Messianism and Liberal Cosmopolitanism,” *Jewish Political Studies Rev.*, vol. 20, no. 1-2 (Spring 2008), pp. 107-123.

<sup>42</sup>See, e.g., *Leviticus 17-22*, supra fn. 29, at 1721; see also Milgrom, *Leviticus 1-16* (N.Y.: Doubleday; 1991) at 616.

<sup>43</sup>In support of Milgrom: “*chol*” is also used in a neutral sense in a story in 1 Sam. 21:5-6, where David, running from Saul, arrives in a “priestly” city, and is informed that there are no “common” loaves of bread there, available to be eaten by persons not in a state of ritual purity, but only consecrated loaves.

inherently polluted, but rather is a sphere in which we are free to act immorally or morally, and in ways that can create either purity or impurity, both in our individual lives, and as members of a political society.

And we might read Gen. 1:31 as teaching that, at least in its potentiality, such a common, ordinary world is “*tov me’od*,” i.e., “very good.” Note that the “first” creation story (Gen. 1:1-2:4) does not characterize creation as holy (in contrast to the Shabbat, which God declares to be holy; see Gen. 2:3).

One might wonder: perhaps, “very good” is not, however, as used in Genesis, an ethical statement, but rather only a statement to the effect that creation includes the physical elements necessary to sustain human life. The Bible scholar Mark S. Smith has considered this question, observing that there is no discussion in Gen. 1 of evil. Yet, he concludes, based on a review of parallel texts, that “*tov*” also connotes moral goodness:

both meanings apply in Genesis 1: creation is good in both meanings as benefit and moral good.<sup>44</sup>

Moreover, Smith notes that Gen. 1 (a) probably derives from the same source as Lev. 19:1 (and Lev. 11:44), noted above; and (b) was probably added by that school to be the opening chapter of the Torah following the destruction of the First Temple, as a “new prologue to the Pentateuch”<sup>45</sup>—to express a “decidedly hopeful vision, perhaps even a wildly optimistic one.”<sup>46</sup>

Accordingly, moral goodness and holiness were apparently understood by this school as distinct values, yet somehow working in tandem—and so perhaps we too can endorse both these concepts as working together, although we need to then articulate how they might do so.

To see how these concepts can work together, I propose an analogy, borrowed from the analysis by the philosopher Tom Scanlon<sup>47</sup> of the relationship between the concepts of morality and friendship. Scanlon wishes to describe our moral universe as consisting of (a) a common

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<sup>44</sup> Mark S. Smith, *The Priestly Vision of Genesis 1* (Minneapolis: Fortress Press; 2010) at 61-62.

<sup>45</sup> Id. at 127.

<sup>46</sup> Id. at 64.

<sup>47</sup> T.M. Scanlon, *What We Owe To Each Other* (Cambridge, MA: Harvard U.P.; 1998).

core of objective, shared, convictions (such as, torturing children is wrong), and (b) additional values that we can choose to adopt to add meaning to our lives, but which additional values all build upon our core moral convictions, and so can properly also be addressed (and criticized, as needed) as moral values. As an example of this interplay, he discusses the value of friendship. It is not necessary, as a core moral conviction, that we must value friendship; but valuing friendship plainly makes our lives more meaningful. One might question, however, whether friendship is a moral value, since it is inherently particularistic—we can be friends with only some persons, not with everyone. Nevertheless, Scanlon argues that friendship, to be valuable even on a particularistic basis, must be based upon a fundamental ethical respect for all persons. To illustrate, he asks us to consider a friend who would steal a kidney from some other person to help us in a time of our medical need:<sup>48</sup>

Friendship, at least as I understand it, involves recognizing the friend as a separate person with moral standing—as someone to whom justification is owed in his or her own right, not merely in virtue of being a friend. A person who saw only friends as having this status would therefore not have friends in the sense I am describing: their moral standing would be too dependent on the contingent fact of his affection. There would, for example, be something unnerving about a “friend” who would steal a kidney for you if you needed one. This is not just because you would feel guilty toward the person whose kidney was stolen, but because of what it implies about the “friend’s” view of your right to your own body parts: he wouldn’t steal them, but that is only because he happens to like you.

As is well known, it is crucial to friendship that we are moved to do things for a friend by the special affection and regard that we hold for him or her as a friend, not simply by consideration of a kind that we owe to everyone. But what the kidney example brings out is that friendship also requires us to recognize our friends as having moral standing as persons, independent of our friendship, which also places limits on our behavior....

[Thus] there is a form of friendship that is worth valuing, and in fact seems to capture what we normally mean by friendship, that does not clash with the requirements of morality.... If, as I have just maintained, the conception of

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<sup>48</sup> Id. at 164-165.

friendship that we understand and have reason to value involves recognizing the moral claims of friends *qua* persons, hence the moral claims of nonfriends as well, then no sacrifice of friendship is involved when I refuse to violate the rights of strangers in order to help my friend. Compatibility with the demands of interpersonal morality is built into the value of friendship itself. I have argued, in addition, that this is not a watered-down version of friendship in which the claims of friends have been scaled back simply to meet the demands of strangers. Rather, it is a conception that has particular advantages from the point of view of friends themselves.

Applying Scanlon's analysis of friendship to the interplay between holiness as a particularist Jewish value, and the values of a liberal-democratic civil/political society as a general moral value, I would like to say: as an aspect of public ethics—call it *tikkun olam*—we are obligated to engage with our fellow citizens as such, to protect the institutions that protect our common rights, and that foster our respect for each other; and this does not detract from, but rather provides a basis for also pursuing holiness as a Jewish value compatible with general ethics. And, in addition, we as Jews are particularly motivated, as a matter of our historical experiences, to uphold systems that foster respect for all individuals—for these systems also allow our Jewish communities to flourish, and thus facilitate bringing the additional values of Jewish community and holiness into our lives.

I am also intrigued, in this regard, by the statement in Exodus 31:17, which we sing at *kiddush* every Shabbat morning, that God is 'refreshed' by the Shabbat (“*va-yi-nafash*”). Holiness is there conceived of as a sort of re-invigorating power, which can also revive our energies as human beings, to then take on the burdens of *tikkun olam*—in the original ethical sense of that concept<sup>49</sup>—during the six “ordinary” days of the creation and re-creation of our ordinary world.

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<sup>49</sup> See fn. 26 *supra*, for two collections of essays on the history and evolution of this concept, beginning in the Mishna, *Gittin* chs. 4-5. One author, in an essay in the above-referenced volume edited by Birnbaum and Cohen, suggests that the ethical obligation of *tikkun olam* derives from Deut. 22:3, *lo tukhal l'hitalleim*, “you must not remain indifferent.” See Bradley Shavit Artson, “You Must Not Remain Indifferent: Personal Decency and Social Justice,” pp. 335-351, esp. at 346-348.

## **Conclusion**

We face practical political problems today in America. We turn to our tradition for some insight, confident that the resources are there to allow us to articulate guiding principles, even if those principles have not (yet) been articulated as such. We have tried to show here, by addressing the obstacle of ‘imperialist’ concepts of ‘holiness,’ how holiness might, however, be reconceived as motivating us to value, and then to act to strengthen, our American liberal-democratic society.

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Notes should be kept to a minimum, referencing only the most essential sources, and should be in the form of endnotes, not footnotes. They may follow any recognized methodology of citation (MLA, Chicago Manual of Style, etc.), provided that the same style is used throughout.

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Submissions including non-English languages should include translations of foreign phrases and transliterations of terms from languages with non-Roman alphabets.

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