

KESHER

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FEATURING

Mark S. Kinzer

Finding our Way Through Nicaea

Carl Kinbar

Israel, Torah, and the Knowledge of God

Elliot Klayman

The Life of the First Jewish U.S. Supreme Court Justice, Louis Brandeis

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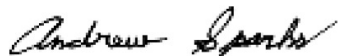
As a journal, *Kesher* continues to distinguish itself as a platform for some of the best of Messianic Jewish scholarship and theological reflection. This issue is no exception and explores a wide range of topics ranging from theology to halakha. It is a privilege to edit such a journal alongside a talented team of editors. I welcome back Dr. David Rudolph to the *Kesher* editorial team.

This editorial is brief since I would like to encourage you to subscribe online and tell others about *Kesher*. The impact of *Kesher* has been significant in its over ten years of existence. These results have only been possible because of our faithful readers and subscribers. Please take a few moments at this time to go online. Also, consider referring a friend by emailing them the link, www.kesherjournal.com. Thank you!

Shalom,

Andrew Sparks

Editor-in-Chief

A handwritten signature in cursive script that reads "Andrew Sparks".

Andrew Sparks, Editor-in-Chief

Andrew has served the Messianic Jewish community for more than fifteen years. Currently, he serves as Chief Advancement and Operating Officer of the Messianic Jewish Theological Institute. He holds an M.Div. (Westminster Theological Seminary), S.T.M. (Yale University), and M.B.A. (Fox School of Business, Temple University).

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Israel, Torah, and the Knowledge of God: Engaging the Jewish Conversation¹

BY CARL KINBAR

In his paper “Finding our Way Through Nicaea,”² Mark Kinzer sharpens his previous thoughts about the connection between community and the interpretation of Scripture.³ Because Messianic Jews are involved in two communities, that connection affects us in unique ways. Kinzer writes,

I am proposing a theological and hermeneutical approach in which we as Messianic Jews take our place as part of the Jewish community with its tradition of interpretation, and as a partner to the Christian community with its tradition of interpretation, and from that place listen and respond to the Bible’s witness to the God of Israel and the Messiah of Israel. From this place of communal connection, we learn to hear what Jews and Christians have heard before. However, because we are connected to both communities and traditions, we also hear new things which these communities’ mutual and unnatural isolation prevent them from hearing. We can describe this as a hermeneutic of *dialectical ecclesial continuity*.

Kinzer’s paper speaks to aspects of “what Christians have heard before,” addressing the deity of Yeshua in conversation with Nicaea. This paper engages “what Jews have heard before,” addressing issues arising from a Messianic Jewish encounter with midrash. It is divided into three parts. “What is Midrash?” provides a basic orientation to this unfamiliar genre of rabbinic writing. The second part, “God, Israel, and Torah,” reads selections from a midrash concerning the love relationship between God and Israel in the dual contexts of Torah and covenant. The third part, “The Word as Mediator,” explores additional midrash selections that demonstrate the role of a mediator in that relationship.

Part One: What Is Midrash?

After the destruction of the Second Temple in 70 CE, there arose a movement of sages for whom Torah study was a vital form of worship. Though apparently all of them had families and worked to support them, their true vocation was study and the production of oral and writing texts.⁴ They were not unique in this respect: Scripture study and the production of texts was an established practice among Second Temple Jewish groups. However, Midrash was the Palestinian sages' *primary* mode of Scripture interpretation, philosophic discussion, spiritual formation, and public Torah teaching. They established patterns of study, interpretation, social networking, and community-building that helped them first to survive over the centuries, then flourish, and finally to penetrate virtually the entire Jewish community in Late Antique Palestine.⁵ Although some midrash and related materials are found in the Babylonian Talmud, Babylonian sages never developed a comprehensive midrash tradition. They did not produce any midrash collections.

The word “midrash” arises from the Hebrew root *darash* [דָּרַשׁ], which means “examine; question; interpret.” Midrash is *an interpretive response to Scripture as read in the sages’ social context*. As such, it includes the process of determining what is said and what seems to be “missing” in a particular scripture, the questions that arise from these observations, and the development of what could be termed a theological response that would be relevant to the social context, whether the sages’ discipleship circles or the wider Jewish community. Often, our written midrash reflects the sages’ oral teaching and preaching. A midrash, then, is the oral or textual embodiment of the interpretive response, generally expressed in the form of *a narration, story, or word-picture*. Midrash collections are *edited volumes of such interpretive responses*.

Midrash can be insightful, vivid and memorable, often beautiful, sometimes offensive, sometimes confusing, sometimes routine, but typically challenging if we are open to being challenged. When midrash is read and understood on its own terms, it often enlarges the frame in which a scripture is seen. As an example, let us look at a fairly well-known midrash on Genesis 12:1–4.

Genesis 12:1–4⁶

Now hwhy said to Abram,
“Go forth from your country,
And from your relatives
And from your father’s house,
To the land which I will show you;
And I will make you a great nation,
And I will bless you,
And make your name great;
And so you shall be a blessing;
And I will bless those who bless you,
And the one who curses you I will curse
And in you all the families of the earth will be blessed.”
Abram went forth as hwhy had spoken to him.

This text presents significant problems for interpretation. Abram hears a voice (audible or not, we do not know) telling him to leave his country and family and head out to an unnamed place. Did Abram understand that the one God was speaking to him, or did he imagine it to be the voice of some very powerful god among the gods was speaking to him? What was his reaction to the voice—terror, faith, reflection? Did he go on the basis of faithful obedience, compelled by terror, or motivated by the promised reward?

When the sages looked at scriptures like this—terse and open to multiple interpretations—they were willing to study, deliberate and argue, if need be *for generations*, until they settled on a number of midrashim (plural of midrash) composed in response to the questions raised by the text. These were gathered in midrash collections and passed on to the following generations. One of the sages who contributed a midrash on this passage was a certain Rabbi Isaac, who lived in the Galilee region in the mid-to-late third century C.E.

God spoke to Abram: Go you from your land . . . R. Isaac opened his discourse with a parable: “This may be compared to someone who was travelling from place to place, and he saw a burning mansion. He said: ‘Is it possible that no one is responsible for this mansion?’ The owner of the mansion looked down at him [from an upper floor] and said: ‘I am

the owner of the mansion.’”

Thus our father Abraham would say: “Is it possible that no one is responsible for the world?” The Holy One, blessed be he, looked down at him [from above] and said: “I am the owner of the world.” *So shall the King desire your beauty, for he is your Lord* (Ps. 45:11). *So shall the King desire your beauty.* To beautify you in the world. *And to bow down to him* (Ibid.). Hence, “And the LORD spoke to Abram.” (Genesis Rabbah 39.1)

While Abram is wondering whether there is “someone” responsible for the whole world, God responds, “I am the owner of the world,” implying that he is responsible for it. So there is, in part, a revelation of a God who *hears* and *responds* and who at least *claims* to be owner of the world. He is not like the gods and idols of Abram’s home culture, who squabble over bits and pieces of territory, over day or night, gods who were willing to co-exist with other gods. This God is sole owner of the world in the same way a man is sole owner of the burning mansion.

Psalm 45:11 is then introduced to express God’s intention to “beautify” Abram, to reward him because he rose above the theology of his day and inquired about the existence of the One who is responsible for the whole world. This intention is fleshed out in Genesis 12:2–3. God tells Abram to “Go . . .” and Abram bows down, as it were, by obeying.

In this parable, both masters are stuck, as it were, on an upper floor. Although the world is not described as “burning,” it is difficult not to picture the Holy One calling from an upper story of a burning mansion. If this is the intent of the midrash—and midrash is usually very intentional about leaving space for the imagination rather than connecting all the dots—then Abram is being asked to “Go . . .” in order to deal with a world on fire. Because Abram sought God, he was considered fit for this mission.

Midrash draws attention to what we would call the theological implications of the text. It responds to questions that arise from the gaps and brevity of a scripture by framing that text in a narrative that arises from a rabbinic worldview that encompasses all of life, especially the relationship between God and

humanity. Midrash represents a very concrete way of thinking, where ideas are embedded in actions and relations rather than described abstractly, and is the fundamental idiom of the non-halakic Jewish thought of its time.⁷

R. Isaac's midrash is not the result of an anarchic mode of interpretation. It reflects a deeply-held rabbinic view of the relationship between God and humanity. Created in the image and likeness of God, human beings and their choices are significant in God's eyes. Unlike other gods, the Holy One does not treat human beings as mere pawns in a scheme. R. Isaac believes that one explanation of the scripture is that Abram was already a "seeker." He was not transformed by God's sudden intervention (something that smacks of coercion not only in rabbinic theology but in many varieties of moral philosophy). God spoke to Abram because Abram inquired after God.

Like most midrash, R. Isaac's midrash does not stand alone (nor, as a single midrash, is it considered "authoritative"), but is embedded with other interpretations of the same scriptures in a collection of midrashim on Genesis named *Genesis Rabbah*, probably edited in the early fifth century C.E. These midrashim do not claim to reveal the secret and previously unrecorded history behind Genesis. Rather, they address issues that arise in the exploration of the text.

Midrash approaches Scripture in often strange and exotic ways. In order to engage this vital part of the Jewish conversation about Scripture, we must avoid extremes of outright rejection (or indifference) and naïve enthusiasm. A more academic approach—treating midrash as an object of knowledge—can be helpful for some, but can also lead away from exploring midrash as a vital expression of Jewish spiritual life. Learning midrash on our own can also be helpful, but holistic learning requires a learning community. The best conditions for engaging midrash in a deep and life-giving way require the formation of Messianic Jewish learning communities. Whether in twos and threes, small groups, or classes, when we learn together we stand in continuity with the learning practices of the Jewish people through the generations. Learning online or by conference call involves similar dynamics of group learning. Participants

in Messianic Jewish learning communities will be positioned to engage more effectively in the ongoing Jewish conversation about Scripture.

Shir Hashirim Rabbah

In this paper, we will explore a portion of the Jewish conversation about Scripture contained in *Shir Hashirim Rabbah*, a midrash collection edited in Tiberias, on the western shore of the Sea of Galilee, in the fifth or sixth century C.E. Tiberias was a multi-religious city, where Jews, Christians (both Orthodox and Monophysite), Samaritans, and pagans had co-existed tensely even as they shared a measure of common culture. It also served as a center of Rabbinic Judaism. In that city, the rabbis edited numerous collection of midrash. The synagogues of Tiberias were involved in the flowering of liturgical poetry and popular preaching. Tiberias was home to the Masoretes, who finalized the authoritative text of the Tanak.

As the rabbis explored the Scriptures and composed midrashim, their audience played a role as well. Back in the second and third century C.E., the rabbis and their disciples had formed small study circles. Their primary concerns were interpreting Scripture and determining halakah. By the fourth century, the rabbinic movement was expanding. It included not only the rabbis themselves, but also their families and an uncertain number of those outside their circles who were interested in their work. There are indications that the preaching of the rabbis (which was midrashic in nature) had a larger audience still, especially in Tiberias and other areas of Galilee. The spiritual and social needs of this more diverse group differed from the earlier “rabbis-only” group. In addition, as budding community leaders, the rabbis became more concerned with the lives of less halakically-inclined Jews who were not part of their circles. These expanded interests played an important factor in their interpretation of Scripture, producing many midrashim of comfort and consolation directed at all Jews, not only those involved with the rabbis.

Shir Hashirim Rabbah is based on the biblical book, the Songs of Songs. In this midrash collection, the Song of Songs is seen as an expression of the

relationship between God and Israel. At the same time, the rest of the Scriptures are seen in the light of the Song of Songs. The midrashim based on the first two verses of the Song of Songs are examples of this approach.

In its commentary on verse 1, “The Song of Songs, which is Solomon’s,” Shir Hashirim Rabbah tells us that Solomon sought and pondered and gained wisdom bit by bit until “he mastered the words of Torah.” This wisdom is recorded in Proverbs, Qohelet, and especially the Song of Songs, written under the inspiration of the Holy Spirit. Prior to Solomon, people would get lost, as it were, in the Torah. It was not clear how everything fit together. What is the big picture? What gives coherence to everything else? Shir Hashirim Rabbah responds by declaring the Song of Songs as the master narrative, a parable of the love relationship between God and Israel.⁸ The elements of Torah, covenant, wisdom, commandments, promise, sacrifice, holiness, and all the narratives of the Bible can be grasped in the context of the Song of Songs and in light of that love relationship. Seen in that context, even the darkest episodes in Israel’s history take on a new and positive significance.

The midrash tells us that after Solomon arose and wrote his three books “everyone began to comprehend the Torah,” thereby highlighting the public nature of knowledge (“everyone”). Solomon received special help from the Holy Spirit because he taught *in public* rather than restricting knowledge to scholarly elite. They *began* to comprehend: acquiring knowledge is a process. On the basis of the written Song of Songs, the entire community, and then the generations to come, could unlock and master both the details (*diqdukim* | Myqiwd@q;di) and the secret (*sod* | d\$ws) of the Scriptures. This emphasis on the public nature of knowledge is, at least in part, a product of the rabbis’ new and more inclusive posture toward the larger Jewish community.

The dynamism of Shir Hashirim Rabbah arises in part from the word pictures it creates by juxtaposing the images of the Song of Songs with events of Scripture and daily life. For example, here is part of Shir Hashirim Rabbah’s commentary on the Song of Songs 2:9, *My beloved is like a gazelle*:

My beloved is like a gazelle (Songs 2:9). Rabbi Isaac said, “The community of Israel said before the Holy one, blessed be he: ‘Sovereign of the Universe, you say to us, “My love, my longing”—You say “My love, my longing” to us first.’” Just as a gazelle leaps from mountain to mountain and valley to valley, from tree to tree and fence to fence, so the Holy One, blessed be he, leapt from Egypt to the Red Sea and from the Red Sea to Sinai, and from Sinai he leaps to the future [redemption]. (Song of Songs Rabbah 2:9:1)

Another interpretation: *My beloved is like a gazelle* . . . Thus the Holy One, blessed be he, leaps from synagogue to synagogue, from Beit Midrash to Beit Midrash. And why all this? To bless Israel. And because of whose merit? Because of the merit of Abraham. (Song of Songs Rabbah 2:9:2)

R. Isaac describes Israel’s astonishment that God initiates the conversation of love by expressing intense longing for her. The rabbi illustrates that love by painting an idyllic scene in which the normally shy gazelle has emerged from hiding and now leaps joyously from mountain to mountain, valley to valley, etc. “Just as a gazelle leaps . . . so the Holy One . . .” Rabbi Isaac translates the Holy One’s words of longing into a word-picture that expresses God’s joyous love for Israel. Even at the worst moments in the wilderness, God always retained a passionate love for Israel, a love that no amount of disobedience or alienation could snuff out.

R. Isaac (or another interpreter) extends the parable of God’s love and presence into the daily life of his community with the simple device of the leaping gazelle. The rabbis conceive of the synagogue and Beit Midrash as the centers of Jewish life. Ideally, every Jew would regularly spend time within those walls and thus be touched by the love of God.

In Shir Hashirim Rabbah, God’s love overshadows or even overwhelms the sinfulness of Israel. Instead of dwelling on Israel’s sin, the Holy One will bring Israel to the time of their full redemption. This is expressed by extending the image of the gazelle to the agents of redemption.

Another interpretation: *My beloved is like a gazelle* . . . Just as a gazelle

appears and vanishes, then appears and vanishes again, so the first deliverer [Moses] appeared and vanished and then appeared again. . . He appeared intermittently, and so the future deliverer [Messiah] will appear to them and again disappear. [Here several versions of the disappearance and reappearance are offered, modeled on the times mentioned in Daniel, but differing from one another]. (Song of Songs Rabbah 2:9:3)

So, the gazelle is the Holy One (leaping through the events of Jewish history and from synagogue to Beit Midrash in the rabbis' day). The gazelle is also Moses and the Messiah. These midrashim are placed one after the other without any overt attempt to link them. The explanation lies in the imagery. God, Moses, and Messiah are all "like a gazelle" because they are all "the beloved" of Israel. The midrashim on "like a gazelle" present God's love in visual terms that unite God's activity—past, present, and future—in a single image, the gazelle, presented in a triptych of images that stand side-by-side: the first, depicting God as a gazelle in the Exodus narratives and the redemption to come; the second, the gazelle leaping from Beit Midrash to synagogue; and third, the gazelle as Moses and the Messiah. This is the rabbis' theology of God's love in a nutshell.

Inner-Biblical Interpretation

Midrash achieves some of its characteristic effects by providing background or narrative elements not present in the specific scriptures being interpreted. It does this primarily by juxtaposing biblical verses or passages with other verses or passages. In Genesis Rabbah 39.1, for example, Rabbi Isaac juxtaposes Genesis 12:1–4 with Psalm 45:11. In between, he places a story that arises from the rabbinic idea that God does not normally coerce human actions but looks for human beings to make informed and unconstrained choices.

Some readers are uncomfortable with the imagination of midrash. In light of the biblical accounts of the Exodus, for example, how can they accept the Shir Hashirim Rabbah's depiction of God's extravagant and joyous love for Israel?

An entrance into the world of midrash can be found in Scripture itself. Every recounting of the Exodus narratives in later scriptures reworks the material in

one way or another (even if only by abbreviating it) to make it suitable for its new context. This phenomenon of inner-biblical interpretation⁹ is observed, for example, in the words of prophets and psalmists concerning the Exodus narratives of God delivering Israel from Egypt, the Torah given at Mt. Sinai, and the time in the wilderness before Israel was brought into the Promised Land. There are also a number of overt references to these Exodus narratives in the New Testament.

The majority of these scriptural accounts of the Exodus are characterized by an emphasis on Israel's disobedience and God's anger; the (admittedly few) high points are usually omitted in these accounts. However, a number of accounts are heavily reworked in a manner similar to midrash, often with vivid imagery and added material not found in the Exodus narratives themselves. Like midrash, they place the Exodus narratives in a different context than the majority of the accounts. That context can be anywhere along the spectrum of negative to positive.

Perhaps the darkest picture is painted in Ezekiel 20:8–9, 13–14.

They rebelled against me and would not listen to me [in Egypt]; they did not cast away the detestable things of their eyes, nor did they forsake the idols of Egypt. So I said I would pour out my wrath on them and spend my anger against them in Egypt. But for the sake of my name [I brought them] out of Egypt . . . the people of Israel rebelled against me in the wilderness. They did not follow my decrees but rejected my laws . . . and utterly desecrated my Sabbaths. So I said I would pour out my wrath on them and destroy them in the wilderness. But for the sake of my name I did [not destroy them].

In this passage, God does not want to bring Israel out of Egypt in the first place. Everything is done for the name of God. There is no mention here of God's love or even empathy for Israel.

On the other end of the spectrum, there are a number of biblical accounts that present a more positive view of the relationship between God and Israel during those years. The following account is from Psalm 80:8–10. The psalmist asks

God to intervene and restore Israel as in the past:

You brought a vine out of Egypt; you drove out the nations and planted it. You cleared the ground for it, and it took root and filled the land. The mountains were covered with its shade, the mighty cedars with its branches.

Here, God's nurture and protection are emphasized. The vine flourishes under God's care. There is no mention of any defects in this vine.

In the Brit Hadasha (the Apostolic Writings), accounts of the Exodus are mostly negative, but not nearly as sharp as Ezekiel's. The focus is always brought toward the Messiah in one way or another. For example, in Acts 13:17–18, Paul is preaching Yeshua at Pisidian Antioch. In passing, he mentions the Exodus.

. . . with mighty power he led them out of [Egypt]; he endured their conduct for about forty years in the wilderness . . .

Another example found in Hebrews 3:17 is part of an exhortation not to abandon faith in Messiah:

And with whom was he angry for forty years? Was it not with those who sinned, whose bodies fell in the wilderness?

Both scriptures represent the common account of the Exodus: Israel sinned; God was angry and punished them.

1 Corinthians 10:1–6 contains imagery more striking than any other inner-biblical interpretation of the Exodus narratives. It is a continuation of Paul's exhortation to the Corinthians, in chapter 9, not to abuse their freedom in the Messiah.

I do not want you to be unaware, brothers and sisters, that our ancestors were all under the cloud, and all passed through the sea, and all were baptized into Moses in the cloud and in the sea, and all ate the same spiritual food, and all drank the same spiritual drink. For they drank from the spiritual rock that followed them, and the rock was Messiah. Nevertheless, God was not pleased with most of them, and they were struck down in the wilderness. Now these things occurred as examples

to keep us from setting our hearts on evil things as they did.

Despite God's provision in the wilderness, the people displeased God and incurred a severe discipline. Again, this account—Israel sins; God punishes—is the prevailing pattern in the Scriptures.

There are several added elements here that go beyond vividness of language: the baptism into Moses, the spiritual food and drink, and Messiah accompanying Israel as a “spiritual rock.” The image of Messiah as a spiritual rock following Israel during the wilderness wanderings occurs only here in the New Testament, and there is no mention of it anything like it in the Tanak.¹⁰ Perhaps Paul is speaking allegorically. But, whether the rock was seen or unseen, Messiah was there in some way. It puts the Messiah of Israel right in the middle of Israel's wilderness wanderings. Although the story of sin and displeasure remains unchanged, the presence of this spiritual rock places the Exodus narratives in a clearly Messianic context. Yeshua was present and involved with Israel during at least their entire time in the wilderness.

One of the most radical perspectives on the Exodus narratives is found in Jeremiah 2:2–3. In the prophetic poetry of this chapter, God speaks of Israel in the wilderness, and then newly planted in the land, as a devoted bride who followed God in difficult circumstances. The language used here to describe the relationship between God and Israel is very similar to the intimate language that is common in Shir Hashirim Rabbah.

“I remember the devotion of your youth,
how as a bride you loved me
and followed me through the wilderness,
through a land not sown.
Israel was holy to hwhy,
the first fruits of his harvest;
all who devoured her were held guilty,
and disaster overtook them,”
declares hwhy.

In this chapter, the prophet confronts the Israel of his own day concerning her

unfaithfulness to God. Her former devotion to God in the wilderness is offered as a standard against which her later corruption is judged (v. 21):

I had planted you like a choice vine
of sound and reliable stock.
How then did you turn against me
into a corrupt, wild vine?

These passages demonstrate that the events of Scripture may be seen and contextualized in divergent ways, even within Scripture. My purpose in highlighting the similarity between midrash and some inner-biblical interpretation is not to lend the Scriptures' authority to midrash. My purpose is to show that midrash is not a purely rabbinic innovation. Scripture and midrash may foreground perspectives that are only whispered or even unspoken in the scripture being interpreted.

Thus, while Shir Hashirim Rabbah mentions times of alienation between God and Israel, it foregrounds the love relationship that is the bedrock of God's covenant with the Jewish people. When Rabbi Judah interpreted a verse negatively, Rabbi Meir responded, "we do not expound the Song of Songs in a bad sense, but only in a good sense, because the Song of Songs was composed only for the praise of Israel" (Shir Hashirim Rabbah 2.4.1). There are prophets who spoke of Israel "in a bad sense," and their words are inscribed in the Book. But there is obviously a place for both. I can almost hear the Preacher of Ecclesiastes say, "There is a time to condemn and a time to praise."

Shir Hashirim Rabbah does not pretend to be a full and objective account of the relationship between God and Israel. Its view of the love relationship between God and Israel is similar to several of the biblical accounts of the Exodus narratives. Even at the worst moments, the Holy One retains a passionate love for Israel, a love that no amount of disobedience or alienation can suppress.

Part Two: God, Israel, and Torah

The Kisses of His Mouth

The song itself begins at Songs 1:2a, *May he kiss me with the kisses of his*

mouth. The midrash asks, “Where was this recited?”

Hanina bar Pappa said, “It was recited at the Sea” . . . R. Yudah, son of R. Simon said, “It was recited at Sinai” . . . Rabban Gamaliel says, “The ministering angels recited it” . . . R. Yohanan said, “It was recited at Sinai” . . . R. Meir says, “It was recited at the Tent of Meeting” . . . The rabbis say, “[It was recited] in the Temple.” (Song of Songs Rabbah 1:2:1)

May he kiss me could be used as a lens to view events at any of those places. Shir Hashirim Rabbah will interpret it in relation to Mt. Sinai because it wants to include midrashim dealing with the giving of Torah, the encounter with God in Torah study, and mediation in the giving of Torah. In the *Mekhilta de-Rabbi Ishmael*, an earlier midrash collection, *May he kiss me* is used to interpret events at the Sea.

The editor of this midrash collection begins with midrashim that explore Israel’s direct, unmediated experience with God.

R. Joshua b. Levi and the rabbis—R. Joshua says, “Israel heard two words from the mouth of the Holy One, blessed be he, *I am [Hashem your God]* and *You shall not have [any other gods besides me]* (Exod. 20.1–2), as it is written, *May he kiss me with the kisses of his mouth*—not all the kisses, [only two].”

But the rabbis say, “Israel heard all the [ten] words from the mouth of the Holy One, blessed be he.” (Song of Songs Rabbah 1:2:2)

On the surface, this is a simple disagreement over how many of the Ten Words proceeded directly from the mouth of God. Rabbi Joshua b. Levi, a sage of the first half of the third century C.E., claims that only two of the Ten Words were spoken directly; the rabbis counter with “all ten.” There are several rationales for these two positions, relating to the effect of God’s speech on the Israelites and levels of intimacy and responsibility. The rabbis partially disagree with Rabbi Joshua’s interpretation of *the kisses of his mouth*: the kisses are spoken Words [*dibburim* | syriwb@ydi] that come directly from God’s mouth, but they disagree about the number of those kisses. The issue of “two or ten” will not be resolved here as the midrash focuses on the result of the kiss of the

Holy One.

Learning and Loss

R. Yehuda says, “When Israel heard *I am the Lord your God* (Exod. 20.1), the study of Torah was fixed in their heart and they would study and not forget. [Then] they approached Moses and said, ‘Moses our rabbi, make [yourself] an ambassador, an emissary [lit. agent] between us [and the Holy One, blessed be he], as it is said, *Speak with us and we will listen* (Exod. 20.16). . . *And now, why should we die?* (Deut. 5.22) What benefit would there be in our perishing?’” (Song of Songs Rabbah 1:2:4)

In the context of Shir Hashirim Rabbah and its times, Torah study was less formal and more midrash-oriented than the Torah study that developed in Babylonia and is still with us today. Each rabbi would gather a small group of young men and teach them the Scriptures as well as halakic and midrashic traditions. Study sessions included a practice similar to what we call today “close reading,” ¹¹ involving discussion and interpretation of the oral or written text. In these discipleship groups, Torah study did not include the kind of intense halakic analysis and dispute that was developed by the rabbis of Babylonia.¹²

This midrash claims that the ability to study Torah—and to remember what has been learned—was “fixed in their heart.” There were no rabbis to lead such groups immediately after Sinai. Therefore, study would have been less formal, though presumably containing key elements of later study—repeating the words of the Holy One, closely examining and discussing them, and transmitting their insights to others. In the next session, they would recall what was learned and build on it. In the view of Shir Hashirim Rabbah, Torah always involves this kind of study—teaching, receiving Torah-related traditions, close reading, and transmitting.

Notice that “when Israel heard” the first Word—that is, at the same time —“the study of Torah was fixed in their heart.” This indicates a clear connection between God’s words and the process of studying (read “interpreting”) those words, a connection that is characteristic of both scriptural and rabbinic thought.

God did not simply download the data of Torah but also gave the ability to grapple with the words of Torah, to unfold them, one study session after another, where the words are repeated and mulled over and mentally stored for the next session.¹³

Because these words were given to Israel as a nation or community, the community as a whole was involved in the interpretative process. As Gerald Bruns writes, “The interpretive community is nothing less than Israel herself . . .”¹⁴ In this midrash, there is no institutional control of the learning process.

So, the Holy One kisses Israel with Torah and immediately it seems, spontaneously, Israel began to study Torah. Even more, “they would study and not forget” what they had learned. Everyone who has done serious, ongoing Torah study knows that weakness of memory presents a considerable challenge in moving forward. All sorts of details and even major insights begin to fade. Sometimes, learning involves taking two steps forward and one step back. Constant review is an essential part of the learning process. But in this midrash, the kiss of the Holy One prevents the loss of memory. Israel would not learn by taking two steps forward and one back; they would move steadily forward grappling with Torah together and integrating it into the life of the community.

The rabbinic concept of Torah includes not only the original words or the words of Scripture, but also the interpretive tradition that follows. At Sinai, Torah initially refers only to the words that had just been spoken by the Holy One. As Israel begins to study, interpretive traditions immediately begin to expand the body of Torah. Torah expands over time. Today, the rabbinic study of Torah includes the interpretive traditions that have been passed on for millennia.

Unfortunately, that is not the end of the story. The same words that jump-started Torah study also frightened the people. The words of the Holy One were terrifyingly powerful. Fearing for their lives, the people asked Moses to be an intermediary between them and the Holy One. Stephen Fraade observes that this request expresses the “the unresolved dialectic of intimacy and intermediacy in Israel’s revelatory relationship to God. Israel desires, and is privileged with, the

‘mouth to mouth’ intimacy of God’s revelatory kiss, yet also, in fear of the potency of such unmediated divine contact, prefers to receive revelation via an intermediary agent.”¹⁵

There are varieties of mediation. The angel or the word who served as mediators in the midrashim that preceded this one,¹⁶ were sent by God and acted in conformity with God’s will. In these instances, the Holy One set the terms of mediation. But here, Israel asked for a different kind of mediator— not a mediator to bridge the gap between God and Israel, but a go-between to buffer them from the frightening immediacy of God’s speech. Moses would shuttle back and forth delivering messages from God to the people and vice-versa. The results of this request were tragic.

They returned to [their] studying but would forget [what they had learned]. They said, “Just as Moses, made of flesh and blood, will pass away, so also his learning will pass away.” Immediately, they turned and came to Moses. They said to him, “Moses our rabbi, if only he¹⁷ [the Holy One] would be revealed to us a second time. If only *he would kiss us with the kisses of his mouth*. If only he would fix the study of Torah in our heart as he did [before].” (Song of Songs Rabbah 1:2:4)

As they continued to study, they realized that something was very wrong: they were forgetting what they learned from the previous session. Based on the continuing Torah study that followed,¹⁸ it seems that their minds were not simply wiped clean but there was a significant or even profound weakening of memory, making the learning process more cumbersome because of the constant review and relearning that was now required.

But Israel lost confidence that even the nation as a whole could any longer retain and transmit Torah accurately. They realized what was at stake—the clear memory of Torah learning now resided in one person, Moses, and if he dies, Torah dies.¹⁹

This midrash makes an important connection between Torah study and the knowledge of God: both arose from the kiss of God as the Holy One said, “I am Hashem your God” to Israel directly, without mediation. Israel’s request gives

precedence to a renewed revelation of the Holy One, followed by an appeal to fix the study of Torah in their heart again. The level of Israel's distress is only faintly expressed by the translation "If only" (*L'vai | y)wAl:*). *L'vai* conveys a sense of urgent pleading with an overtone of woe. Repeated here three times, it borders on despair. In their condition of eroded memory of the Holy One and of Torah study, they bitterly begged Moses for a second chance. The solution to this erosion seemed obvious: if only the Holy One would "kiss" Israel again, things would be made right. They asked both for another revelation of the Holy One and that he would fix the study of Torah in their hearts as before.

Typically, midrashim are concerned not only with Israel's past but also with the immediate circumstances of the rabbis, who authored or collected the midrashim, and the community of which they were a part. The rabbis of Shir Hashirmim Rabbah envision the Holy One as a gazelle leaping with love from synagogue to synagogue and Beit Midrash to Beit Midrash. This reads to me as an honest expression of their sense of God's love for them, and all Israel, as they engage in Torah study and prayer. Yet these same rabbis are also willing to face some of the most profound issues of loss in a very open way. If I am correct, this passage expresses the rabbis' awareness of the inadequacies of their own Torah study, inadequacies whose source they imagined lay in their forebears' retreat from the potency of unmediated contact with the Holy One. They were fully aware of the Christian claim that Israel's relationship with God was irreparably broken. Given the communication between Jewish and Christian clerics and communities, these rabbis must have possessed great inner strength to "air their dirty laundry" in public (for would it not confirm the Christian accusation?).

Moses responded to Israel's request for the Holy One to be revealed to them again:

[Moses] said to them, "This [will] not [be granted] now but in the future," as it is said, *I will put my Torah within them and on their heart I will write it* (Jer. 31.33). (Song of Songs Rabbah 1:2:4)

Moses' response must have been devastating. Israel would have to continue

on a lower level of Torah study and revelation of God. Still, there was hope for the future. The Holy One would not kiss them now, but at some indeterminate time in the future. The midrash glosses Moses' statement by quoting Jeremiah 31:33. This is the typical rabbinic way of citing an entire passage, in this case Jeremiah 31:31–34. That passage will provide the rabbis' interpretation of Moses' words, "in the future."

Jeremiah 31:31–34

Jeremiah 31:31–34 concerns the establishing of a new covenant (*brit hadashah* | h#f\$dfxj tyrlb@;) between God and Israel.²⁰

But this is the covenant I will make with the house of Israel after those days—declares hwhy: I will place my Torah within them and write it on their heart. Then I will be their God and they will be my people. And a man will not anymore teach his neighbor or his brother saying, "know²¹ hwhy," for all of them will know me, from the least to the greatest—declares hwhy. For I will forgive their iniquities and no longer remember their sins.

The Torah in Jeremiah 31 is the same Torah found elsewhere in the Tanak and in the midrash. Jeremiah is not proclaiming a new covenant that will void, supersede, or spiritualize the Torah. Rather, it will deepen the Torah's presence within Israel and provide an inner ability to understand and obey it. The external Torah will have an *internal* counterpart in a way that resembles "fixing the study of Torah in their heart," yet exceeds it in certain respects.

While Torah study (as opposed to Torah itself) is not specifically mentioned in this passage, it is the general assumption of Scripture that the Torah *always* requires interpretation. In the section on "Inner-Biblical Interpretation," we saw that Scripture itself engages in the interpretive process. In Hebrews 8, these verses of Jeremiah 31 will be taken out of their immediate context in Jeremiah and interpreted in the context of Messiah's mediatorial role. Therefore, the word "Torah" in both these contexts should not be understood as a static body of knowledge given all at once, but as a dynamic textual body that cries out for

interpretation.

Meanwhile, in Shir Hashirim Rabbah, Torah study continues despite the weakening of memory, awaiting the promised kiss of Jeremiah 31. It is recorded later in the passage that Rabbi Shimon, the son of Rabbi Nachman, says that the words of Torah benefit “the one who labors in them with all [the effort] they require ym] lm(# Nhb lk Nkrc] (Shir Hashirim Rabbah 1.2.5). The word for “labor” [lm()] occurs here for the first time in Shir Hashirim Rabbah. It is assumed that Torah study will involve that same labor until the nation as a whole experiences the kiss of God in the new covenant. Until then, that labor is not in vain. Its fruit is the living Jewish interpretive tradition that is the heritage of all Jews today.

Hebrews Chapter 8

The Jeremiah passage is cited in full in Hebrews 8. It occurs in the midst of an extended discussion of the superiority of the new covenant and its mediator, Yeshua. This discussion is too rich to summarize here, but the focus is on Yeshua as the perfect and eternal high priest, an intercessor and a Son who is able to save completely (Chapter 7). He is the “mediator of a better covenant, which has been enacted on better promises” (Hebrews 8:6). Those promises are enumerated first of all in Hebrews 8:7–12,²² which is an almost word-for-word quote of Jeremiah 31:31–34.²³ Chapters 9 and 10 develop the themes of high priesthood, sacrifice and mediation.

The Jeremiah passage takes on new meaning when it is viewed in its Hebrews’ framework. The promises in Jeremiah’s new covenant are clearly mediated to Israel only through Yeshua. Only through Yeshua, and along with Jews who already cleave to him, will the Jewish people receive the kiss of God mentioned in Shir Hashirim Rabbah.

The place of individual Jews who have already entered this covenant needs to be clarified. The new covenant transforms individuals, families, and other sub-communities, but ultimately it is designed to impact and shape the entire Jewish people in relationship with God. This ongoing covenantal unity of Israel means

that the lives of all Jews are inextricably intertwined.²⁴ Messianic Jews already live in the new covenant through Yeshua's mediation, but can experience its fullness only as part of the Jewish people.

Messianic Jewish experience of the new covenant is also modulated by the measure of their embrace of Torah in ways that are not discontinuous with the Jewish past. Lest I be misunderstood, I am not referring to any specific mode of Torah observance but involvement in a fully-orbed Messianic Jewish Torah culture in which commanded behavior (halakah) thrives synergistically with Jewish modes of interpretation (especially midrash), prayer, ethics, spiritual life, and more.

Finally, a Messianic Jewish embrace of both Jewish covenantal unity and Torah implies the need for a serious involvement in Jewish learning. Torah study is not only a means of personal growth and encouragement, but also a form of service to God. After observing that, "The interpretive community is nothing less than Israel herself," Bruns continues, "and all who belong to Israel belong to the ongoing dialogue in which the Torah is understood."²⁵ It is not only a personal commitment, but, like the broader Jewish tradition it participates in, it must be embedded in a historical, communal process. Only with this understanding can Messianic Jews labor in the words of Torah "with all [the effort] they require."

Part Three: The Word as Mediator

In his book *Border Lines: The Partition of Judeo-Christianity*, Daniel Boyarin demonstrates that early Jews and Christians shared a common Jewish binetarian theology of the Logos²⁶, in which a divine Logos serves as mediator between God and humanity. As early Jewish and Christian authorities made concerted efforts to draw border lines between the two groups, Christianity internalized this theology while Judaism rejected it. Boyarin writes:

The final definitive move for the Rabbis was to transfer all Logos and Sophia talk to the Torah alone . . . For the Rabbis, Torah supersedes Logos, just as for John, Logos supersedes Torah. Or, to put it into more

fully Johannine terms, if for John the Logos Incarnate in Jesus replaces the Logos revealed in the Book, for the Rabbis the Logos Incarnate in the Book displaces the Logos that subsists anywhere else *but* in the Book.²⁷

The idea of a hypostatic Logos, a mediating Word that is a substantial, independent expression of God, was thus suppressed in Judaism.

I believe that Boyarin overstates the extent to which mediation of the word disappeared from Judaism. He has not taken into account evidence from the vast body of midrashim produced in Palestine in the centuries following the supposed suppression. Specifically, Boyarin's thesis involves tracing the Second Temple and early rabbinic uses of the Greek word *Logos* [λόγος] and the Aramaic *memra* [rḥm; m']—both meaning, “a spoken word”—in Jewish and Christian texts. Strangely, Boyarin does not take into account the uses of the Hebrew word *dibbur* [dḇḇ; dḇ], also meaning “a spoken word.” Since *Logos*, *memra*, and *dibbur* share highly overlapping semantic domains. I suggest that Boyarin's work suffers because he does not consider *dibbur* and the midrash collections in which it appears. These midrashim deal with the issue of mediation between God and Israel in ways that call Boyarin's analysis into question.²⁸

That same material calls into question the claim of today's Jewish community that mediation has *never* been part of Judaism. The leaders of nascent Judaism and Christianity were so successful in creating borders that today's Judaism and Christianity have near-total memory loss of the time before borders. On the Christian side, we are told there is no place for Torah (which is labeled as “legalism”) in the new covenant. On the Jewish side, we are told that there is no place for a mediator—or for those who believe in one—within Judaism. These are not simply Christian and Jewish intellectual assessments but examples of border-guarding mechanisms, which have been passed down through the generations that are described at length in *Border Lines*.

In Shir Hashirim Rabbah, texts concerning mediation focus on (*Matan Torah* | ḥrḥwOṭ Nṯf@ma) the giving of Torah at Mt. Sinai. Since Torah plays such a central role in Judaism, the possibility that Torah was given through a mediating

Word that is a substantial, distinguishable expression of God is a crucial issue.

An Angel as Mediator

Another interpretation of *May he kiss me with the kisses of his mouth*—

R. Yohanan said, “An angel would bring out the Word (*dibbur* | *rw%b@y\$d*) from before the Holy One, blessed be He—each and every word [of the Ten Commandments]. And he went in turn to each and every Israelite. And the angel says to him, ‘Do you receive upon yourself this Word . . . such and such commandments as are in it?’ . . . And the Israelite would say to him, ‘Yes,’ and [the angel] would respond and say to him, ‘Do you receive the divinity [*elohuto* | *w&tw%hl&’]* of the Holy One, blessed be He?’ And [the Israelite] would say to him, ‘Yes and yes.’ Immediately [the angel] would kiss him on his mouth, as it is written, *You have been shown that you might know* (Deut. 4.25) by [an angelic] emissary.” (Song of Songs Rabbah 1:2:2).

I will focus on a few key elements of this midrash, keeping in mind that midrash is theologically driven and visual elements are often keys to that theology. Three images in this midrash are (1) the angel brings out the Word from before the Holy One; (2) the angel speaks directly to each and every Israelite; (3) the angel kisses each Israelite.

In this midrash, the angel serves as a mediator between the Holy One and Israel. The Word, which consists of “each and every word,” is entirely passive and without personality. Though there are hundreds of examples in rabbinic texts of the Word speaking, here the Word is completely silent.

Second, even though the Torah is given to the people as a community, the opportunity to receive Torah is given to every Israelite.

Third, the angel’s kiss is a sign of approval that each Israelite acknowledges the divinity of the Holy One. These are the kisses of *May he kiss me with the kisses of his mouth*.

In John 1, the Word appears in the beginning *with* God and *as* God, is the agent of creation, and becomes flesh, dwelling among his fellow Jews. The

rabbis, who interacted with Christian clerics, would have been aware of such basic Christian teaching. R. Yohanan's midrash portrays the Word in a way that minimizes any similarities to *that* Word. The midrash is clearly designed to minimize the role of the Word, reducing it to an inert message that has to be carried around and delivered by an angel. In addition, the angel's requirement that each Israelite affirm the divinity of the Holy One forces a clear distinction between the Holy One on the one hand and both the angel and the Word on the other.

However, the opinion of a single rabbi is not conclusive. A group of rabbis is about to disagree.

The Word and Israel

But the rabbis say, "The Word itself would go in turn to each and every Israelite and say to him, 'Do you receive me (*m'qableni* | *ynll"b;@qam*;) upon yourself? Such and such commandments as there are in me? . . .' And [the Israelite] would say, 'Yes and yes.' Immediately the Word would kiss him on his mouth . . . and teach him Torah, as it is written, *Lest you forget the words which your eyes have seen* (Deut. 4.9). *Words which your eyes have seen* [refers to] how the Word would speak with you." (Song of Songs Rabbah 1:2:2)

R. Yohanan's midrash describes how the commandments were brought to Israel by an angel. The rabbis' midrash works within the same narrative framework, even sharing dialogue as if from the same original script. However, the message is radically altered, primarily because in the rabbis' midrash the Word (which is always *dibbur* | *rw%b@ydi*) in Shir Hashirim Rabbah) plays the lead role in place of the angel. (1) The Word speaks directly to each and every Israelite; (2) the Word asks each Israelite to "receive me"—*me*, the Word, the one who brings you Torah; (3) the Word kisses each Israelite after they agree to receive him; these are the kisses of *May he kiss me with the kisses of his mouth*; (4) the divinity of the Holy One is not mentioned; (5) the Word follows up by teaching Torah to each Israelite; (6) the Word is visible, according to the Scripture citation and explanation at the end of the midrash ("*Words which your*

eyes have seen [refers to] how the Word would speak with you.”). In this midrash, the Word is clearly personal, relating to human beings on several levels—speaking, requesting, kissing, and teaching.

Marc Hirshman points out that this midrash and the preceding one “differ on the measure of hypostasis, or substance, ascribed to ‘the utterance.’ The rabbis believed that the utterance could reveal itself to the people of Israel, while R. Yohanan believed that an angel brought the word of God to the people and explained it.”²⁹

While Hirshman cautiously credits the Word with a measure of hypostasis, Michael Fishbane is bolder in his assertion that “There can be no doubt that they [the accounts of R. Yohanan and the rabbis] are the product of an emergent theology of the divine logos . . .”³⁰ R. Yohanan’s midrash is in tension with the rabbis’ midrash, but it also provides a springboard for the rabbis’ view of the Word as mediator. By characterizing these midrashim as “the product of an emergent theology of the divine Logos,” Fishbane relates them to subsequent developments, especially in Jewish mysticism, where mediation is a key feature.

One of the distinctive features of this midrash is the relationship of the Word to the Torah. The Word is *not* equivalent to the words of Torah, as it is in R. Yohanan’s midrash. The Word brings, explains, and offers Torah to each Israelite and then, after kissing those who receive *him*, he teaches them Torah. Although this Word does not become flesh, he is far more substantial a mediator than is R. Yohanan’s Word. The Word has not been subsumed under Torah. Clearly, this midrash undermines Boyarin’s statement that “For the Rabbis, Torah supersedes Logos . . . the Logos incarnate in the Book displaces the Logos that subsists anywhere else but in the Book.”³¹

The Word and God

The characteristics of the Word are developed in two additional midrashim. The first addresses the nature of the Word’s connection with the Holy One.

R. Berakhiah said, “R. Helbo taught me [on Tannaite authority,] that the Word was inscribed on its own, and when it was inscribed, the sound

went out from one end of the world to another. *The voice of Hashem carves a blaze of fire* (Ps. 29.7). I said to R. Helbo, . . . ‘[Then] what is the meaning of *tablets of stone written with the finger of God* (Exod. 31:18)?’ He said to me, ‘Like a disciple who writes and his master guides his hand.’” (Song of Songs Rabbah 1:2:2).

This midrash addresses the inscription of the Ten Words on the stone tablets. R. Helbo claims that the Word, which is “the voice of Hashem,” acted on its own, inscribing itself [!] on the stone tablets. R. Berakhiah counters that R. Helbo’s notion violates the plain sense of Exodus 31:1, which states that the tablets were “written with the finger of God.” R. Helbo responds with a word-picture: the master (teacher) places his hand on the disciple’s hand to guide him. The word “disciple” here signifies a young man disciplined to a sage (his master). It is likely that the rav is teaching him how to properly write a Torah scroll. The disciple yields to the mind and will of his master. According to R. Helbo’s response, the Word inscribed the Torah on its own—with its own hand—under the guiding hand of God. In this way, it can be said that God and the Word worked entirely in concert; they *both* inscribed the Ten Words on the tablets. This midrash affirms both the volitional individuality of the Word *and* the conformity of the Word to the will of God.³²

The Word Speaks With God

Our final midrash is taken from another portion of Shir Hashirim Rabbah.

His mouth is most sweet. R. Azariah and R. Aha, in the name of R. Yohanan, said, “At the moment Israel heard, on Sinai, *I [am Hashem your God]*,” their spirit flew away, as it is written, *If we hear the voice any more [we shall die]*, [Deut. 5:25] as is said, *My soul departed when he spoke* [Songs 5:6].”

The Word returned before the Holy One, blessed be He, and said, “Master of the World, you are living and eternal and your Torah is living and eternal. But you [have] sent me to [among] the dead—all of them are dead.” And at that time the Holy One, blessed be He, responded and made the Word more palatable³³ to them, as it is written,

The voice of Hashem is powerful; the voice of Hashem is majestic [Ps. 29:4]. (Song of Songs Rabbah 5:16:3).

Here the Holy One speaks the first of the Ten Words, “I am Hashem your God,” [who brought you out of the land of Egypt, out of the house of slavery].” The powerful, majestic voice terrified Israel, and “their spirit flew away.”

The wording of this midrash—Israel hears the Voice of Hashem, followed by the Word returning to the Holy One—again seems to identify the Word as the Voice. Apparently, the Word spoke to Israel, their spirit flew away, and they appeared lifeless. The Word returned to the Holy One with a report, expressing anguish at the deadness of the people. This emotion adds to the Word’s persona. The Holy One responds by making the Word more palatable to Israel, presumably by limiting its power and majesty.

For the first time in these midrashim, we see (1) the Word speaking *to*, and not *only on behalf of*, God, and (2) God speaking to the Word. This heightens the distinguishable identity of the Word to a level we have not seen before. As Israel Efros observed, in this midrash the mediating Word (*dibbur*) “is a separate being.”³⁴ This is evidently a hypostatic Word and not merely a voice.

The midrashim of the rabbis, R. Berakhiah, and R. Azariah and R. Aha all weave the hypostatic Word as a mediator into the Bible’s narration of events surrounding the giving of Torah on Mt. Sinai. The inclusion of only one of these midrashim in Shir Hashirim Rabbah would not necessarily represent the consensus view of the tradition (or even of Shir Hashirim Rabbah). Together, the three express a coherent perspective that is undoubtedly the dominant thinking of Shir Hashirim Rabbah on the subject. The fourth—R. Yohanan’s midrash—is rejected by the rabbis but functions as a springboard for them to express their understanding of the Word as mediator. Taken together, this sequence of midrashim testifies that the editor(s) of Shir Hashirim Rabbah found that understanding to be acceptable and worthy to transmit. This provides a level of legitimacy that individual midrashim do not possess.

Combining these midrashim taken from Shir Hashirim Rabbah with the evidence gleaned from other midrash collections that were edited in the fourth

through ninth centuries C.E.,³⁵ it is clear that Daniel Boyarin overstates his thesis that Rabbinic Judaism successfully suppressed the notion of a mediating, hypostatic Word. The same material undermines the claim of today's Jewish community that mediation has *never* been part of Judaism.³⁶

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Adherence to Yeshua *as mediator* is a large factor in the rejection and stigmatization of Messianic Jews in the broader community. One of the devastating effects of such stigmatization is the birth of toxic shame within those who are stigmatized. In the case of Messianic Jews, that shame, coupled with fear of rejection, can stifle not only our faith but also our humanity if we voluntarily avoid identifying ourselves as Yeshua-believers in the larger community. There is “a time to be silent and a time to speak.” No good will come if we speak when it is “a time to be silent.” But if we are silent when it is “a time to speak,” our shame will only deepen. One way to resist that shame is to know on a very deep level that belief in a mediator is not “un-Jewish.”

Marginalization can also affect our relationship with God. The stigma and shame attach specifically to our bonds with Yeshua, with the potential to destabilize our relationship with God and our experience, for example, in prayer. A Jew does not pray only as an individual, or only as part of a minyan, but as part of a people.³⁷ While it is healthy to acknowledge the wounds we experience and bring feelings of shame to God in prayer, even there, in the presence of God, we cannot allow ourselves to be separated from the community. In other words, when we come to God even for healing of wounds experienced in the community, we do not come only as individuals, but as a part of that very community that stigmatizes us.

Postscript—A Tikkun

In “Finding our Way Through Nicaea,” Mark Kinzer writes that “To read and hear dialectically is to gather up the fragments, to perform a tikkun—a repair of what has been broken. We expect each tradition to offer correction and healing to

the other.”³⁸ In the interests of receiving something from the Jewish conversation and, hopefully, offering something back, I would like to offer another version, my own, of one of the midrashim discussed in this paper.

My beloved is like a gazelle. Rabbi Isaac said, “The community of Israel said before the Holy one, blessed be He: ‘Sovereign of the Universe, you say to us, “My love, my longing”—you say “My love, my longing” to us first.’ Just as a gazelle leaps from mountain to mountain and valley to valley, from tree to tree and fence to fence, so the Holy One, blessed be he, leapt from Egypt to the Red Sea, from the Red Sea to Sinai, from Sinai to Nazareth, and from Nazareth he leaps to the future [redemption].”³⁹

This writes Messianic Jews into the midrash in a way that is not stylistically intrusive, however problematic the content might be for non-Messianic Jews.

1. Presented at the 2010 Hashivenu Forum in Los Angeles.
2. Mark S. Kinzer, “Finding our Way Through Nicaea: The Deity of Yeshua, Bilateral Ecclesiology, and Redemptive Encounter with the Living God.” 2010 Hashivenu Forum (Los Angeles), pp. 7–8.
3. See, for example, “Scripture as Inspired, Canonical Tradition,” delivered at the 2001 Hashivenu Forum (Pasadena, CA).
4. Almost certainly, these texts were transmitted orally for several generations, perhaps with private notes as memory aids, before being written down in the fourth century C.E. and later.
5. The terms “Palestinian” and “Palestinian rabbis” are standard academic terms used by Jewish and non-Jewish scholars. This developed because the region where the sages lived had been named “Palaestina.” The use of these terms does not imply any position on the current situation in the Middle East.
6. The translations of the Tanakh and midrash are mine, made in consultation with the Jewish Publication Society Tanakh, Maurice Simon, *Midrash Rabbah Song of Songs*. London: Soncino Press, 1939, Michael Fishbane, “Anthological Midrash and Cultural Paidea: The Case of *Songs Rabba* 1.2” in Peter Ochs and Nancy Levene, Eds. *Textual Reasonings: Jewish Philosophy and Text Study at the End of the Twentieth Century*. Grand Rapids: Eerdmans, 2002, pp. 32–51, and Jacob Neusner, *A Theological Commentary to the Midrash: Volume 3, Song of Songs Rabbah*. Lanham, MD: University Press of America, 2002. Translations of the Apostolic Writings (New Testament) are adapted from the NASB and NIV.
7. Jewish philosophy (philosophy carried out by Jews or concerning Judaism) has been practiced at least since Philo of Alexandria (20 B.C.E. to 50 C.E.). Unlike midrash and halakah, it is not characterized by a consistent idiom but exists at the intersection of Jewish thought and non-Jewish philosophy.
8. See Daniel Boyarin, *Intertextuality and the Reading of Midrash*. Bloomington, Indiana University Press, 1990, pp. 105–116.

9. The most thorough work on inner-biblical interpretation is Michael Fishbane, *Biblical Interpretation in Ancient Israel*. Oxford: Oxford University Press, 1989.

10. It has been suggested that “the spiritual rock” reflects a Jewish tradition of a moving well that is found in a few early midrashim. See Peter E. Enns, “The ‘Moveable Well’ in 1 Cor 10:4: An Extrabiblical Tradition in an Apostolic Texts.” *Bulletin for Biblical Research* 6 (1996), pp. 23–28. However, there is no consensus that 1 Cor. 10 relies on that tradition. There is also no common interpretation of verse 4. See Carlos R. Bovell, “Scriptural Authority and Believing Criticism: The Seriousness of the Evangelical Predicament.” *Journal of Philosophy & Scripture*, Volume 3 Issue 1, Fall 2005, p. 22.

11. Close reading is a careful, sustained interpretation of a brief passage of text, emphasizing the particular over the general, paying close attention to individual words, syntax, and the order in which sentences and ideas unfold as they are read.

12. For a discussion of major differences between Palestinian and Babylonian Judaism of this period, see Boyarin, *Border Lines*, pp. 151–201.

13. “[T]hey would study” translates a Rabbinic Hebrew construction indicating regular or habitual action. From that point on, they would [regularly] study.

14. Gerald L. Bruns, *Hermeneutics Ancient and Modern*. New Haven: Yale University Press, 1992, p. 17.

15. Stephen Fraade, “The Kisses of His Mouth: Intimacy and Intermediacy in as Performative Aspects of a Midrash Commentary” in Peter Ochs and Nancy Levene, Eds. *Textual Reasonings: Jewish Philosophy and Text Study at the End of the Twentieth Century*. Grand Rapids: Eerdmans, 2002, p. 53.

16. See Part Three: The Word As Mediator.

17. The verb form is masculine and so could not refer to the Torah.

18. See below in the section on Jeremiah 31:31–34.

19. The “chain of transmission” by which Torah is said to have been transmitted is strangely not in view. Versions of the chain can be found in Mishnah Avot 1:1 and Bavli Eruvin 54b.

20. Verse 31 reads “the house of Israel and the house of Judah,” but uses the summary term “house of Israel” in verse 34.

21. JPS translates *yedu* [w%ɔd"y] as “obey” instead of “know” in both occurrences in this verse. This serves to contrast obedience in the new covenant with disobedience in the Mosaic covenant. It also relates obedience in verse 34 to the Torah in verse 33. However, Koehler-Baumgartner does not list “obey” among its primary translations of (dy in the qal. Instead, they concern some way of knowing, literal or figurative. Furthermore, the translation “obey” obscures the very point the midrash (and, I believe, the scripture) wants to make by associating Torah with the knowledge of God. Ludwig Koehler, Walter Baumgartner, Johann Jakob Stamm, and M. E. J. Richardson, *The Hebrew and Aramaic Lexicon of the Old Testament*. Boston: Brill, 2001, pp. 390–91.

22. I am not able to address here the complex issues involved in the relationship of the two covenants. Briefly, I believe that the fading of the old covenant mentioned in verse 13 concerns the sacrificial system and related matters.

23. It is cited from the Septuagint, a translation of the Hebrew Bible into Greek, a common language of the eastern Mediterranean Basin from the time of Alexander the Great (356–323 B.C.E). The noticeable difference between the Jeremiah and Hebrews passages is found at Hebrews 8:10, which reads “I will put my laws [instead of “law,” singular] in their minds [instead of “within them”] and write them on their

hearts.” It is not within the scope of this paper to explore the use of the Septuagint in the early Church and its implications for this passage.

[24.](#) Likewise, the lives of all Yeshua-believers, Jew and Gentile, are inextricably intertwined. However, since the other nations of the world are not covenantally defined, Gentile Yeshua believers are not tied to the nations in the same way that Jewish Yeshua-believers are tied to the Jewish people. Messiah serves the Jewish people on the basis of the promises given to Abraham, Isaac, and Jacob, while he serves the Gentiles on the basis of mercy. As Paul writes in Romans 15:8–9, *For I say that Messiah has become a servant to the circumcision on behalf of the truth of God to confirm the promises given to the fathers, and for the Gentiles to glorify God for His mercy; as it is written, “Therefore I will give praise to you among the nations, and I will sing to your Name”* (Ps 18:49).

[25.](#) Gerald L. Bruns, *Hermeneutics Ancient and Modern*. New Haven: Yale University Press, 1992, p. 17.

[26.](#) Daniel Boyarin, *Border Lines: The Partition of Judeo-Christianity*. Philadelphia: University of Pennsylvania Press, 2004, pp. 89–127.

[27.](#) Boyarin, *Border Lines*, p. 129.

[28.](#) In my view, the inclusion of these texts would likely have modified Boyarin’s claims that *Logos* theology was completely suppressed in the formation of rabbinic Judaism. Vered Hillel suggests that these midrashic representations of mediation may have arisen not from remnants of the earlier *Logos* theology but as a response to Christian claims about Yeshua. She notes that the word *rw%b@ydi* may have been invented by the Amoraic rabbis for this purpose. (Private conversation on February 2, 2010 in Agora Hills, CA). If Hillel is correct—and I am inclined to think she is—these midrashim are relevant to Boyarin’s discussion in *Border Lines* as an example of ongoing interaction and influence between the Jewish and Christian communities.

[29.](#) Marc Hirschman, *A Rivalry of Genius: Jewish and Christian Biblical Interpretation*. Stony Brook, NY: State University of New York Press, 1996, p. 91.

[30.](#) Although Fishbane does not elaborate on this point, it seems to be in line with the analysis suggested by Vered Hillel (see p. 25 n26). Michael Fishbane, “Anthological Midrash and Cultural Paideia: The Case of Songs Rabba 1.2” in Peter Ochs and Nancy Levene, Eds. *Textual Reasonings: Jewish Philosophy and Text Study at the End of the Twentieth Century*. Grand Rapids: Eerdmans, 2002, p. 35.

[31.](#) Boyarin, *Border Lines*, p. 129.

[32.](#) Like the familiar parables in the New Testament, this midrash is limited in focus. It does not pretend to fully describe either the Word or the Word’s relationship with the Holy One.

[33.](#) In Biblical and Rabbinic Hebrew the root *qtm* (*mataq*) word does not necessarily signify a sweetening (as in Modern Hebrew) but “making palatable”; see Exod 15:25, where the waters of Marah were “sweetened.”

[34.](#) Efros, p. 69.

[35.](#) There are more than a hundred textual witnesses to a hypostatic Word in the Amoraic Midrashim.

[36.](#) Other modes of mediation merit further exploration by Messianic Jews devoted to engaging the Jewish conversation. Examples are the Shekhinah as the mediating Presence of God in rabbinic literature and varieties of mediation involved in kabbalistic Judaism, where numerous hypostases (sefirot or emanations) are said to mediate between the Divine and human beings, E.g., “For Keter [Crown] is the mediator between the [infinite] Emanator and the [finite] emanated beings, and the lowest level of the Ein

Sof is comprised in it.” In other words, the Keter shares in the “lowest level” of the Divine. See <http://www.sichosinenglish.org/cgi-bin/lessons.cgi?dater=26092009&d1=133>. Another phenomenon that deserves research is the mediatorial role of the *tzadik* in some Chassidic groups, especially the significance of the *tzadik*’s tomb. A rather mild example of the latter can be found in the official instructions for prayer at King David’s tomb on Mt. Zion: “Prayers to God at a *tzadik*’s grave are beneficial [because of] the *tzadik*’s neshama. The *tzadik* has more power in Heaven than we laymen do and therefore, he can elevate our prayers to levels that we can’t reach on our own.” <http://www.kingdavidprayers.com/FAQ>

[37](#). See my paper, “Communal Aspects of the Besorah.” 2004 Hashivenu Forum (Pasadena, CA).

[38](#). “Finding our Way Through Nicaea,” p. 8.

[39](#). I recommend a serious apprenticeship in midrash before attempting such a tikkun publicly.

Finding our Way Through Nicaea: The Deity of Yeshua, Bilateral Ecclesiology, and Redemptive Encounter with the Living God¹

BY MARK S. KINZER

The Question and its Importance

A few years ago a controversy erupted in the Israeli Messianic Jewish movement over the question, “Is Yeshua God?” Some leaders had publicly answered the question with a definitive “No!” Their refusal to call Yeshua “God” ignited a firestorm. In the eyes of many, these dissenting leaders had denied the basic tenet of the Yeshua-faith.

Though common in Christian parlance, the wording of this question has problematic features that we will examine later in this paper. Nevertheless, the passionate responses evoked on both sides showed that the question touched on a matter of grave concern to all.

The main reasons for this concern are threefold. First, the message of the Good News challenges all of its hearers to answer Yeshua’s own question to Peter, “Who do you say that I am?” (Mark 8:29). The mystery of Yeshua’s identity underlies the narrative of all four *Besorot*, and constitutes the core proclamation of the Apostles. The exalted character of Yeshua is the central theme of the Johannine writings, which present him as the enfleshed divine Logos through whom all things were made, the bearer of the divine Name who is one with the Father and who shared the Father’s glory before the foundation of the world. While couched in a different idiom, this theme likewise permeates the synoptic *Besorot* and the Apostolic letters. “Who then is this, that even wind and sea obey him?” cry the stunned disciples after Yeshua exercised authority over the elements (Mark 4:41). As the early Yeshua-movement grew, its basic confession of faith became the affirmation, “Yeshua is Lord!” (Romans 10:9; 1 Corinthians 12:3; Phillipians 2:11). The Good News itself makes the question of

Yeshua's transcendent identity a matter of fundamental importance.

Second, discussion of this question dominated the first four centuries of the Yeshua-movement, and resulted in the creedal definitions which gave shape to the Christian theological consensus of the past sixteen centuries. For most of those who identify themselves as "Christians" and as members of the historical community known as the Christian Church, the results of these councils define the substance of their faith, even if they have never heard of Nicaea or Chalcedon and even if they consider the Bible their only doctrinal authority. Affirmation of the deity of Yeshua—and, for many, acknowledgement of the doctrine of the Trinity—constitutes both the center of their confession and the boundary that demarcates its unique character.

As Jewish Yeshua-believers, we may identify as members of the revived "*ekklesia* of the circumcision" rather than "the Christian Church"—which we see as the "*ekklesia* of the uncircumcision," legitimate but incomplete without its Jewish partner. Nevertheless, we cannot ignore the reality of the historical Christian community as the primary enduring witness to Yeshua in the world. If we embrace bilateral ecclesiology, then we must seek unity with the Christian Church even as we maintain our own distinctive identity. Once again, the question of Yeshua's transcendent identity—now embodied in explicit and official doctrinal formulations—becomes a matter of fundamental importance.

Third and finally, the denial of Yeshua's deity has been almost as significant for classic forms of Judaism as its affirmation has been for the Christian faith. Until the middle ages, acknowledgement of Yeshua's deity and worship of the Trinitarian God were considered by Jewish authorities to be *avodah zara*, i.e., idolatry. Eventually this assessment changed in regards to Gentile Christians, but not in regards to Jews who believe in Yeshua. According to traditional Jewish sources, for a Jew to believe in Yeshua as the divine Son of God—and not just as the human Messiah—is to violate the *Shema*, the central Jewish confession that undergirds all Jewish faith.

Jews and Christians thus have agreed on the central importance of the doctrine of Yeshua's deity. The doctrine functioned for many centuries of Jews

and Christians as a mutually accepted litmus test for distinguishing authentic Judaism from authentic Christianity. It provided a doctrinal correlate to the practical issue of Torah observance, drawing an unambiguous theological line between the two feuding religious communities just as the Jewish imperative and observance (or Christian prohibition and non-observance) of circumcision, Shabbat, holidays, and *kashrut* established a clear boundary on the level of praxis. For the Jewish people, the chief community-defining positive commandment was “You shall observe the Torah” and the chief negative commandment was “You shall not believe that Jesus is the Son of God.” For the Christian Church, the chief community-defining positive commandment was “You shall believe that Jesus is the Son of God” and the chief negative commandment was “You shall not observe the Torah.”

The classical Jewish view of the deity of Yeshua becomes especially troubling for Jewish believers in Yeshua who are convinced of the truth of bilateral ecclesiology, and who consequently see themselves as members of the Jewish religious community and heirs of its tradition, as well as partners with the Christian Church within the two-fold body of Messiah. Just as we are pressed from the Christian side to give up or dilute our conviction that Torah observance is incumbent on every Jew, so we are pressed from the Jewish side to give up or dilute our conviction that Yeshua is more than a man. It would be much easier to deny bilateral ecclesiology, and to live as Jewish Christians who affirm the deity of Jesus in classical Christian terms and treat Torah observance as a mere cultural option, or as conventional Torah-observant Jews who respect Yeshua as a rabbi, prophet, or even Messiah but who refuse to honor him as divine or to seek any organic connection to the Christian Church.

Thus, wherever we turn, we face this burning question, raised for us by the Jewish community in which we claim membership, by the Christian community with which we seek partnership, and by the Good News itself which has laid hold of our lives and claimed our unrestricted allegiance. As Jews steeped in *Tanakh*, formed by a religious tradition centered on confession of the unity of God and ever-sensitive to the dangers of *avodah zarah*, how do we understand

and articulate the transcendent identity of Yeshua our Messiah, as presented to us in the *Besorah*? And how do we assess the Christian doctrinal tradition and its articulation of his identity?

The Way of Approach

We have now formulated our question. How shall we best proceed in addressing it? It would seem natural to begin by studying the relevant teaching of the Apostolic Writings, and then continue by examining and critiquing the classic Christian creedal formulas on the basis of that teaching. This approach appears logical and cogent, since it reflects both the unique authority of Scripture within the tradition of the Yeshua-faith community, and the historical progression whereby later theological developments build upon earlier ones. It also conforms to the standard methodology of evangelical scholarship which has shaped the theological education of most leaders in the Messianic Jewish world.

I will propose and model here a different approach to the question. Instead of beginning with Scripture, I will begin with the consensus confession of the Christian world, the Nicene Creed, and consider it alongside and in light of Scripture and within a Jewish frame of reference. I will not assume that the Nicene formulation is the best available or the most appropriate for us as Messianic Jews, but I will look for points of continuity between that formulation and the biblical teaching, and will give it the benefit of the doubt when it is under scrutiny.

What is the value of such an approach? First of all, it expresses an ecclesiological commitment which is controversial among Messianic Jews, but which I consider crucial. To grasp the nature of this commitment, we must ponder the meaning and implications of bilateral ecclesiology. This view perceives the *ekklesia* to be a single but essentially twofold reality: the one *ekklesia* of Messiah is composed of a Jewish and a multi-national *ekklesia*. They are distinct, but inseparable. The Messianic Jewish community has its own distinct identity, but it also has an intimate partnership with the Christian Church.

The history of the Christian Church features an abundance of figures, events, practices, decisions, and ideas that trouble us as Messianic Jews. Fortunately, many of them also trouble our Christian friends. The Christian tradition, like the Jewish tradition, has proved itself to be dynamic, reflective, and self-correcting. We have witnessed remarkable self-correction in the past sixty years in the Church's teaching regarding Judaism and the Jewish people, and the continuing nature of this process inspires hope for the Church's future. It also opens the door to the bilateral partnership required by a common life in Messiah.

For some Messianic Jews, one of the troubling elements of Christian history is Nicene orthodoxy. However, unlike supersessionism, antinomianism, the Inquisition, and the blood-libel, it is inappropriate for us to ask our Christian partners to repent for the Nicene Creed. The Nicene consensus on Christology has endured over more than sixteen centuries, and continues to define the basic contours of Christian faith. In those settings where commitment to Nicene orthodoxy wanes, the Christian Church loses its grip on the Good News as a whole, and weakens in its faith and spiritual vitality.

The Christian Church, which is our partner, is a Nicene Church. Bilateral ecclesiology calls us to a corporate commitment to this Church. If this is the case, then we cannot dismiss the Nicene Creed in a cavalier fashion. We cannot treat it in a neutral way, as though it were one of many equally viable doctrinal proposals on the table. This Creed summarizes the essential and enduring teaching of our ecclesiological partner, and this means that we must take it seriously and treat it with respect. The Creed need not remain immune to all criticism, but it should always be given the benefit of the doubt. This is sufficient reason to begin our study with the Creed, viewed alongside Scripture and in light of Jewish thought.

A second reason for this approach is hermeneutical. Once Nicene orthodoxy prevailed, it became the lens through which all read the biblical text. Even those who oppose the Nicene consensus read Scripture looking for evidence to support their anti-Nicene position, demonstrating that they also fail to escape the new interpretative horizon established by the Creed.

There is value in historical scholarship which attempts to bracket off ways of reading the Bible that have pervaded Christian civilization for more than a millennium and a half. However, as soon as we move from historical reconstruction to theological analysis and assertion, we should reject the belief that we are able to abstract ourselves from the flow of history. We should not pretend that we can construct a normative theological system directly from Scripture, uninfluenced by the later theological consensus, and can then evaluate and critique that later consensus objectively on the basis of the system we have constructed. Of course, we can attempt to follow such an approach, and many do. But we should then be unsurprised if many of our readers fail to see a resemblance between the method we purport to follow and the process we actually practice.

I am far from suggesting that a later theological consensus should automatically determine how we read the biblical text. That would be an untenable position for a Messianic Jewish theologian who must continually challenge conventional Christian and Jewish assumptions. I am only arguing that we need to keep both the later Christian theological consensus and the biblical material in sight, and seek to read each in light of the other—and also in light of additional relevant factors, such as the Jewish theological tradition. Scripture has logical and theological, but not methodological, priority.

In effect, I am proposing a theological and hermeneutical approach in which we as Messianic Jews take our place as part of the Jewish community with its tradition of interpretation, and as a partner to the Christian community with its tradition of interpretation, and from that place listen and respond to the Bible's witness to the God of Israel and the Messiah of Israel. From this place of communal connection, we learn to hear what Jews and Christians have heard before. However, because we are connected to *both* communities and traditions, we also hear new things which these communities' mutual and unnatural isolation prevent them from hearing.

We can describe this as a hermeneutic of *dialectical ecclesial continuity*. In this context, I am using the term “ecclesial” to refer to both the Jewish and

Christian communities as historical realities. When we read as those covenantally bound to both of these communities, we read and listen expecting to discover continuity between the message of Scripture and the consensus interpretations it has received in the communal tradition. This expectation may not always be realized, but it nevertheless directs our reading and listening.

Of course, these two communities have disagreed with one another on fundamental matters. This is why our hermeneutic must be *dialectical* as well as *ecclesial*. We view these two communal traditions as one ruptured whole, the broken fragments of a schism that should never have occurred. To read and hear dialectically is to seek to gather up the fragments, to perform a *tikkun*—a repair of what has been broken. We expect each tradition to offer correction and healing to the other.

With our question defined and our approach to it explained, we are now ready to plunge into the deep theological waters that lie before us.

The Nicene Problems

The Problem with the Council

The Council of Nicaea, which convened in 325 C.E., gave its name to a creed that is still sung as part of the weekly liturgy in many Christian churches. As such, the name carries a positive resonance in the ears of most Christians.

This is not so for Messianic Jews. At best, our visceral reaction to Nicaea is ambivalent—and for understandable reasons. First among them is the role played by the Emperor Constantine. The Emperor initiated the Council, and influenced its results. He desired a united Church to promote a united Empire. Thus began the long history of Church-State entanglement that has had such dire consequences for the Jewish people.

A second concern arises from the lack of representation at Nicaea of the Jewish *ekklesia*. Granted, at this time the community of Yeshua-believers who continued to identify and live as Jews was small and marginalized. But it did still exist, as Epiphanius and Jerome later attest. We do not know whether Nazarene bishops were deliberately excluded from the Council, or whether they chose to

stay away, or whether they were so marginalized that the question of attendance never arose on either side. In any case, it is difficult for Messianic Jews to view Nicaea as a truly “ecumenical” council as it was unilateral rather than bilateral in composition. It was a council of the *ekklesia* of the nations.

The most serious problem with Nicaea from a Messianic Jewish perspective is the explicitly anti-Jewish tenor of its conclusions regarding the celebration of Easter. An official synodal letter from the Council rejected any reckoning of the date of Easter in relation to the Jewish calendar:

We further proclaim to you the good news of the agreement concerning the holy Easter . . . that all our brethren in the East who formerly *followed the custom of the Jews* are henceforth to celebrate the most sacred feast of Easter at the same time with the Romans and yourselves and all those who have observed Easter from the beginning.²

The concern of the Nicene Council was to end a situation where Christians followed “the custom of the Jews.” The bishops rejected any sign that the Church was dependent on the Jewish people for its faith or way of life. This intent becomes even clearer in the letter written by the Emperor Constantine announcing the results of the Council:

It was declared to be particularly unworthy for this, the holiest of all festivals, to follow the custom [the calculation] of the Jews, who had soiled their hands with the most fearful of crimes, and whose minds were blinded . . . We ought not, therefore, to have anything in common with the Jews . . . and consequently, in unanimously adopting this mode, we desire, dearest brethren, to separate ourselves from the detestable company of the Jews, for it is truly shameful for us to hear them boast that without their direction we could not keep the feast . . .³

Nicaea thus represents the definitive moment in the history of Christian supersessionism, when the Christian Church in alliance with the Roman Emperor formally renounced its bilateral constitution.

As a result of these three factors, Nicaea evokes a different visceral response from Messianic Jews than it does from most Christians. The Council as a whole

symbolizes for us the Church's conscious and decisive *turning away* from the Jewish people and *turning to* the Roman Empire. We must acknowledge this inner reaction, and be able to explain it to our Christian friends. But it need not determine our judgment of the Nicene Creed.

When Christians honor the Council of Nicaea, they are not paying homage to a Constantinian synthesis of Church and State that most no longer see as valid, and that even the Catholic Church now finds lacking. They are not denying a vision of a bilateral Church of Jews and Gentiles, which most have never even conceived as a possibility. They are not making the supersessionist claim that the Christian Church lacks any organic connection to or dependence upon Judaism and the Jewish people; in fact, it is theologians loyal to Nicene orthodoxy who have taken the lead over the last forty years in combating supersessionism. When Christians honor the Council of Nicaea, they are doing one thing and one thing only: they are paying homage to Yeshua, and glorifying him as the divine Son who is "the reflection of God's glory and the exact imprint of God's very being" (Hebrews 1:3).

The Nicene Creed is thus analogous to the Church's celebration of Christmas, which is the Creed's ritual correlate. The latter traces its origins to a pagan festival. The former derives from a political process influenced at times by unsavory motives and interests. Neither the holiday nor the Creed should be judged by the purity of its sources or the circumstances of its adoption, but instead by the way it has been understood and practiced by Christians through the centuries.

The Problem with the Creed

These preliminary considerations concerning the Nicene Council clear the way for us to examine the Nicene Creed, and to assess it on its own terms. Before we look at what it says, however, we must raise a significant problem that Messianic Jews have with the Creed itself. The problem we see is not with what the Creed says, but with what it fails to say.

I refer to what Kendall Soulen calls structural supersessionism. Unlike

punitive and economic forms of supersessionism, structural supersessionism involves a sin of omission rather than commission.⁴ It summarizes the basic narrative of God's dealings with the world in a manner that ignores the central role played by the Jewish people. It tells the story in a way that moves directly from the creation and fall of human beings, to the incarnation, death, and resurrection of the Son of God. The people of Israel appear solely as background to the main plot. This supersessionist Christian narrative takes an authoritative form in the Nicene Creed. Like all major Christian confessional statements before and after, the Nicene Creed omits any reference to the people of Israel and its crucial role in the story of God's dealings with the world.⁵

Structural supersessionism constitutes both the most difficult form of supersessionism to overcome, and the easiest. It is most difficult because the Church must do more than merely reassess particular doctrinal positions, such as the enduring validity of Israel's election; the Church must reconstruct its entire theological framework in a manner that gives Israel its proper place in addressing every theological topic. But it is also the easiest form of supersessionism to address, because it does not require the repudiation of any authoritative doctrinal positions from the Church's theological tradition. Instead, it calls for a doctrinal development that adds to rather than subtracts from the Church's confession of faith. To overcome structural supersessionism, the Church must only recontextualize its historically transmitted deposit of faith within the framework of God's dealings with Israel and the nations.

Thus, the structural supersessionism of the Nicene Creed need pose no problem for us here. We are not evaluating the adequacy of the Creed as an embodiment of the ecclesial canonical narrative. If we did, we would certainly find it lacking. It requires the addition of material dealing with the people of Israel, material that would provide the necessary context for the affirmations it makes about the person of Yeshua. However, our purpose here is only to assess those affirmations. We are concerned with what the Creed says, not with what it fails to say.

Having examined the problems with Nicaea from a Messianic Jewish perspective, we are now ready to examine what the Creed teaches about Yeshua.

The Nicene Creed

What the Creed Denies

To know what to expect from the Nicene Creed and the right questions to ask concerning it, we must understand the nature of explicit and official doctrine in the history of the Christian Church. George Lindbeck provides a helpful introduction.

. . . controversy is the normal means whereby implicit doctrines become explicit, and operational ones official. For the most part, only when disputes arise about what it is permissible to teach or practice does a community make up its collective mind and formally make a doctrinal decision . . . In any case, insofar as official doctrines are the products of conflict . . . they must be understood in terms of what they oppose (it is usually much easier to specify what they deny than what they affirm) . .

[6](#)

This runs counter to our usual assumptions about official doctrine. We normally conceive of Church doctrine as though it were analogous to scientific theory, offering propositional affirmations about reality formulated in technical terms coined for their clarity and precision. Church doctrine does involve affirmations about reality, but they are rarely unambiguous in nature, as demonstrated by the debates concerning their interpretation that invariably follow the establishment of explicit and official doctrine. As Lindbeck points out, what is affirmed may be ambiguous, but what is denied must be clear.

In light of this perspective, let us begin our study of the Nicene Creed by looking at the doctrinal positions that the original Creed of Nicaea anathematized:

But as for those who say, There was when He was not, and, Before being born He was not, and that He came into existence out of nothing, or who assert that the Son of God is from a different (*ex heteras*) hypostasis or substance (*ousia*) [from the Father], or is created, or

subject to alteration or change—these the Catholic Church anathematizes.⁷

Nicene orthodoxy arises as a response to and rejection of Arianism. The Arians believed that the Son of God was a creature. They accepted the biblical teaching that he existed before becoming incarnate and that the world was made through him, but they held that “there was [a time] when He [i.e., the Son of God] was not.” If all reality may be classified as either eternal and uncreated or temporal (i.e., with a beginning in time) and created, the Arians place the pre-incarnate Son of God in the “temporal and created” category. He is the first created entity, the highest of the angels, the most exalted being in all creation. But he is not eternal, and he is not truly divine.

The Arian position reflected the Hellenistic philosophical assumptions dominant in the period. According to those assumptions, the eternal realm of divinity was absolutely transcendent, and could have no direct point of contact with the temporal and material world. Such a system of thought excluded divine incarnation in principle. But its implications went far beyond the exclusion of incarnation. In effect, it suggested that the transcendent God was ultimately unknowable, and could not be truly present within the created order. *Such a system of thought excluded in principle the living God of Scripture, the self-revealing One who enters into an intimate covenantal relationship with the people of Israel.* In rejecting Arianism, the Nicene Creed took a stand *against* the common philosophical notions of the day, and *for* the biblical portrayal of the God of Israel.

What the Creed Affirms

Now that we have a clear idea of what the Nicene Council sought to deny with its Creed, we are ready to consider what it affirmed.⁸ For our purposes, it will be sufficient to look at the opening section of the Creed.

We believe in one God, the Father Almighty,
maker of heaven and earth and of all things visible and invisible.
And in one Lord, Yeshua the Messiah,

the only begotten (*monogenē*) Son of God,
begotten (*gennethenta*) of his Father before all worlds,
Light from (*ek*) Light, true God from (*ek*) true God,
begotten (*gennethenta*), not made,
having the same *ousia* (*homoousion*) as the Father,
through (*dia*) whom all things were made . . .

The basic framework of this confession of faith derives from Paul's teaching in 1 Corinthians 8:5–6:

Indeed, even though there may be so-called gods in heaven and on earth—as in fact there are many gods and many lords—yet for us there is one God (*Theos*), the Father, from whom are all things and for whom we exist, and one Lord (*Kyrios*), Yeshua the Messiah, through (*dia*) whom are all things and through whom we exist.

Paul likely uses the term *Kyrios* here as a Greek substitute for both the tetragrammaton and the Hebrew word *Adonai* (“My lord”), which in Jewish practice acts as its surrogate. In this way he builds upon the most fundamental biblical confession of faith, the *Shema*, highlighting the two primary divine names (*Theos/Elohim* and *Kyrios/Adonai*) and the word “one.”⁹ Paul thus expands the *Shema* to include Yeshua within a differentiated but singular deity.¹⁰ The Nicene Creed adopts Paul's language (“one God, the Father...one Lord, Yeshua the Messiah . . . ”), and thereby affirms its own continuity with the *Shema*. Paul's short confession is a Yeshua-faith interpretation of the *Shema*, and the Nicene Creed is an expanded interpretation of Paul's confession.

Drawing upon Second Temple Jewish traditions, which see the creation of the world as occurring through the mediation of a hypostatic Wisdom or spoken Word, Paul presents “God” as the one “*from whom* are all things,” and the “Lord” as the one “*through whom* are all things.” The Nicene Creed likewise draws upon Paul's terminology here, describing God the Father as “the maker of heaven and earth and of all things” and Yeshua the Lord as the one “*through (dia)* whom all things were made,” i.e., by God the Father. It thereby preserves both (1) the Pauline *distinction* between God the Father and the Lord Yeshua by

designating each of them with a different divine name (*Theos* and *Kyrios*) and by employing the characteristic Pauline preposition *dia* for the role of Yeshua in the work of creation; and (2) the Pauline *identification* of God and Yeshua through ascription to them of the two primary biblical names for Israel's singular deity, through reference to their joint activity as the source of all created things, and through reiteration of the word "one." Once again, Paul offers a Yeshua-faith interpretation of existing Jewish tradition, and the Nicene Creed offers an expanded interpretation of Paul's teaching.

The Nicene Creed elaborates on this Pauline (and Jewish) framework by adding explanatory language drawn from elsewhere in the Apostolic Writings. The one Lord, Yeshua the Messiah, is also "the only-begotten (*monogenous*) Son of God" (John 1:14, 18; 3:16, 18; 1 John 4:9). In John this word may or may not carry the connotation of "begetting"—it may simply mean "only (Son)."¹¹ The Nicene Creed, however, exploits the word's range of verbal associations by adding two references to the Son's "begetting": "begotten (*gennethenta*) of his Father before all worlds," and "begotten, not made." The Creed thus brings together the Johannine *monogenēs* with a Yeshua-faith interpretation of Psalm 2:7 ("You are my Son, today I have begotten you"; see Acts 13:33; Hebrews 1:5), and interprets John's *monogenēs* in light of Psalm 2 as "only-begotten Son."

But the Creed also interprets Psalm 2 in light of John. What is the meaning of the "today" in which the Son of Psalm 2 is begotten? Is this a reference to Miriam's conception of Yeshua? To Yeshua's birth? To his immersion in the Jordan at the hands of John?¹² To his resurrection from the dead?¹³ For John, the existence of the Son of God antedates all these events in the earthly life of Yeshua, and precedes even the creation of the world (John 1:1–5; 18; 6:46; 17:5). Therefore the "today" of Psalm 2:7 must be eternal rather than temporal. The Creed's exegetical juxtaposition of John and Psalm 2 thus yields the completely appropriate phrase, "begotten of his Father before all worlds."¹⁴

The Creed draws two conclusions from its fundamental proposition that the

Son is “begotten of his Father before all worlds.” These two conclusions are conveyed in the phrases, “Light from (*ek*) Light, true God from (*ek*) true God.”¹⁵ First of all, the Son draws his being from (*ek*) the Father. Their relationship has a *taxis*, a structure or form, in which the Father is the ultimate source of the Son’s existence and nature. That structure is eternal rather than temporal; as a star never exists without emitting light, so the Father never exists without the Son. Secondly, the Son shares the Father’s nature. As the Father is “Light,” so the Son is “Light”; as the Father is “true God,” so the Son is “true God.” Though the Son is ordered after and in relationship to the Father, he is not a demigod, a secondary divinity at a lower level of being from the Father.

These two affirmations about the Father and the Son always belong together. They produce the ambiguity that has always characterized discussions of the Son’s “subordination” to the Father. The Son is subordinate to the Father in the sense that he derives his existence from the Father, and serves the Father in the fulfillment of the Father’s purposes. But the Son is not subordinate to the Father in the sense of possessing a secondary level of divinity, as though occupying a lower rung in a Neo-Platonic hierarchy of being.

The Son is “begotten, not made.” This contrast between begetting and making is crucial for the teaching of the Creed. The Son is not like a painting or a sculpture that springs from the genius of an artist but remains fundamentally different in kind from the artist himself. Just as offspring in the temporal created order are the same kind of beings as the ones who generate them, so in the eternal uncreated order the Son is as much divine as is the Father from whom he derives his being.

The contrast between “begetting” and “making” helps explain the most famous phrase of the Creed, “having the same *ousia* (*homoousion*) as the Father.” In this context *ousia* appears to mean the kind of thing that something is.¹⁶ Thus, the *homoousion* does not add anything new to what has already been presented in the Creed. It does not provide an explanation or theory for how this could all be so. Instead, it expresses through one technical Greek term what the

Creed states elsewhere in more allusive biblical language.

The Nicene Creed thus offers a highly plausible rendering of the Apostolic teaching on the divinity of Yeshua, in light of controversies that had emerged in the early centuries of the Yeshua movement. Though it spoke in the language of its own time and place, it did not conform to the philosophical theories that were currently in fashion. Instead, the Creed upheld a commitment to an authentic encounter with the living God who acts in a revelatory and redemptive manner within the world. It maintained the Jewish and biblical witness to the qualitative difference between the transcendent Creator and that which is created, the particular personal character of the Creator as the God of Israel, and the reality of this God's activity within the created order. It affirmed that God can be known and encountered in the person of Yeshua the Messiah.

The Nicene Creed does this as an expansion of a Pauline confession of faith, which was itself an expansion of the *Shema*. In this way, it implicitly points us back to the basics of Jewish monotheism, and presents Yeshua as the one who realizes in this world the revelatory and redemptive purposes of *Hashem*, God of Israel and Creator of all.

Medieval Jewish Parallels to the Arian Controversy

Jewish history provides us with a surprising parallel to the Arian controversy and the Nicene response. The similarity supports our contention that what is at stake at Nicaea is not merely an orthodox Christology, but the authenticity of human encounter with the redemptively self-revealing God of Israel.

Rabbinic texts usually treat the biblical accounts of God's self-revealing presence in a realistic fashion. The Sages are not embarrassed by biblical anthropomorphism. They assume that the figure who appeared to Moses, Isaiah, Ezekiel, and Daniel, and to all of Israel at the Sea and at Sinai, was none other than *Hashem*, the God of Israel. In fact, *aggadic* material sometimes makes the anthropomorphism of the biblical theophanies look restrained. God is there portrayed as wearing *tefillin*, praying, and arguing about the Torah with the angels. In recent decades, scholars have even employed the language of

incarnation in describing this dimension of the rabbinic imagination.¹⁷

The ninth-century Karaites, influenced by Greek philosophical currents absorbed into Islamic thought, attacked the anthropomorphism of the rabbinic texts. To ward off these attacks, Saadia Gaon drew upon the same philosophy that guided the Karaites. He reinterpreted rabbinic thought in a way that eliminated all anthropomorphism, even from the biblical theophanies. His formulation had tremendous consequences for later Jewish thought, and is worth citing at length:

Peradventure however, someone, attacking our view, will ask: “But how is it possible to put such constructions on these anthropomorphic expressions and on what is related to them, when Scripture itself explicitly mentions a form like that of human beings that was seen by the prophets and spoke to them . . . let alone the description by it of God’s being seated on a throne, and His being borne by the angels on top of a firmament (Ezekiel 1:26) . . . Our answer to this objection is that this form was something [specially] created . . . It is a form nobler even than [that of] the angels, magnificent in character, resplendent with light, which is called *the glory of the Lord*. It is this form, too, that one of the prophets described as follows: *I beheld till thrones were placed, and one that was ancient of days did sit* (Daniel 7:9), and that the sages characterized as *Shekhinah*. Sometimes, however, this specially created being consists of light without the form of a person. It was, therefore, an honor that God had conferred on His prophet by allowing him to hear the oracle from the mouth of a majestic form created out of fire that was called *the glory of the Lord*, as we have explained.¹⁸

On the one hand, Saadia treats realistically the biblical theophanies. He does not doubt that Ezekiel, Isaiah, and Daniel truly saw an enthroned human figure, referred to in the text as *Hashem*. He also does not doubt that such a figure possessed objective existence beyond the imagination of the prophet. On the other hand, his philosophical commitment to absolute divine transcendence—which he understands as a necessary corollary of the divine unity—excludes the possibility that this enthroned human figure can in fact be the eternal uncreated One. Therefore, he concludes that the form seen by the prophets—the *Kavod*

(Glory) or *Shekhinah*—must be a created entity, more exalted than the angels, but not divine.

As Gershom Scholem notes, Saadia's interpretation became "a basic tenet of the [Jewish] philosophical exegesis of the Bible." We find it in such classic writers as Yehudah Halevi and Maimonides. Scholem also points out its radical novelty.

These respected authors could hardly have ignored the fact that this conception of the *Shekhinah* as a being completely separate from God was entirely alien to the talmudic texts, and could only be made compatible with them by means of extremely forced interpretation of these texts. Nevertheless, these philosophers preferred 'cutting the Gordian knot' in this way rather than endanger the purity of monotheistic belief by recognizing an uncreated hypostasis.^{[19](#)}

The parallel here to the Arian interpretation of the *Logos* should be evident. The underlying concerns are identical: a desire to guard the purity of divine transcendence and unity understood in terms of Greek philosophical conceptions. The problems encountered as a result of this concern are likewise identical: the realistic biblical presentation of God's self-revelation to Israel. Finally, the strategies adopted to overcome the problems are the same: the thesis that the One who is called by the divine Name and who apparently manifests the divine Presence is a created entity, distinct from God and at a lower level in the hierarchy of being.

Just as the Jewish philosophical reinterpretation of the *Kavod/Shekhinah* parallels the Arian reinterpretation of the *Logos*, so the kabbalistic response to the Jewish philosophers parallels the Nicene response to the Arians. Like the Nicene fathers, those who championed the tradition of the *Zohar* agreed with their opponents on the ineffable and transcendent nature of God. These Jewish mystics employed the term *Eyn Sof* (i.e., the Infinite One) to refer to this aspect of the divine reality. However, also like the Nicene fathers, the kabbalists viewed the self-revelation of God (the biblical *Kavod*, whom they referred to as the *Sefirot*) as both distinct from and one with *Eyn Sof*. The infinite and transcendent

nature of God required the distinction, but the objective reality and truthfulness of divine revelation required the unity. If the *Kavod* revealed to Israel is not truly and fully divine, then God remains unknown to the world, and Israel's claim to a covenant with a redemptively self-revealing God is rendered fraudulent.

Even the language used by the kabbalists to express the relationship between the *Sefirot* and *Eyn Sof* resembles the language employed within the stream of Nicene orthodoxy. "The kabbalists insisted that Ein Sof and the sefirot formed a unity 'like a flame joined to a coal.' 'It is they and they are It.'"²⁰ This language distinguishes both *Kabbalah* and Nicene orthodoxy from Neo-Platonic thought, in which each stage of emanation involves a gradation in the hierarchy of being, and in which everything below the ineffable "One" occupies a lower ontological status in that hierarchy.

The hidden God in the aspect of *Ein-Sof* and the God manifested in the emanation of *Sefirot* are one and the same, viewed from two different angles. There is therefore a clear distinction between the stages of emanation in the neoplatonic systems, which are not conceived as processes within the Godhead, and the kabbalistic approach.²¹

Thus, while kabbalistic thought in some ways resembles Neo-Platonism, and was influenced by it, on this fundamental point the two systems diverge. *Kabbalah* here has more in common with Basil of Caesarea than with Plotinus.

This commonality derives less from direct influence than from similar issues and concerns. For both the Christian and the Jewish traditions, Greek philosophy challenged the biblical presentation of the God of Israel and the living faith of the communities who worshipped that God. Nicene orthodoxy and Jewish mysticism responded by drawing insights and terminology from the challenging philosophical systems and employing them within a new framework provided by Scripture and the tradition of the worshipping community. The philosophical terminology of *ousia* and emanation now served faithful testimony to the infinite transcendent God who acts within the world to establish a covenant relationship with a people, a relationship in which this God is genuinely and redemptively known.

Post-Nicene Christology in Messianic Jewish Perspective

We have examined the teaching of the Nicene Creed concerning the deity of Yeshua in light of Scripture and Jewish tradition, employing the hermeneutic of *dialectical ecclesial continuity*. This examination has exposed nothing objectionable in the teaching of the Creed, but instead has confirmed it as a faithful witness to Israel's God and Messiah by the Church of the Nations in the particular circumstances of the 4th century Greco-Roman world.

However, affirmation of the Nicene Creed need not imply uncritical reception of the normative Christian piety and theological expression that it generated. Here, we must stress the *dialectical* component in our hermeneutic. At this point our Jewish sensibility comes to the forefront, and raises pressing questions.

First, many Messianic Jews question whether Christian thought and practice have dealt adequately with the differentiation of the Father and the Son. As noted above, the Creed rules out any inequality of being between the Father and Son, at the same time as it recognizes that the Son derives his being from the Father and is thus ordered after and towards the Father. It rules out the one type of "subordination," while implying the other.

However, in the history of Christian spirituality this delicate balance became increasingly precarious, as the equal divinity of the Son was stressed at the expense of the distinction between the Father and the Son. Especially in the Western Church, this exaltation of the Son threatened the unique position of the Father as the source and goal of all things. Consequently, many Christians have a diminished sense of the inner order and differentiation within the divine life, an order that was expressed in the early Yeshua-community by its normal mode of worshipping the Father, through the Son, in the Spirit.^{[22](#)}

Though the Messianic Jewish movement possesses very few universal characteristics, a reasonable candidate for this designation is the custom of addressing formal congregational worship to God the Father rather than to Yeshua the Son. This almost instinctive pattern of Messianic Jewish prayer arises, I suggest, as a result of a Jewish sensibility that sees Yeshua as the one

who brings us to the Father, who mediates a relationship with the Father by revealing rather than replacing the Father. He can only do this because he is fully divine. But he must do this because the Father is the source and goal of his own existence.²³

Secondly, the continuation of the second article of the Nicene Creed affirms unambiguously the historical humanity of Yeshua, who was born of Miriam and suffered under Pontius Pilate. Nevertheless, the challenge posed by Arianism led the Christian Church to stress Yeshua's divine rather than human nature. Just as the delicate balance between the equality and differentiation of the Father and the Son was threatened, so also was the balance between Yeshua's divinity and humanity. Christians found it increasingly difficult to accept at face value the texts in the Apostolic Writings which suggest Yeshua's ignorance of future happenings, growth in knowledge, need for companionship, fear of death, and learning of obedience amid temptation to disobedience.

The Creed's lack of reference to Israel rendered it vulnerable to this imbalance. If the person and work of Yeshua had been properly situated in relation to his own people, it would have been more difficult to swallow up his humanity in his divinity. If the Creed had mentioned not only his birth but also his circumcision, it would have buttressed its affirmation of his concrete and particular human identity. Instead, the reverse happened: the accentuation of Yeshua's divinity at the expense of his humanity made it more difficult for the Christian Church to grasp the significance of Israel or to recognize the implications of the fact that it had been incorporated into the Body of a resurrected Jew.

Once again, a concern about this historical imbalance tends to characterize the Messianic Jewish movement as a whole. Our Jewish sensibility attunes us to the importance of bodily realities. Our convictions about the enduring significance of our own Jewish identity are connected to our confession of the enduring significance of Yeshua's Jewish identity—for us, but also for the nations of the world, and for all creation.

These two reservations about the outworking of Nicene Christology in the life

of the Christian Church reveal the problematic nature of the question with which we began our paper: “Is Yeshua God?”²⁴ This three word question seems simple and straightforward, yet it contains at least two ambiguities that render any answer similarly ambiguous. These two ambiguities correspond to our two reservations stated above. First, the question could mean, “Is Yeshua the fullness of divinity, so that there is no Father distinct from the Son, from whom the Son receives his existence and to whom that existence is eternally oriented?” The answer to that question, according to Nicaea, is a resounding “no.” Secondly, the question could mean, “Is the flesh and blood of the man Yeshua divine, so that it is uncreated, eternal, and thus unlike our own flesh and blood that is created and comes into being at a particular time?” Once again, the answer to that question, according to Nicaea, is a resounding “no.”

One might say, “Nobody who asks this question means it in either of these ways!” This may be the case. However, in light of the two historical imbalances in Christian spirituality and thought described above, we have good grounds for assuming that many of those who ask the question fail to consider with sufficient care exactly what they do mean when they ask it. Moreover, as Messianic Jews we must also consider what our fellow Jews understand when they hear such a question, and when they hear it answered in the affirmative. What they hear and understand is usually as far beyond the limits of normative Christian faith as it is of Jewish orthodoxy.

Our hermeneutic of *dialectical ecclesial continuity* thus enables us to receive appreciatively from our Christian ecclesial partner, but also to offer proposals for rebalancing and repair that derive from our participation in the ongoing stream of Jewish ecclesial tradition. We can affirm the Nicene Creed, and then add our voice to the continuing argument as to how it should best be interpreted and practiced.

Conclusion

The primary contention of this paper finds expression in the parallel discovered between Arius and Saadia, Nicaea and *Kabbalah*. In accordance with the clear

teaching of the Apostolic Writings, we see Yeshua not only as the Messiah but also as *Chochmah* (Wisdom), the *Logos*, and the *Kavod*, the mediator of all God's work in creation, revelation, and redemption. Obviously, mainstream *Kabbalah* does not accept this view, but it does affirm a distinct hypostatic reality, represented by the *Sefirot*, which fulfills an analogous role. Both Nicene orthodoxy and *Kabbalah* accept the philosophical acknowledgement of God as infinite, transcendent, invisible, and incomprehensible. But they also reject philosophical interpretations which negate the reality of God's involvement with and in the world, and which so separate God from creation as to render God utterly unknowable. They both accomplish this correction of the philosophical currents in their own religious traditions by distinguishing between God the Father and God the Son, or between *Eyn Sof* and the *Sefirot*, while simultaneously asserting their inseparable unity.

Thus, what is at stake here is not an articulation of doctrinal truth that has no bearing on our lives. We are not debating the number of angels that can dance on the head of a pin. Instead, we are seeking to bear verbal witness to the reality of a redemptive encounter with the living God in a way that does justice to the authenticity of that encounter and which effectively invites others to share in it. This is what it means for us to confess the deity of Yeshua.

A promising answer to an important question always raises several new questions. Our answer to the question of Yeshua's deity immediately provokes a host of new queries, three of which deserve note and comment as we conclude this initial stage of the journey.

First, affirmation of the deity of Yeshua leads inevitably to the question of the hypostatic identity of the Spirit, and from there into discussion of the Triunity of God. Thus, the Council of Nicaea (325 CE), which addressed the issue of Yeshua's deity, was followed by the Council of Constantinople (381CE), which addressed the deity and distinct identity of the Holy Spirit. We cannot adequately appreciate the significance of the deity of Yeshua for our life until we have taken this further stage of the journey. According to the Apostolic Writings, the Spirit joins us to Yeshua, who bring us to God the Father. Not only are we

encountering God in Yeshua; in union with him, we are being ushered into the inner life of God. Once again, *Kabbalah* offers suggestive parallels. But that is a discussion for another day.

Second, affirmation of the deity of Yeshua leads to the question of how this truth should function in the definition of our identity as a Messianic Jewish community. As noted earlier, the Christian Church has treated this doctrine both as its theological center and as its external line of demarcation. In many contexts denial of the deity of Yeshua places one outside the Church's communal boundary. While we might question whether this should be so, we can also appreciate the rationale for such an exclusionary practice. For Gentiles, union with Yeshua opens up for the first time participation in the covenant which God made with the patriarchs and matriarchs. Rejection of Yeshua's role as divine mediator of God's creative, revelatory, and redemptive purposes puts the covenant status of these Gentiles in jeopardy.

However, the Messianic Jewish community finds itself in a different situation. Our position in the bilateral *ekklesia* involves partnership with the Christian Church and also membership in the Jewish people. Messianic Jews are born into the covenant with the patriarchs and matriarchs, and then discover its full meaning and power in Yeshua. When someone in our world rejects the deity of Yeshua, they are putting in jeopardy the full realization of their covenantal identity, but not their covenantal identity itself. They are usually motivated, at least in part, by pressures exerted from the wider Jewish community. In effect, they are choosing a closer social connection to the covenant community of Israel at the expense of a connection to the Church. They are accepting the negative doctrinal boundary marker asserted by the wider Jewish community.

As part of the bilateral *ekklesia*, we refuse to accept the Jewish community's negative doctrinal boundary marker, just as we refuse to accept the Christian community's negative boundary marker dealing with our covenantal practice of the Torah. (Once again, we realize the significance of our hermeneutic of *dialectical* ecclesial continuity.) But should we exclude from our midst those Messianic Jews who adhere to these negative boundary markers, i.e., who deny

the deity of Yeshua, or who deny the covenantal obligation of Torah? I am not convinced that we should. Affirmation of the deity of Yeshua and affirmation of the covenantal obligation of Torah observance for Jews are the two central principles of our communal existence, and we can rightly require that our leaders uphold them. They are our center, but they need not constitute our outer boundary.

Third, as we have just seen, affirmation of the deity of Yeshua brings us into conflict with the wider Jewish community that we call our own. Is it viable on a long-term basis for us to identify so wholeheartedly with a community that has erected a social and cultural boundary that consists of a denial of what we so centrally affirm? I would answer: probably not. In the same way, bilateral ecclesiology lacks long-term viability if the Christian Church maintains its negative boundary concerning the covenantal obligation of Torah.²⁵ These two negative boundary definitions provided the Church and the Jewish community with a comfortable, unambiguous, mutually accepted border, fenced-in and well-patrolled. They also supported the illusion that these two social bodies represented two religions, each of which made total sense apart from the other. Our existence as a corporate Messianic Jewish presence bears witness to the arbitrary and unsustainable nature of this border, and of the religious illusion it perpetuates.

We exist as a movement in part to protest this negative border. Such a protest constitutes a crucial element in our prophetic calling. Moreover, our long-term viability depends on the success of that protest. We already see significant changes in the Church's attitude towards its negative boundary. While the Messianic Jewish view on the Torah has not yet carried the day, the contrary view is no longer a universal presupposition. We can and should hope and pray for the same changes in the Jewish community's attitude towards its negative boundary.

But this will never happen if we surrender our affirmation of the deity of Yeshua, or lose sight of its true significance, or yield to pressure and hide it from public view. It will also never happen if this affirmation becomes for us an

abstract proposition, prominently displayed as a mark of doctrinal orthodoxy, but divorced from the revelatory and redemptive power to which it is meant to bear witness.

It is especially appropriate that this message be spoken and heard in the context of the Hashivenu Forum. The name “Hashivenu” has become emblematic in the Messianic Jewish world for the stream of Jewish Yeshua-believers who uphold Torah observance, Jewish tradition, and the importance of integration within the wider Jewish world. As such, those who identify with the name are also those exposed to the greatest temptation to deny or minimize the deity of Yeshua.

It is my hope that future generations will identify the name Hashivenu with a bilateral ecclesiology that rejects both the Christian and the Jewish negative boundaries—exalting the Torah as the covenantal constitution of the Jewish people, and the deity of Yeshua, light for revelation to the Gentiles and the glory of his people Israel.

[1.](#) Presented at the 2010 Hashivenu Forum in Los Angeles.

[2.](#) Philip Schaff and Henry Wace, eds., *Nicene and Post-Nicene Fathers of the Christian Church, Second Series, Volume XIV The Seven Ecumenical Councils*. Grand Rapids: Eerdmans, 1983, 54. Emphasis added.

[3.](#) *Nicene and Post-Nicene Fathers, Volume XIV*, p. 54. Emphasis added.

[4.](#) For definitions of these terms, see R. Kendall Soulen, *The God of Israel and Christian Theology*. Minneapolis: Fortress, 1996, 29–31.

[5.](#) “This omission is reflected in virtually every historic confession of Christian faith from the Creeds of Nicaea and Constantinople to the Augsburg Confession and beyond,” in Soulen, p. 32.

[6.](#) George A. Lindbeck, *The Nature of Doctrine*. Philadelphia: Westminster, 1984, 75.

[7.](#) J.N.D. Kelly, *Early Christian Doctrines*. New York: Harper & Row, 1978, 232.

[8.](#) We will actually be examining the form of the Creed adopted at the Council of Constantinople in 381 C.E. that has become the standard version of the Nicene Creed. It has no significant differences in Christological teaching from the Creed actually adopted at Nicaea.

[9.](#) See Larry W. Hurtado, *Lord Jesus Christ*. Grand Rapids: Eerdmans, 2003, 114.

[10.](#) As the context makes clear, Paul’s expanded Messianic *Shema* is aimed, like its traditional Jewish model, at the rejection of pagan idolatry and polytheism.

[11.](#) William F. Arndt and F. Wilbur Gingrich, *A Greek-English Lexicon of the New Testament*. Chicago:

University of Chicago, 1979, 527.

[12.](#) As implied by variant readings of Luke 3:22.

[13.](#) As implied by Acts 13:33.

[14.](#) Oskar Skarsaune argues that this phrase also “is an encapsulated version of Proverbs 8:22–31” and thus reflects the Wisdom Christology that is a central motif of the Nicene Creed. See *In the Shadow of the Temple*. Downers Grove: InterVarsity, 2002, 333.

[15.](#) The phrase “Light from Light” alludes to Wisdom 7:26 and Hebrews 1:3, again expressing Wisdom Christology, in Skarsaune, p. 333.

[16.](#) For this view of the *homoousion*, see Skarsaune, pp. 333–35. J.N.D. Kelly likewise thinks that the original intent of this term at Nicaea was to mean “of the same nature,” in Kelly, pp. 234–37. Over time the term took on the additional meaning of “numerical identity,” i.e., that the Father and Son (and Spirit) are together one being, in Kelly, pp. 245–47, while the related term *hypostasis* expressed the distinct identities of the Father, Son, and Spirit. (As the creedal anathemas demonstrate, at Nicaea *hypostasis* and *ousia* are treated as synonyms.) Nevertheless, no true theological consensus emerged on the precise meaning of the terms *ousia* and *hypostasis*. All agreed only that the former expressed the unity of Father, Son, and Spirit, and the latter expressed their distinction.

[17.](#) For example, see Jacob Neusner, *The Incarnation of God*. Atlanta: Scholars Press, 1992.

[18.](#) Saadia Gaon, *Book of Beliefs and Opinions*, II:10, in Rosenblatt, 121.

[19.](#) Gershom Scholem, *On the Mystical Shape of the Godhead*. New York: Schocken, 1991, 154–55.

[20.](#) Daniel Matt, *Zohar*. Ramsey NJ: Paulist, 1983, 33.

[21.](#) Gershom Scholem, *Kabbalah*. Jerusalem: Keter, 1974, 98.

[22.](#) Many Christian theologians of the twentieth and twenty-first centuries have recognized the need to recapture the structure or *taxis* of differentiation between the Father and the Son. For example, John Zizioulas writes: “In making the Father the ‘ground’ of God’s being—or the ultimate reason for existence—theology accepted a kind of subordination of the Son to the Father without being obliged to downgrade the *Logos* into something created. But this was possible only because the Son’s otherness was founded on the *same substance*.” (*Being as Communion*. Crestwood: St. Vladimir’s Seminary, 1985, 89. Similarly, Colin Gunton:

“There is, in the biblical representation of the way in which the acts of God take shape in time, some support for Zizioulas’ giving of priority to the Father. It is often said that when the New Testament writers use the word ‘God’ *simpliciter*, they are referring to God the Father, so that Irenaeus is true to Scripture in speaking of the Son and Spirit as the two hands of God, the two agencies by which the work of God the Father is done in the world . . . Such talk of the divine economy has indeed implications for what we may say about the being of God eternally, and would seem to suggest a subordination of *taxis*—of ordering within the divine life—but not one of deity or regard . . . The Spirit is the giver of faith, not in himself, nor even, strictly speaking, in Christ, but in the Father through Christ. In that respect, we return to the theme that God *simpliciter* is God the Father, the fount and goal of our being. But we neither receive our being in the first place apart from Christ, the mediator of creation and salvation, nor are directed to our goal apart from the Spirit, the perfecting cause.” (*The Promise of Trinitarian Theology*. New York: T&T Clark, 1991, 197, 199.

Finally, from Thomas Torrance: “All the revealing and saving acts of God come to us from the Father, through the Son and in the Holy Spirit, and all our corresponding relations to God in faith, love and

knowledge are effected in the Spirit through the Son and to the Father.” (*The Christian Doctrine of God: One Being Three Persons*. Edinburgh: T&T Clark, 1996, 147).

[23](#). A concern about the role of God the Father as the primary addressee of prayer appears in the two most seminal texts of the early Messianic Jewish movement: Dan Juster’s *Jewish Roots*. Rockville: Davar, 1986, 187–88; and David Stern’s *Messianic Jewish Manifesto*. Jerusalem: Jewish New Testament, 1988, 94.

[24](#). Referring to the man Yeshua as “God” is rare in the Apostolic Writings, but becomes extremely common in the early centuries of the Christian Church. It is a reflection of a Christian linguistic convention known as the sharing of attributes (*communicatio idiomatum*), in which verbal expressions specifically appropriate to Yeshua’s divine or human nature are applied also to his integrated divine-human person (see Kelly, 143; 296–301). We cannot denounce this ancient practice as illegitimate, since it is also attested (albeit infrequently) in the Apostolic Writings (e.g., John 20:28). However, our Jewish sensibility alerts us to its potential for misunderstanding and abuse.

[25](#). Of course, our movement does recognize a sense in which full-orbed observance of the Torah should function as a boundary—not between the *ekklesia* and the People of Israel, but between the *ekklesia* of the circumcision and the *ekklesia* of the uncircumcision. This boundary distinguishes but does not divide—it is not a fortified border between two feuding countries, but a line marking out the territory of two provinces within the same nation. And it is not a negative boundary (except in the limited sense that it does not bind Christians), for the Christian Church should honor the Torah and endorse its full-orbed observance by all Jews.

The Life of the First Jewish U.S. Supreme Court Justice Louis Brandeis: Exploring “Privacy Issues” and Ancestral Cultic Connections

BY ELLIOT KLAYMAN

Introduction: The Scope

In 1890 the Harvard Law Review published an article by Samuel Warren and Louis Brandeis, entitled, *The Right to Privacy*.¹ The article was precipitated by the observation and concern that “what is whispered in the closet shall be proclaimed from the housetops.”² Brandeis and Warren were outraged by the press overstepping its freedom by intruding into private lives, negatively affecting reputations, and circulating portraits of private persons, without proper consent.³ These concerns provided the initial impetus for Warren and Brandeis penning the article. Couching privacy as a kind of property right,⁴ the article engendered much judicial attention. It was, in fact, the ignition that sparked widespread judicial recognition of the tort, invasion of privacy, and is testimony to the impact that a scholarly article can have on the development of common law. At the same time, the article, co-authored by Louis Brandeis, may offer some insight into the Justice’s personality and temperament.⁵

The article was consistent with the private side of Louis Brandeis. By all accounts he was detached, distant, and aloof.⁶ This article explores why. Through that exploration it surveys the life of Louis Brandeis, the first Jewish Justice of the United States Supreme Court, and one of the more brilliant justices to serve on the High Court’s bench. It sketches his background, law practice, embracement of Zionism, Supreme Court nomination and opposition, and his positions on speech and privacy derived from cases he decided while he sat on the Court. It then focuses on a “ghost in his closet” (which may hold the key to his detachedness, penchant for privacy, and his interests and motivations), before delivering a final word.

His Background

In response to anti-semitism, after the 1848 failed revolution in the German states, and in search of economic opportunities, Adolph Brandeis traveled to the United States, seeking to pave the way for family members.⁷ The following year a number of his family, and his fiancée, Frederika, set sail from Hamburg and arrived in New York, where Adolph greeted them. Not long afterward Adolph and Frederika married.⁸ Although conscious of their Jewish heritage, they were not particularly religious.⁹ They appeared to be like many other Jews who hailed from the German lands during this era, who negotiated a line between private Jewishness and public Germanness. The new couple were of cultured and middle-class means.¹⁰ After the birth of their first child, Fanny, they moved to Louisville, Kentucky, where two more children were born before Louis Brandeis entered the world on November 13, 1856. Adolph's business enterprises prospered.¹¹

The Civil War began before Louis's fifth birthday, and his early memories are those of his mother providing food and coffee to the Northern army.¹² At an early age Louis excelled in his school work, and received recognition and commendation for his achievements.¹³ In the early 1870s, the South was hit with economic depression, and the Brandeis family fortune waned. In response, Adolph dissolved his business and took the family to Europe where they arrived in England in the summer of 1872. Louis, now sixteen years old, enjoyed some vacation time, and was then admitted into Annen-Realschule in Dresden, where he once again excelled in his studies.¹⁴ Nonetheless, Louis became homesick and decided that he wanted to follow in the footsteps of his maternal uncle, Lewis Dembitz, and study law.¹⁵

Louis Brandeis returned to Louisville along with his family, and in the fall of 1875 he entered Harvard Law School.¹⁶ There he was exposed to the case method, a revolutionary approach to teaching law at the time.¹⁷ He took to it, achieving extremely high scores in his courses. Graduating with distinction, he was selected by his classmates as the pick to deliver the oration at graduation.¹⁸

After a short courtship, Louis married a second cousin, Alice Goldmark, who was born of Viennese Jewish immigrants.¹⁹ Together they forged an “equal partnership,” whereby she advised Louis on the promotion of progressive causes.²⁰ They had two daughters. Alice was a bit frail and suffered from periods of feeling fatigued and “out of sorts,” which were probably due to some type of mood disorder.²¹

Louis had some health problems of his own. He was scrawny and physically weak. His eyes were afflicted with some anomaly that prevented him from long hours of reading, especially at night.²² These “disabilities,” which were to afflict him his entire life, did not impede him from excelling as a brilliant lawyer.

His Law Practice

Brandeis’s parents were not entirely happy when their son decided to practice law in St. Louis, instead of Louisville. Nonetheless, they were supportive.²³ He was admitted to the Missouri bar and began to practice with a private firm.²⁴ Thereafter, he wrote his sister that he was “disposed to become melancholy and to moralize on the total depravity of man and woman.”²⁵ It is likely that he suffered from at least extreme boredom or mild depression; but, that soon resolved when he departed for Boston, seeking intellectual intercourse and excitement.²⁶

Brandeis joined one of his Harvard Law School classmates in Boston, Samuel Warren, with whom he previously co-authored *The Right to Privacy* article. Together, they practiced law in downtown Boston. Part-time, Brandeis clerked for Horace Gray, a Massachusetts Supreme Court judge who was later to become an Associate Justice of the United States Supreme Court. Through social networking connections, the Warren & Brandeis law firm grew and flourished.²⁷ Brandeis’s reputation for possessing good lawyer skills grew as well.²⁸ A real crossroads emerged, however, when he was offered a full-time position as a professor at Harvard Law School.²⁹ As tempting as it was, he turned it down in favor of developing his trial practice skills.³⁰

Brandeis had a non-conventional philosophy and approach regarding client representation. He had a sense of fairness and he sought to impose it on his clients. In his estimation, he was not just representing the client but, in a sense, all sides of the dispute, including the public. His critics accused him, in this respect, of acting unethically, and outside the canons.³¹ Later, they were to oppose his appointment to the Supreme Court for those and other reasons.³²

Brandeis was perceived as a people's lawyer, and probably saw himself in this mode, as well.³³ In an address he delivered in 1905, he said: "We hear much of the 'corporation lawyer,' and far too little of the 'people's lawyer.'"³⁴ He was more of a public interest lawyer, acting independently, seeking to "curb the excesses" of the big and the small litigant.³⁵ He especially condemned what he referred to as the "curse of bigness."³⁶ He always sought to impose his sense of fairness into the mix of law. It was not just blind advocacy in favor of his client. To this extent he was always somewhat removed from his client—a bit detached.

Brandeis's legal philosophy was evolving. Though initially on the side of management in the labor-management disputes, he began to see the unevenness of the playing field. He changed his views mid-stream, even as he prepared notes for a business law course he taught at MIT.³⁷ Brandeis evolved to recognize "that the common law, built up under simpler conditions of living, gave an inadequate basis for the adjustment of the complex relations of the modern factory system."³⁸ He saw how these factories oppressed the worker. He undertook public causes. He fought against the inhumane conditions of the state-run pauper's home in Boston.³⁹ He sought lower tariffs on behalf of the public interest.⁴⁰ Siding with the best interests of the people and the community, Brandeis argued these issues before legislative and regulatory bodies.⁴¹ Toward that end, he attacked monopolization of public transportation⁴² and rate increases for the railroads.⁴³ He sympathized with the plight of the workers, recognizing their oppression by employers.⁴⁴ When it came to public causes, he was passionate and indefatigable. Many believed that Brandeis was supported by big money in his public causes. In fact, to the contrary, he often shouldered the

financial burden himself.⁴⁵

Even in his representation of public causes and his clients, others recognized his “aloofness,” his “otherness.” He stood apart from society’s institutions and from the circle of normative law practice. His detachment may have betrayed, and even been a product of, a dark secret in his ancestors’ closets.

He innovated the “Brandeis brief” in a social legislation case involving limiting work hours for women, which he supported.⁴⁶ The brief amassed a large amount of empirical data on the detriment to the health and welfare of women working long hours.⁴⁷ It was one of many contributions he made to the field of law. His causes, however, were not limited to law.

His Embracement of Zionism

So enamored was Louis Brandeis with his uncle, Lewis Dembitz, that in his early teens he substituted his uncle’s last name for his own middle name, David. His uncle was an observant Jew who had a radical change of religiosity at age 13. Brandeis, who basically experienced a secular Jewish upbringing in his own household, described how he was affected by his uncle’s celebration of the Sabbath:

. . . I recall vividly the joy and awe with which my uncle . . . welcomed the arrival of the day and the piety with which he observed it. I remember the extra delicacies, lighting of the candles, prayers over a cup of wine, quaint chants and Uncle Lewis pouring over books most of the day. I remember more particularly an elusive something about him which was spoken of as the ‘Sabbath peace’ . . . Uncle Lewis used to say that he was enjoying a foretaste of heaven.⁴⁸

Uncle Lewis was a lawyer, an active Zionist, and an Orthodox Jew. Although Brandeis would never appropriate the brand of Jewish piety exhibited by his uncle, he did embrace with passion law and, later in his life, Zionism.⁴⁹

The term Zionism is derived from the Hebrew Bible, where the word Zion is often used by the prophets to identify the land that was promised to the Jewish people by God through the patriarchs. The spirit of Zionism, which is the heart-

felt desire to return to that land, was expressed by the Psalmist on the occasion of the Babylonian exile:

By the rivers of Babylon, there we sat down, yea, we wept, when we remembered Zion. We hung our harps upon the willows in the midst thereof, for there they that carried us away captive required of us a song; and they that wasted us required of us mirth, saying, Sing us one of the songs of Zion. How shall we sing the Lord's song in a foreign land? If I forget thee, O Jerusalem, let my right hand forget her cunning. If I do not remember thee, let my tongue cleave to the roof of my mouth, if I prefer not Jerusalem above my chief joy.⁵⁰

This sentiment to remember and return to Zion is at the heart of Zionism. Beginning not long after the destruction of the Second Temple in 70 C.E., this desire was expressed throughout the ages in prayers, poems, and other writings. In fact, corporate prayer held three times a day in the synagogue implores God to rebuild Zion and the Temple in Jerusalem.⁵¹

Modern Zionism did not erupt in organized form until the third quarter of the nineteenth century. Fueled by anti-Semitism throughout Europe, and a pioneer spirit, Jewish people started to return to the Land in waves of immigration starting in the 1880s. There were various brands of Zionism, depending upon the motivations. Religious Zionism was a strand that received its impetus from religious inspiration, and was rooted in messianism. Practical Zionists were rooted in a desire to see a homeland for the Jewish people in order to escape the cruel impact of anti-Semitism throughout the world. Secular Zionism sought to achieve a utopian ideal through the Jewish state. Although there were various strains of Zionism expressed by different philosophies and motivations, it is Theodor Herzl, who is recognized as the father of modern Zionism. Herzl was not a religious Jew. With his form of political Zionism, he sought a homeland for the Jewish people scattered throughout the world, secured by international law. This plan he mapped out in his book, *Der Judenstaat*.⁵²

Brandeis was captivated by Herzl's vision in 1910 when presented to him by Jacob de Haas, an editor of a Boston Jewish newspaper. De Haas, who

approached Brandeis about savings bank life insurance, had been a close associate of Theodor Herzl, who had previously dispatched de Haas to America for the purpose of fostering American Zionism. Herzl died suddenly in 1904, but his vision and his World Zionist Organization were still very much alive. After the political discussion ended, de Haas invoked the name of Brandeis's uncle, Lewis Dembitz, without apparent knowledge of Brandeis's strong affection toward him. This piqued Brandeis's interest and he insisted that de Haas tell him more about the connection between his uncle and Zionism. De Haas readily complied and followed up with literature.⁵³ Not long thereafter Brandeis was a "Zionist convert."⁵⁴

In 1914, when hostilities broke out in the world, the plight of the European Jews hung in the balance. Brandeis recognized the sufferings of the Jews in Russia, Poland, and other eastern European nations, as evidenced by a letter he wrote to his brother.⁵⁵ That same year in Boston, Brandeis appeared on the platform at a Zionist gathering. Dr. Nahum Sokolow spoke, concluding that a Jewish state in Palestine was the only solution to the "homeless" position of the Jews. In response, Brandeis jumped up and responded:

Thank you, Dr. Sokolow, you have brought me back to my people. Throughout long years which represent my own life, I have been to a great extent separated from Jews. I am very ignorant in things Jewish.⁵⁶

Brandeis was becoming impassioned with the cause of Zionism, and he wholeheartedly embraced it with the vitality to which he was accustomed. Although his upbringing was nominal and he was not an observant Jew, he longed for something meaningfully "spiritual." Brandeis experienced feelings of hopelessness at times,⁵⁷ feelings of emptiness, perhaps precipitated by guilt pangs of disassociation from his religion and a need to champion a cause for "his people." Although detached from Judaism, he was certainly not ignorant of the history and the plight of the Jewish people throughout the ages—their wanderings, exile, and persecutions—from the "days in Egypt" to the present plight. He had empathy for the oppressed, and these were times of oppression.

Jews in Russia were suffering from false accusations, pillages, pogroms, murders, and massacres. They were systematically excluded from big cities, choice jobs, and educational opportunities.⁵⁸ In Germany, where emancipation was secured, still anti-Semitism was rampant. The Dreyfus affair in France⁵⁹ was a witness that even in the face of emancipation, Jews were singled out for the most extreme discrimination.

Brandeis could not forget that he was Jewish. He was reminded of it on more than one occasion in his practice by those who would target him for negative comments based on his heritage; even much of the opposition to his nomination as Associate Justice of the Supreme Court was rooted in anti-Semitism.⁶⁰ And even an Associate Justice who was to sit with Brandeis on the High Court displayed anti-Semitic sentiments directed toward him.⁶¹ Hence, he could not deny that anti-Semitism existed even in the land that was so filled with opportunity for him and so many others. He was a man waiting for the right cause. Zionism was that cause. When he realized that he could make a difference for the Jewish people—an afflicted people—he was ready to rise to the occasion. He needed only the opportunity. That opportunity emerged first in New York in 1914, when the need arose to establish a Provisional Emergency Zionist Committee in the United States to facilitate aid to oppressed world Jewry. De Haas nominated Brandeis as the chairman of the Committee. He accepted the appointment and pushed ahead with the zeal of an inspired lawyer.⁶² Thereafter, Brandeis rose to lead and reinvigorate the Federation of American Zionists (the Federation) by increasing its membership ten-fold plus and its budget substantially.⁶³

Zionism was certainly not universal throughout the worldwide Jewish community. It had many opponents who were well respected. Judah Magnes, the first president of Hebrew University in Jerusalem, Martin Buber, the famous Jewish philosopher, and Albert Einstein all opposed “conventional Zionisms” and opted instead for a type of bi-nationalism (two-state) form of government. This was a time when the bulk of western European Jews were settled into their

emancipation. They were assimilated in France and Germany, and had negotiated a sort of compromise with their religious tradition as a *quid pro quo* for being citizens of their country. All were not enamored with the idea of a Jewish state. They preferred to be French first and German first and English first, and to enjoy the fruits of acculturation.⁶⁴ Louis Brandeis, nonetheless, recognized the value of a separate state for the Jewish people, and embraced the vision of Theodor Herzl as presented to him by de Haas.⁶⁵

Brandeis did not believe that Israel was for every Jewish person. He found his identity as an American Jew and certainly believed he could advance the Zionist cause in America. Brandeis's Zionism was an American Zionism. Zionism, he believed, reflected the ideals of Americanism: democracy, egalitarianism, and social justice. In his estimation, Zionism and Americanism were compatible. Good Jews made good Americans and good Jews needed to be Zionists. Brandeis energized Zionism in America, and his charisma was an attraction for American Jewry. He sought to unify the American Zionist movement into a cohesive unity. Toward that end, he experienced much opposition and much success.⁶⁶

Conflict was brewing between the American Jewish Committee (AJC), led by Louis Marshall, who was not endeared to Zionism, and the Federation led by Louis Brandeis. Brandeis recognized the need for a Jewish Congress, which would generate representatives from the Jewish organizations, to deal with the issues confronting Diaspora Jewry. In his predictable posture, he opted for an egalitarian democratic approach, with a broad umbrella of representation and openness. Marshall clung to the idea of a narrow, closed forum, with selected groups and more of a republican form of representation. There appeared to be an impasse. The AJC boycotted the preliminary conference for the Congress. But Brandeis's stature was rising, and when he was nominated to the U.S. Supreme Court in the winter of 1916, there was no higher profile Jew in the country. The AJC was having a meeting at the Astor Hotel in New York to discuss the Congress, and Marshall invited Brandeis giving the impression that he was

willing to reconcile and compromise. However, at that meeting, Brandeis was verbally ambushed by Judah Magnes and others. This moved him to withdraw from all offices and leadership positions connected to Zionism. Nonetheless, he continued to be a vibrant spokesman for its cause, and to rule through his Zionist supporters “behind the scenes.” Brandeis worked hard for his vision of one Zionist Organization of America (ZOA) under which all American Zionists would rally. In the spring of 1918 the Federation of American Zionists, a loose organization that sought to consolidate other organizations, disbanded, along with many other Zionist organizations. To fill the void, the ZOA was formed with its purpose to raise money for the distressed Jews throughout Europe and to assist in building up Palestine as a safe haven for Jews. Out of its formation came the Pittsburgh Platform, which included a focus on the rights of all peoples in Palestine, land development, free education, and Hebrew as the *lingua franca*.⁶⁷

Brandeis worked in the U.S., much as did Theodor Herzl had worked in the world scene—through political diplomacy. In 1917 the U.S. entered the war, and Britain announced what came to be known as the Balfour Declaration: that the British Government would “view with favor the establishment in Palestine of a national home for the Jewish people” That declaration committed Great Britain to “use [its] best efforts to facilitate the achievement of this object”⁶⁸ Brandeis and Chaim Weizmann worked together to help formulate this precise wording, and Brandeis lobbied to gain President Wilson’s approval. Then came the victory of the Allies. Turkey surrendered, and Palestine came under British rule. The Peace Conference in Paris was the opportunity for the Zionists to “hold Britain’s feet to the fire.” Although Brandeis did not initially go to the Conference, he sent Felix Frankfurter, who did much there to advance the Zionist cause. In the summer Court recess of 1919, along with his daughter and de Haas, Brandeis set sail for Paris to make his appearance at the Peace Conference with an eye toward accelerating the Zionist hope. He traveled to Paris, Egypt, and Palestine, and back to Paris. He was moved by Jerusalem and

experienced an emotional reaction, which he recorded in a letter to his wife.⁶⁹ However, he also saw the malaria infestation, and the British soldier's anti-Semitism, which was infecting the Arabs.⁷⁰ When he returned to Paris, he parried with Weizmann over the place of the World Zionist Organization, the strategy for eliminating malaria, and the best way to build Palestine. Both men were strong leaders with a sense of vision. Unfortunately, they agreed on little.⁷¹

In the spring of 1920, the victorious nations concluded a peace at San Remo, where they embraced the establishment of a homeland for the Jewish people under a British Protectorate. It was there that Brandeis offered his view on the proper way to handle matters of accounting. It was the eastern European approach to aggregate all of the donations of funds into one account versus the German particularity of segregating accounts to insure that there were checks and balances against misuse of the funds. At the same time, the American delegations were beginning to resent Brandeis's invisibleness in the movement. His popularity began to wane. His last stand with Weizmann occurred in Cleveland, Ohio where the Weizmann position at the ZOA on commingling of general donations and investments prevailed. Pursuant to Brandeis's directions, his supporters who were on the executive committee resigned and exited the convention. Brandeis was not prone to compromise on principles that he perceived as moral imperatives. Although he withdrew from the Cleveland ZOA conference, he did not go away. He retreated to a lower profile and, along with his Zionist associates, prepared to return to fight again for the principles and the approach to Zionism to which he was strongly attached.⁷²

When it was apparent that the ZOA had fallen into a mode of ineffectiveness,⁷³ and even unscrupulous activities, the Brandeis group sought to reclaim leadership. But the incumbents were not prone to "give up the ship" without a fight, even if it was sinking. The 1928 convention was held in Pittsburgh, and although the Brandeis group made a good showing, the incumbent, Louis Lipsky, held on to the top executive seat. The following year, Palestine erupted in bloodshed when Arab mobs attacked Jews in their shops and

homes, killing more than 100.⁷⁴ Resentment between the Arabs and the Jews in Palestine ran both ways. The *effendis*, the wealthy Arab landowners, were incensed that the Jewish settlers were encroaching on their enclave; they were fearful that the *fellahin* (small Arab farmers) would be influenced by the European model of representative government. They were offended by the assault on their sovereignty and were beginning to aspire to develop their own nationalist aspirations. The Jews were equally as incensed at these landowners for killing innocent settlers. Tensions ran high.⁷⁵

Britain was reneging on their Balfour commitment of 1917. In fact, it came to Brandeis's attention that Britain was intending to define the doctrine by limiting immigration of Jews to Palestine. His information turned out to be essentially correct. Britain issued its "White Paper" on May 17, 1939, which announced a restriction of Jewish immigration to Palestine to 75,000 Jews over the next five years, plus severe limitations on Jewish purchase of land.⁷⁶ There were pockets of anti-Semitism deeply rooted in the military and other high circles in Britain,⁷⁷ which was no doubt fueling the anti-Semitism against the Jewish settlers. The British solution was to curb Jewish immigration. None of this was acceptable to Brandeis. As a "prophet," he saw the storm clouds gathering on the distant horizon and mobilized his "troops," invoking his resources to recapture the ZOA. Although he was unwilling to re-assume a public leadership role, he nonetheless orchestrated a peaceful *coup*, which put his brand of practical leadership back in control of the ZOA. Then he sought to persuade British diplomats of the need to honor the Balfour Declaration. He "lobbied" the new President, FDR. He informed the public of the growing threat in Germany, with the ascent of Adolph Hitler, and urged the German Jewish community to depart from Germany. He did all of this while he sat as one of the "nine prophets" on the highest court in the land of the United States.⁷⁸

His Supreme Court Nomination and Opposition

Louis Brandeis was no stranger to President Wilson. He had worked hard to get

Wilson elected; and when in the White House, Wilson called upon Brandeis for advice frequently, particularly on economic matters. He wanted to offer Brandeis a cabinet position, but he was unable to stand up against the political opposition to such an appointment.⁷⁹ Brandeis was passed over for Attorney General in favor of James McReynolds, a southern Democrat, who was later elevated to the High Court, where he sat with Brandeis.⁸⁰ Wilson remembered Brandeis when a vacancy occurred on the High Court.⁸¹ Perhaps Wilson thought that the appointment would enhance his chances for another term, by securing the progressive and Jewish vote.⁸² There had never before been a Jew nominated to the Supreme Court, although in 1853, President Millard Fillmore was considering Judah Benjamin for appointment. Benjamin declined the offer, opting instead to run for a senate seat.⁸³ Now, President Wilson submitted Brandeis's name for confirmation to the Senate, knowing that it would engender controversy. It was a surprise to many, and a disappointment to former President Howard Taft who clearly aspired to the High Court seat.⁸⁴ Controversy did swirl. Behind the objections that his character was flawed, that he lacked integrity, judicial temperament, and was unethical and even unscrupulous, were shades of age-old anti-Jewish sentiment.⁸⁵ The *New York Sun* implied that the fact that he was Jewish might work in his favor:

[I]f he were obliged to go before the Senate purely on his merits he would be defeated. There is, however, danger, that the racial issue will become involved in the struggle, and in that event it would be difficult to predict how members of the Senate would vote.⁸⁶

Senators did not want to appear opposed to Brandeis for fear that it would be construed as anti-Semitic. Henry Cabot Lodge, the republican senator from Massachusetts, parroted the *Sun*:

If it were not that Brandeis is a Jew, and a German Jew, he would never have been appointed and he would not have a baker's dozen of votes in the Senate.⁸⁷

The President of Harvard University, A. Lawrence Lowell, signed a petition

along with fifty-four other lawyers, and in a letter accused Brandeis of being unscrupulous. Years later Lowell sought to impose Jewish quotas on Harvard admissions,⁸⁸ analogous to the *numerus clausus* imposed on the Jews in Europe in the nineteenth and twentieth centuries.⁸⁹

Those who testified in opposition to Brandeis in the Senate Judiciary subcommittee hearings were, for the most part, disgruntled former clients or opponents in the legal arena. They came to the hearings to vent, charging that Brandeis did not make full disclosure, that he undertook a case where there was a conflict of interest, or that he failed to represent their best interests.⁹⁰ The common thread running throughout the grumblings was finances. Behind that may have been a type of economic anti-Semitism that was common throughout western Europe, but here dressed in a more sophisticated cloak. For example, in Germany, responsibility for all of the financial woes of the state were expressly placed on the Jews. Here we have a subtler form, where the victims of economic misfortunes, or the losers in legal contests, blamed Brandeis, the representative Jew. The anti-Semitic motivation may have even escaped the conscious level of the accuser. Nonetheless, it was pervasively present. Arthur Hill, a Boston attorney explained the opposition to Brandeis by saying “that Mr. Brandeis is an outsider, successful and a Jew” which “sufficiently explained most of the feeling against him.”⁹¹ President Wilson told Stephen Wise, a rabbi and prominent Zionist spokesman: “There is more lying about the Brandeis case than any matter of which I know.”⁹² These comments hinted at plain and simple anti-Jewish sentiment.

In a 3-2 straight party vote, the Judiciary subcommittee recommended confirmation.⁹³ The full Committee, also along party lines, 10-8, adopted the subcommittee’s recommendation, and the Senate followed, 47-22 in favor of confirmation.⁹⁴ On June 4, 1916, Louis Dembitz Brandeis was sworn in as the first Jewish Justice to the United States Supreme Court.⁹⁵ More importantly, he has been acclaimed almost universally, by liberals and conservatives alike, as one of the great justices of all time.

His Decisions on the Court

Brandeis brought his experience as a lawyer to the bench. He was a hard-working justice, who was very meticulous in the preparation of his opinions. He used persuasion to win over the justices to his point of view, rather than internal political “trade offs” and compromises, so customary on the High Court.⁹⁶

Brandeis had a heart for academia. He invited his friend Felix Frankfurter, a Harvard law professor, to urge law students to critique the court’s opinions in law review articles.⁹⁷ Brandeis “obsessed” over the facts of a case. Many of his opinions would contain elongated recitations of the law, in attempts to lay out, for example, the facts behind a legislative enactment. Brandeis labored over his opinions. They were often “prophetic” reflections of a man speaking ahead his time. His opinions in the area of human liberties manifested a real sense of awareness of the government’s potential for oppressing people. His position on speech and privacy reflect his understanding of individual dignity and human rights.

Speech

The First Amendment speech provision was not well developed when Brandeis came to the court in 1916. Brandeis started to get dosages of free speech cases, in reaction to President Wilson’s imposed limitations on free speech during World War I. Oliver Wendall Holmes authored the opinion in *Schenk v. United States*.⁹⁸ In it he bounded free speech by “clear and present danger.”⁹⁹ Although Brandeis joined in the majority he later regretted it,¹⁰⁰ and in a trilogy of speech cases he began to move the law in the direction where speech is paramount, and like property rights, protected through the Due Process clause. For Brandeis, “clear and present danger” without a more refined definition did not go far enough to give speech the protection intended by the Framers of the Constitution. He was not comfortable leaving the determination of “clear and present danger” to jurors who were “untrained fact finders.” Hence, he opined in his dissenting opinion in *Schaefer v. United States*¹⁰¹ that the alleged speech

must meet a threshold test before going to the jury:

If the words were of such a nature and were used under such circumstances that men, judging in calmness, could not reasonably say that they created a clear and present danger that they would bring about the evil which Congress sought and had a right to prevent, then it is the duty of the trial judge to withdraw the case from the consideration of the jury . . . [102](#)

Brandeis, in establishing a procedural safeguard and a rule of reason approach set the tone for future free speech cases. Also, dissenting in *Pierce v. United States*,[103](#) he decided that it was not reasonable to believe that a Socialist party leaflet that expressed horror at the war and asserted that financial interests had triggered the U.S.'s involvement was a reasonable threat that could be punished. Brandeis capstoned his 1920 term of free speech dissents in *Gilbert v. Minnesota*,[104](#) where he voted against upholding a state statute that prohibited speeches against the war. He denounced the statute as overbroad because it condemned the right to teach pacifism in the home. He stated: "I cannot believe that the liberty guaranteed by the Fourteenth Amendment includes only liberty to acquire and to enjoy property."[105](#) Here was the inception of the "absorption doctrine" that would begin a "revolution" in judicial activism—the protection of individual liberties through selective absorption of the guarantees in the Bill of Rights, applied to the states. Now Brandeis was ready to move with passion instead of his normal careful deliberation on the facts. In *Whitney v. California*,[106](#) Brandeis concurred in a case involving a statute that made it illegal to organize and assemble with the Communist Party. In an emotionally-charged opinion, he appealed to the Constitution and the intent of the framers, and laid out a clearer definition of the limits of the Free Speech clause. In doing so, he lined his opinion with the reason for free speech. It was not just, according to Brandeis, for the purpose of permitting a free market approach to speech. It is for freedom and liberty. "They believed liberty to be the secret of happiness and courage to be the secret of liberty."[107](#) He went on to say:

Fear of serious injury cannot alone justify suppression of free speech

and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears. To justify suppression of free speech there must be reasonable ground to fear that serious evil will result if free speech is practiced. There must be reasonable ground to believe that the danger apprehended is imminent. There must be reasonable ground to believe that the evil to be prevented is a serious one.^{[108](#)}

Brandeis went on to define imminent as where there is no time to allow for oppositional speech to permit full discussion. The remedy, he said, is not silence, but more speech to counter the fallacies of the words that are spoken. Only an emergency would justify repression.^{[109](#)} Although he was out of sync with the court of that day, he laid the groundwork for later court opinions that would embrace his mature thoughts on free speech, thus affording meaning and dignity to the individual right of free speech.

Right to Privacy

Brandeis, in his co-authored *Right to Privacy* article, anticipated some of the privacy problems that were to challenge society thirty years later. Now Brandeis was on the court and he could do more than just write a law review article. He had the power to participate in making law. The threat was not just newspaper reporters who were publishing embarrassing reports, but now it was new technology that allowed the government to snoop into the privacy of people's homes. Wire tapping devices enabled officials to hear private telephone conversations.

Brandeis had his chance to air his views in *Olmstead v. United States*.^{[110](#)} That case involved government wiretapping without a warrant, directed toward the federal government's attempts to enforce Prohibition. Home and office phones were tapped, producing a mound of incriminating evidence against suspects including a Seattle police officer. The majority upheld the wiretaps, musing that they did not violate the fourth amendment's proscription against unreasonable searches and seizures. Chief Justice William Howard Taft, writing for the

majority, took a formalistic stand and observed that there was no entry into the defendants' homes, no appropriation of any material things, and that it was tantamount to listening to a conversation where the speakers were not coerced into saying anything. Brandeis was outraged and in a rare flare of emotion wrote:

Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that Government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.¹¹¹

Contrary to Taft, Brandeis saw the fourth amendment protection as broader than the material invasion of a house. He looked at unwarranted government intrusions into privacy as the very stuff that the framers sought to protect against. They protected the person, not just the place. He also had the prescience to anticipate new ways of surveillance. He brought full circle his law review article into the High Court's opinion (albeit dissenting), when he recognized that what is "whispered in the closet" would wind up on the court record. It took forty years before the High Court recognized the wisdom of Brandeis's approach in this arena.¹¹² In his opinion, Brandeis characterized the right to constitutional privacy as the "right to be let alone." Subsequent justices cited his language and position to constitutionalize privacy in birth control,¹¹³ abortion¹¹⁴ and the right to die¹¹⁵ cases. We do not know how Brandeis would have ruled in those cases since his opinion in *Olmstead* was confined to wiretapping.¹¹⁶

In both free speech and privacy cases, Brandeis sought to limit the power of government in the private lives of people. As such, his views could be characterized as liberal or even progressive in its time. In searching for the source of Brandeis's liberalism one may be prone to cite the fact that he was Jewish, and liberalism was a political trait particularly embraced by the masses

of Jews in the eastern regions. However, Brandeis is not susceptible to being “boxed” into this over-simplistic reasoning. A person’s judicial philosophy and approach to life and the law does not turn on one strand. But it may not be too far-fetched to imagine that a contributing factor to Brandeis’s progressivism in the area of free speech and privacy is linked, at least in part, to the “ghost in his closet.”

The Ghost in the Closet

In the 1650s, on the heels of the Chmielnicki massacres of Jews in Poland,^{[117](#)} there arose in the Ottoman Empire to prominence a charismatic man named Shabbetai Zvi, who some believed to be the Messiah of the Jewish people. He exhibited bizarre conduct, including marrying a Torah, pronouncing the forbidden name of God, and engaging in antinomian practices. In Salonika he was placed under the ban, and excommunicated from the Jewish community, apparently due to his bizarre conduct and refusal to be accountable.^{[118](#)} It was Nathan, a very well-respected traditionalist, and a highly regarded kabbalist, who first affirmed the identity of Zvi as Messiah.^{[119](#)} In 1666 Zvi went public with the pronouncement and, in a state of mania, to which he was prone, approached the Ottoman Sultan, thinking that the Sultan’s “diadem” would be placed on his own head. Instead, he was imprisoned, and under threat of “losing his head,” converted to Islam. His ardent followers, some very prominent rabbis, refused to abandon him, but instead explained that it was necessary for the Messiah to descend into the depths of heretical sin in order to gather together the “lost sparks” and to restore the “broken vessels,” that shattered and dispersed during creation.^{[120](#)} This cosmic reparation (*tikkun*), as understood by his adherents, would occur in due time, and this thought prevailed among Zvi’s followers into the twentieth century. According to the historian Gershom Scholem, the bulk of world Jewry accepted Zvi’s candidacy for Messiah, before his conversion, only to repudiate him after his heresy.^{[121](#)} Many prominent rabbis and others sought to cover up their involvement and adherence to Zvi.^{[122](#)} Others

continued to follow him. Some converted to Islam, known as the Donmehs; some converted to Catholicism, while some maintained their Jewish identity. Zvi's radical behavior accompanying his ascendancy to "messiahship" apparently served as a model for another pseudo-Messiah, Jacob Frank, who appeared in Poland the following century.^{[123](#)}

Frank (1726–1791) took up the leadership of the Shabbatean movement in Poland circa 1755.^{[124](#)} It was an unsettled time for Jews in southern Poland, with Cossack uprisings, economic stagnation, and political indecisiveness, all of which added to their susceptibility to messianic ideations. Like Zvi, Frank converted to Islam, and like Zvi he was pursued by the government authorities. He purported to be the incarnation of one or more of the emanations of God.^{[125](#)} Because of his antinomian conduct, he was excommunicated from the Jewish community; he then gravitated toward the Catholic community, into which he and some of his followers were baptized. Because of his heretical beliefs he was pursued by the Inquisition, and ultimately imprisoned for thirteen years. Upon his release he gathered twelve apostles and twelve concubines to serve him, and lived out the rest of his life in wealth, nobility, and debauchery. His theology was a strange mixture of Shabbateanism, neo-kabbalism, and mythology, all designed to portray himself as the Messiah. He engaged in various forms of debauchery and sin as scriptural and sacred rites, all of which were consistent with his antinomian cultic style, and narcissistic needs.^{[126](#)} After his death, his mantle ultimately fell upon his daughter Eva who took up the "throne."^{[127](#)} The Frankist movement was headquartered in Offenbach, Germany, until her death in 1816. The Frankists continued their activities well into the nineteenth century in Europe, and a number of his disciples immigrated to the United States in the mid-nineteenth century, including Louis Brandeis's family.^{[128](#)}

Louis Brandeis was a descendant of one of the prominent Shabbatean/Frankist families of Prague.^{[129](#)} They did not follow Frank's example of conversion to Islam or Catholicism, but maintained a Jewish identity, though very detached from Jewish ritual and practice. His mother Frederika Dembitz Goldmark

Brandeis “disdained formal religious ceremonies and encouraged her children to value ethical teachings of religion, including Judaism, while eschewing the age-old rituals.”¹³⁰ Brandeis grew up in the family environment, where, though born a Jew, he was not raised as a Jew. In fact, he celebrated Christmas,¹³¹ but not the Jewish holidays; neither did he keep the kosher laws, or the Sabbath.¹³² He was very disengaged from Jewish practice.

Brandeis’s maternal uncle, Gottlieb Wehle, wrote an ethical will in which he exhorts members of his family to “respect their ancestors’ tradition of antinomian disdain for the normative Judaism of traditional rabbis.”¹³³ This was perhaps a reaction to the family’s waning allegiance to the Frank sect. It was Justice Brandeis’s relatives, who revealed a copy of a portion of this will to Gershom Scholem, who published it.¹³⁴ In fact, Brandeis manifested a great interest in his mother’s background as evidenced by his insistence that she write down the history of the family, which she did.¹³⁵ Although she never clearly expressed her Frankist background, she did allude to it. In her letters she gives some insight into why Louis Brandeis was so divorced from traditional Judaism. The environment as presented in her letters in which she detailed her family background evinces an anti-traditional atmosphere. It harkened back to a time in Prague when it was normative to be Jewish ethnically, German culturally, and Austrian politically.¹³⁶ Yet, the Brandeis family, obviously influenced by the Frankist sect, had shunned their Jewishness and failed to expose their son Louis to anything more than the vagaries of Jewish identity.

Brandeis’s mother gave him a copy of a picture of Eva Frank¹³⁷ (who was Jacob Frank’s daughter and his spiritual successor upon his death), which was handed down and reserved for those who were privileged descendants of Frankists. This generation of Frankists had thrown off and/or forgotten the deviant ways of the founder; previous generations had actually destroyed the written remnants of their affiliation with the sect, even going door to door to collect any memoirs or written traces of the sect, so that they could discard the embarrassing “evidence.”¹³⁸ They continued, however, to maintain a certain

elitist pride about being connected to the sect's past. This pride was reflected in Brandeis's mother's letters to her son; her descriptions of the close-knit community bespeak the Frankist sect in clandestine terms. Hence, we know that Louis Brandeis knew of this "ghost in the closet," that would not be wise to profess openly. This may have made him particularly sensitive about the importance of the right to privacy (which he defined in his co-authored *Right to Privacy* article as the right to an "inviolable personality") and the right to speak one's conscience.

Louis Brandeis took his second cousin, Alice, as his bride, a practice not uncommon for Jewish people and Frankists during this era. She too was a descendant of the circle of crypto-Frankist Jews,¹³⁹ and was undoubtedly aware of the secret of the family's past.

It is well settled that people possess learned traits, and in this respect there is much transfer from parent to child. For example, Holocaust survivors' children often carry the scars and the effects of growing up in a home dominated by the fallout of the traumatic impact of the Holocaust on their parents. This may manifest itself in a variety of ingrained responses that are displayed throughout life; for example, paranoia, phobias, withdrawal, and many other traits. It is not far-fetched to speculate that Louis Brandeis's personality was partly shaped by the secret in the closet that was possessed, and even repressed, by his parents who came to the U.S. to start a new life, obviously free of cultic influence.

Brandeis has been portrayed by biographers, historians, and by those who knew him as "detached," and an "outsider."

[T]hroughout his life, Brandeis saw himself standing alone at the margin of his society. Though he had many opportunities to deny this, to find some comfortable status, Brandeis always turned away; he always found a place to stay alone.¹⁴⁰

Perhaps this aloofness can be explained because he was Jewish in a gentile world.¹⁴¹ Others trace it to a vicarious identification with his mother. She communicated to Louis by letter that she was extremely pained due to the death

of her mother when she was age 12.¹⁴² And he did take a sincere interest in his mother's background.

Another possibility contributing to this detachedness, noticeably absent from any serious scholarly consideration, is the secret Shabbatean/Frankist connection. The nineteenth-century Frankists were known to withdraw into a hiding place of solitude, where they were careful not to reveal too much about themselves for fear of reprisals. This learned trait may have been transferred to Louis, even unconsciously. Although he did readily identify as a Jew, he must have been timid and even uncomfortable around Jews who had a normative Jewish upbringing, which he lacked. It may have even made him self-conscious. He was detached from the world, and from people. His detachment from Judaism was another composite in the mystery of Brandeis's "detachment from the world."

Psychologically, his embracement of Zionism may have met a deep-seated need to identify with his people in a way that would not be "offensive" to his sectual roots. He was a Jew but not religious. For him Judaism was a people oppressed, and he knew that historically he was connected to this people. He did not, however, embrace the strain of Zionism engaged by his uncle, an orthodox Jew, who perhaps reacted against his anti-Talmudic family heritage. Zionism provided a place to belong for Brandeis, a safe place where he could be identified with a Jewish cause without the necessity of practicing, or even pretending to be traditional in any way. It negotiated a proper place for him not so inconsistent with the views of his parents. He maintained an "antinomian stance," while embracing his Jewishness. Psychologically, Zionism for Brandeis assuaged his chronic detachment, and it made him feel good to be so associated. It was Judaism without religious Jewishness.

Moreover, Brandeis's passion for the "right to privacy" may have been driven by the environmental aura produced by his ancestors' obsession with hiding the Frankist connection. In his passionate dissent in *Olmstead*, one can almost hear his background cries ringing through his opinion and envision his "vicarious experience":

The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfaction of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.¹⁴³

His progressive opinions on free speech were but a correlative of the right to privacy. In a sense he is saying, let us have our freedom in our speech and our privacy in our person. Give us the freedom to say what we want and the liberty to be private about what we say. These positions may have been influenced at least in part by that “ghost in the closet.”

A Final Word

Louis Dembitz Brandeis was a people's lawyer. He put money second, although he had plenty of it. He had met the economic threshold and never equated materialism with success or anything more than a by-product of his “public interest” goals. His focus was on affecting policies and issues that would better society. He was confident in his intellect and ability to find answers to solve difficult questions. He carried his experience and his ability as a lawyer to the bench. Once there, he exerted the same energy that he did in his law practice. He tended toward perfectionism. He focused on detail and particularly the facts. He has left a great legacy for practitioners and judges alike to emulate. He was a principled pragmatist, who possessed a consistent moral quality. However, like all members of the human race he was flawed.

Brandeis's personality reflected an aloofness, a detachedness. Yet, he sought to compensate by interacting with others, and by re-attaching himself to the roots of Jewishness in a way that was compatible with his background and orientation. He embraced Zionism as an antidote for his lack of attachment to Judaism, presumably a product of parental upbringing and influence. Perhaps

unconsciously he sought to wipe the slate clean of his cultic heritage,¹⁴⁴ by building on a mainstream idea in Judaism. It was an “American” form that he fashioned. It was not the religious form, nor even a “Palestine for every Jew” form. It was one that recognized that a person could be attached to Palestine without even being there physically. It was a form that embraced an understanding that Judaism was for all Jews, secular and religious, in the land or outside of the land. It was this unifying bond, this “attachment” that Brandeis so desperately lacked during the first half-century of his life, that he sought to fill in his later life. Zionism may have sanitized his link to his Shabbatean/Frankist past; or, perhaps it broke the link. Regardless, it provided a new heritage for his successors. At the same time, it undoubtedly gave Brandeis feelings of satisfaction and wholeness.

¹. Samuel D. Warren and Louis D. Brandeis, *The Right to Privacy*, 4 Harv. L. Rev. 193 (1890). For a bit of commentary on the article see Lewis J. Paper, *Brandeis: An Intimate Biography of One of America's Truly Great Supreme Court Justices*. Secaucus, N.J.: Citadel Press, 1983, 33–36; see also, Melvin I. Urofsky, *Louis D. Brandeis: A Life*. New York: Pantheon, 2009, 98–102.

². Warren and Brandeis, 195.

³. “The press is overstepping in every direction the obvious bounds of propriety and decency. Gossip is no longer the resource of the idle and of the vicious, but has become a trade, which is pursued with industry as well as effrontery.” *Ibid.*, 196.

⁴. *Ibid.*, 205.

⁵. It cannot be certain which co-author of the article was responsible for what portions. We do know that Warren enlisted Brandeis to help with the article. The listed authorship with Warren first, signals that he was the lead author, since it is out of alphabetical order. How much Brandeis massaged and embellished the manuscript is unknown. Yet, he certainly identified with the basic content and thrust of the article. Later, when he was on the Supreme Court, he drew on the article when opining on a privacy case. See *Olmstead v. United States*, 277 U.S. 438 (1927).

⁶. See, for example, Urofsky, 17, 171, 338, 470, 524.

⁷. *Ibid.*, 3–8; Arthur Hertzberg, *The Jews in America*. New York: Simon & Schuster, 1989, 102–12.

⁸. Paper, 6–9; Urofsky, 114.

⁹. Paper, 199.

¹⁰. Urofsky, 4–5.

¹¹. They included a flour mill, a tobacco factory, an 1100-acre farm and a steam freighter. Paper, 9.

[12.](#) Ibid., 10.

[13.](#) Ibid., 11.

[14.](#) Ibid., 12.

[15.](#) In fact, later, Brandeis changed his middle name from David to Dembitz, due to his great admiration for his uncle. Ibid., 13; Urofsky, 18.

[16.](#) Urofsky, 23–24.

[17.](#) Paper, 14.

[18.](#) He amassed a two-year average of 97, which included 3 marks of 100 and one of 99. Ibid., 16; Urofsky, 31.

[19.](#) Urofsky, 103–18.

[20.](#) Ibid., 115.

[21.](#) Ibid., 121–25, 363.

[22.](#) Paper, 15.

[23.](#) Ibid., 17–18.

[24.](#) This employment opportunity in the law office of James Taussig was made possible through Brandeis's brother-in-law, also a lawyer in St. Louis. Ibid., 17. Although he enjoyed a lot of independence and freedom, he was not motivated by the city or the people. He, in fact, experienced boredom. Ibid., 17–19. For him, the cases were not interesting. Out of his practice in St. Louis did come a case that moved him to write an article supporting a creditor's right to sue an estate on a contract that a trustee of an estate made. The article appeared in the American Law Review, *ibid.*, 18–19, which at the time was edited by Oliver Wendall Holmes, a future eminent U.S. Supreme Court justice.

[25.](#) Ibid., 19.

[26.](#) Ibid., 17–19.

[27.](#) Urofsky, 46–74.

[28.](#) For example, Brandeis sought to resolve disputes short of litigation. Burt, 49. He was a skilled negotiator and a very creative mediator, as attested by his record of his attempts to mediate the disputes between the International Ladies' Garment Workers Union and management. Paper, 135–45. Yet Brandeis was a litigator and, if necessary, he tried the case and usually won. However, he did not always trust the judicial institution to work well. Common law was too slow and he did not feel that it fared well when dealing with consumer- and worker-protection issues. Legislative enactments, he believed, were more efficient for insuring consumer and workers' rights, and for imposing corporate social responsibilities. See notes 37–44, and accompanying text.

[29.](#) Paper, 27. He had taught the course on Evidence at Harvard and that went well. Ibid., 26–27. He also taught Business Law at MIT. Ibid., 38.

[30.](#) Urofsky, 80. In 1881, two years into the Boston practice, Warren and Brandeis hired their first associate and then in 1884 their second. The pair was successful and the firm grew in numbers and reputation. Paper, 20–30. Brandeis made his first argument before the U.S. Supreme Court in 1889. This occurred only because the attorney who was scheduled to argue the case did not appear on time, and Brandeis, the junior associate, was "on deck." Baker, 12. Brandeis was gaining experience and he was

comfortable with complex litigation and with appearances before juries. He possessed an uncanny ability to immerse himself in the facts of a case, and to cross-examine witnesses unceasingly, always making sure that the record was complete. *Ibid.*, 48–49.

[31.](#) In fact, this approach to lawyer-client relations created a problem for Brandeis in his confirmation hearings. Seven past presidents and fifty-seven lawyers and citizens signed a petition opposing his Senate confirmation. Robert A. Burt, *Two Jewish Justices: Outcasts in the Promised Land*. Berkeley, California: University of California Press, 1988, 9. The leader of the opposition in the Senate said: “Mr Brandeis does not act according to the canons of the Bar . . . [he] always acts the part of a judge toward his clients, instead of being his client’s lawyer, which is against the practices of the Bar.” A.T. Mason, *Brandeis: A Free Man’s Life*. New York: Viking, 1946, 506; see also Urofsky, 437–58 for opposition to the nomination and appointment.

[32.](#) See notes 85–92, and accompanying text.

[33.](#) Burt, 13.

[34.](#) Mason, 105–06.

[35.](#) Burt, 34.

[36.](#) Urofsky, 300–26.

[37.](#) Paper, 38–39.

[38.](#) *Ibid.*, 39.

[39.](#) *Ibid.*, 39–40.

[40.](#) *Ibid.*, 41, 175.

[41.](#) *Ibid.*, 39–41.

[42.](#) *Ibid.*, 55–64. He took on the powerful combination that sought to monopolize the transit system in Boston, by long term leases, independent rate-making, and exemption from payments to the city.

[43.](#) *Ibid.*, 146–159.

[44.](#) *Ibid.* 65–68. Although recognizing the merit of unions, he also felt that they should be responsible for wrong-doing, and in fact, debated Samuel Gompers on that very issue.

[45.](#) For example, he agreed to undertake representation of a committee of life insurance policy-holders only on condition that he would not be paid. *Ibid.*, 82. This led to a successful fight for the passage of legislation in the Massachusetts state legislature that created the opportunity for savings bank life insurance. Now savings banks were able to offer plans for pensions, and death insurance, that would compete with the conventional life insurance companies. *Ibid.*, 80–91. Brandeis was successful in his fight against the dilution of the value of stock issued by gas utility companies, and the battle for the consumers to hold down the cost of gas. *Ibid.*, 69–79. In these public battles, Brandeis knew the value of public support and was a genius at enlisting it. He clearly demonstrated this in his nine-year campaign against the New Haven’s Railroad monopolization and outside control of the B & M, a Massachusetts railroad transportation company. *Ibid.*, 92–111. Moreover, Brandeis was relentless when it came to discovery of the facts, as aptly demonstrated in his representation of the “public interest” in a joint congressional hearing involving a matter of ethics in government, which involved the U.S. Secretary of the Interior; this matter even reached to the President of the United States. For a good treatment of the Ballenger-Pinchot controversy see *ibid.*, 112–34; Urofsky, 254–76.

[46.](#) *Muller v. Oregon*, 208 U.S. 412 (1908).

[47.](#) Paper 161–66.

[48.](#) *The Words of Justice Brandeis*, ed., Solomon Goldman. New York: Henry Schuman, 1953, 160.

[49.](#) For an extensive discussion of Zionism and Louis Brandeis, see Urofsky, 515–44.

[50.](#) Psalm 137: 1–6.

[51.](#) *Siddur Tiffereth David*, arrang., Hyman Segal. New York: Hebrew Publishing Co., 1951, 57.

[52.](#) Herzl perceived a Jewish problem for which he sought a solution. He lays out the case for his solution in this seminal book. Throughout Europe, Herzl recognized an anti-Jewish sentiment. Wherever they wandered and settled, they were persecuted. “Out with the Jews,” was the Gentile motto. He saw the vicious pattern of anti-Semitism, and believed that the Jews had become what the Gentiles forced them to be, caused by restricting them to the ghettos and from certain livelihoods. Herzl eventually recognized that anti-Semitism could not be remedied through colonization of a few thousand Jews in one place or another, or through becoming peasants, or even through assimilation. He saw the proximate cause of modern anti-Semitism, as emancipation, which freed the Jewish populace to become rivals of the middle class bourgeois.

Herzl’s answer to the Jewish problem was political sovereignty on Jewish soil secured by international law. He hoped this would be accomplished through a tandem effort of two great agencies: Society of the Jews and The Jewish Company. The first would generate the plan and the second would implement it. The Society would negotiate with the nations to secure the land. The Company would liquidate property and businesses and purchase the land. Money would be raised through banks or public subscriptions.

Herzl saw an aristocratic republic form of government, one that is in-between monarchism and democracy. There would not be a common language, but a type of “linguistic federalism.” Nor would the republic be theocratic, although religion would have its place in the “temples,” just as the military would have its place in the “barracks.” Ibid.

First, it is note-worthy that Herzl was not motivated by his religion, at least not primarily, or even secondarily. He was motivated by egalitarianism for the Jewish people, a desire to see the completion of emancipation. He saw no other way but through Jewish autonomy. This would, he believed, be the great equalizer, and would rid the planet of anti-Semitism. Second, although rooted in liberalism, it was not to be accomplished through democratic principles, but through the Roman legal concept of *gestor*. The *gestor* acts on behalf of a people who cannot act on its own, because of a disability. For Herzl, it was the Society that was to assume the role of *gestor*, to hold in trust the welfare of the Jewish people and the responsibility of acting prudently. Thirdly, since the book bordered on utopianism, with, for example, seven-hour work days and free housing for workers, Herzl expressly disclaimed it as utopian so that people would take it seriously. Fourthly, he foresaw a type of symbiosis between the departing Jews and the countries from which they were departing. “Jew-riddance” would eliminate anti-Semitism. The Jewish Society would make sure that the countries would be compensated for their departure, for the loss of businesses and taxes. Gentiles within the states of departure would benefit through succeeding to the businesses that remained, or at least from the absence of competition; and the countries of departure would have another trading partner in the world: a new sovereign state.

Herzl instilled confidence in readers when he said, “The Jews who want a state of their own will have one . . . And whatever we attempt there only for our own welfare will spread and redound mightily and blessedly to the good of all mankind.”

The Jewish state was a process. It first had to exist in the mind of Herzl, and then the vision had to be embraced by others. Thus, it was a state before it was a state. The book created a picture that needed to be drawn. This was apparently Herzl’s motive—for people to rally around the idea so that it would become a

reality. Theodor Herzl, *The Jewish State*, trans., Harry Zohn. New York: Herzl Press, 1970.

[53](#). Paper, 202.

[54](#). Burt, 117–19.

[55](#). “You cannot possibly conceive of the horrible sufferings of the Jews in Poland and adjacent countries.” Leonard Baker, *Brandeis and Frankfurter: A Dual Biography*. New York: Harper and Row, 1984, 73.

[56](#). Ibid., 73–74.

[57](#). Paper, 19.

[58](#). Benjamin Nathan, *Beyond the Pale: The Jewish Encounter with Late Imperial Russia*. Berkeley, California: University of California Press, 2002.

[59](#). Alfred Dryfus was falsely accused of spying and was degraded and imprisoned before he was later exonerated. The whole affair was rooted in anti-Semitism. Interestingly, it was Theodor Herzl who covered the trial of Dreyfus. Solomon Grayzel, *A History of the Jews*. Philadelphia: Jewish Publication Society, 1968, 644–48; Howard Morley Sachar, *The Course of Modern Jewish History*. New York: Dell, 1958, 230–33.

[60](#). Urofsky, 439–40, 442.

[61](#). Ibid., 479.

[62](#). Baker, 74–75.

[63](#). Paper, 205.

[64](#). See generally, Yoram Hazony, *The Jewish State: The Struggle for Israel’s Soul*. New York: Basic Books, 2000.

[65](#). Paper, 202–03.

[66](#). Urofsky, 523–27.

[67](#). Paper, 204–05, 259–64. Brandeis was the key draftsman of the Pittsburgh Platform. Urofsky, 527.

[68](#). Urofsky, 520.

[69](#). Paper, 268.

[70](#). Ibid., 318.

[71](#). Ibid., 268–71, 387.

[72](#). Ibid., 273–74.

[73](#). Membership had declined from a high of 176,000 in 1919 to less than 25,000, and finances were severely down. Ibid., 317.

[74](#). Ibid., 319.

[75](#). Raymond P. Scheindlin, *A Short History of the Jewish People: From Legendary Times to Modern Statehood*. Oxford, Eng.: Oxford University Press, 1998, 228–29. For the riots of 1920–21 in the Land, see *A History of the Jewish People*, ed., H.H. Ben-Sasson. Cambridge, MA: Harvard University Press, 1976, 997–98 [hereafter referred to as *A History of the Jewish People*].

[76](#). Paper, 320, 389. The problem was that Great Britain had been promising one thing to the Jews and

another to the Arabs, and these two promises built up irreconcilable expectations. Ibid., 386–87.

[77.](#) Ibid., 268.

[78.](#) Some urged Brandeis to take the helm of the World Zionist Organization. Had he agreed, he probably would have had the support to succeed. However, it would have required him to step down from his position on the court. He thought long and hard and finally refused. Urofsky, 535–36.

[79.](#) Paper, 78–80.

[80.](#) While Brandeis sat on the High Court, he was the target of McReynolds’s virulent anti-Semitism. Urofsky, 479, 749.

[81.](#) Joseph Lamar, a Taft appointee, died January, 1916. Urofsky, 430.

[82.](#) Baker, 101.

[83.](#) Paper, 212–13.

[84.](#) Taft voiced his opinion that the leading Jews of notable cities, “who do not tend toward socialism,” would be troubled and indignant over the nomination. Baker, 100. He also charged that Brandeis manipulated American Jewry in order to get a presidential appointment, by becoming a prominent, insincere Zionist. Ibid. In reality, even those Jews who were not so happy with Wilson’s choice of this Jewish appointee, because Brandeis had no upbringing in the Jewish religion and did not practice it, nonetheless ultimately came to Brandeis’s support. Ibid., 101.

[85.](#) Brandeis’s law partner, Edward McClennen, listed anti-Semitism as the top reason for the opposition to Brandeis, particularly among the southern Democrats. Ibid., 102.

[86.](#) Paper, 213.

[87.](#) Baker, 101.

[88.](#) Urofsky, 445.

[89.](#) See for example the restrictions on Russian Jewry in Nathan, 257–307. See also *A History of the Jewish People*, 956.

[90.](#) Paper, 215–37.

[91.](#) Ibid., 230.

[92.](#) Ibid., 233.

[93.](#) Ibid., 234.

[94.](#) Ibid., 238.

[95.](#) Ibid., 239.

[96.](#) He employed law clerks to help him toward that end. He encouraged his law clerks to speak up when they disagreed with him. He would weigh their perspective, and occasionally a clerk’s argument persuaded him to change his position. He expected his clerks to work hard and be accurate. For that, however, they rarely got any accolades from the Justice. They only heard from him when they had disappointed him in some way. Baker, 193–94; Paper, 244–46, 396.

[97.](#) Paper, 255–56. In fact, Brandeis was the first justice to cite law review articles in the High Court’s opinions, *The Jewish Justices of the Supreme Court Revisited: Brandeis to Fortas*, ed., Jennifer M. Lowe. Washington, D.C.: The Supreme Court Historical Society, 1994, 18, and at times he cited some that were

penned by Harvard law students. Brandeis sought to teach, not just his brethren on the court, but the broader base of people who would read the opinions. *Ibid.*, 17.

[98.](#) 249 U.S. 47 (1919).

[99.](#) Justice Oliver Wendall Holmes wrote the opinion:

The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. When a nation is at war, many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight, and that no Court could regard them as protected by any constitutional right. 249 U.S. 52.

This test has been nuanced over the years and the standard applied today in *Brandenburg v. Ohio*, 395 U.S. 444 (1969) in determining “clear and present” danger is the “imminent lawless action test.”

[100.](#) *Baker*, 246.

[101.](#) 251 U.S. 466 (1920).

[102.](#) 251 U.S. 483.

[103.](#) 252 U.S. 239 (1920).

[104.](#) 254 U.S. 325 (1920).

[105.](#) 254 U.S. 343.

[106.](#) 274 U.S. 357 (1927).

[107.](#) 274 U.S. 375.

[108.](#) 274 U.S. 376.

[109.](#) 274 U.S. 377.

[110.](#) 277 U. S. 438 (1927).

[111.](#) 277 U.S. 485.

[112.](#) *Katz v. United State*, 389 U.S. 347 (1967).

[113.](#) *Griswold v. Connecticut*, 381 U.S. 479 (1967).

[114.](#) *Roe v. Wade*, 410 U.S. 113 (1973).

[115.](#) *Cruzan v. Missouri Department of Health*, 497 U.S. 261 (1990).

[116.](#) *The Jewish Justices of the Supreme Court Revisited*, 30–31.

[117.](#) Gershom Scholem, *Sabbatai Sevi*. Princeton, N.J.: Princeton University Press, 1973, 88–93.

[118.](#) *Ibid.*, 148–49.

[119.](#) *Ibid.*, 207–23, 843.

[120.](#) In order for God to create the world, he had to contract or exhale, to make room for it (*tzim som*). This led to chaos, which continues, awaiting the Messiah to repair the broken world, known as *tikkun olam*. Joseph Dan, *Kabbalah*. Oxford, Eng.: Oxford University Press, 2006, 73–83.

[121.](#) For a comprehensive treatment of the life of Shabbetai Zvi, see Gershom Scholem, *Sabbatai Sevi*.

[122.](#) Harris Lenowitz, *The Jewish Messiahs: From the Galilee to Crown Heights*. Oxford, Eng.: Oxford University Press, 1998, 149–65.

[123.](#) Ibid., 170.

[124.](#) Ibid., 170–95.

[125.](#) According to Lurianic kabbalah there are ten emanations of God (*sefirot*): Crown, Understanding, Wisdom, Justice, Mercy, Beauty, Majesty, Victory, Foundation and Divine Presence. *Back to the Sources: Reading the Classic Jewish Texts*, ed., Barry W. Holtz. New York: Simon & Schuster, 1992, 319–25.

[126.](#) Lenowitz, 189–91; Gershom Scholem, *The Messianic Idea in Judaism: And other Essays on Jewish Spirituality*. New York: Schocken Books, 1971, 126–41 [hereafter referred to as *The Messianic Idea in Judaism*].

[127.](#) Lenowitz, 195–97.

[128.](#) *The Messianic Idea in Judaism*, 167.

[129.](#) Both Louis’s mother’s and father’s families “belonged to a minor and despised sect, followers of the eighteenth-century pseudo-messiah Jacob Frank.” Urofsky, 4. Frederika, Brandeis’s mother’s family in Europe “had been caught up in a Jewish messianic movement known as Shabbateanism . . .” Baker, 21; see also, Urofsky, 4. However, Frederika, though influenced to an extent, did not embrace the movement in an orthodox way. Ibid. In fact, she was reactionary, refusing to bring up her children with a definite religious belief. Baker, 22.

[130.](#) *The Jewish Justices of the Supreme Court Revisited*, 12.

[131.](#) His mother, Frederika, as a little girl was beguiled by the Christmas festivities. Baker, 22; Urofsky, 18. And, Louis and his wife, Alice, celebrated Christmas with a tree, and toys for the children. Urofsky, 366.

[132.](#) Urofsky, xi, 114, 407–08, 542.

[133.](#) *The Messianic Idea in Judaism*, 167–75.

[134.](#) Ibid., 168.

[135.](#) Burt, 121.

[136.](#) Marsha Rozenblit, *Reconstructing a National Identity: The Jews of Habsburg Austria During World War I*. Oxford, Eng.: Oxford University Press, 2001.

[137.](#) Lenowitz, 175, figure 8.1.

[138.](#) *The Messianic Idea in Judaism*, 170.

[139.](#) Urofsky, 105–06; *The Messianic Idea in Judaism*, 167–71.

[140.](#) Burt, 9.

[141.](#) Ibid., 124–29. Burt likens him to Moses, who was Jewish, but who did not grow up in a Jewish home. He vicariously identified with the sufferings of enslavement, yet he was free, and this gave him the capacity to deliver them from bondage. Ibid., 124–25.

[142.](#) Ibid., 119–23.

[143.](#) 277 U.S. 478.

[144.](#) Interestingly, many of the Frankists pursued law as a career. Lenowitz, 175, fig. 8:1.

Halakic Authority in the Life of the Messianic Community¹

BY TSVI SADAN

First of all, I would like to express my thanks to those who have not refrained from making their voice heard in public. I would also like to thank those who refused to allow gossip and rumors to determine their agenda. I am also grateful to all those who were unwilling to let provocations sway their minds from the simple fact that Yeshua never called anyone to shed another people's blood in the name of some "pure theology" but summons us to live in accordance with "you shall love your neighbor as yourself" (Matt 22:39; cf. Lev 19:18). How simple a command, and how difficult to accomplish.

I want to start with a brief verse from the story of the creation of man, which tells us: "And God said, 'Let us make man in our image, according to our likeness'" (Gen 1:26). This is a very strange statement, because up until this point we have only heard one voice: "And God said '... and there was light ... and let the waters be gathered ... let the earth sprout vegetation ... let the waters teem with swarms of living creatures ... let the earth bring forth living creatures.'" With the creation of man, however, we suddenly hear a conversation.

I will not attempt to solve the enigma here of whom God is consulting in preparation for the creation of man. The point I am trying to make here is that up until the creation of man there has only been a monologue. God does not speak with anyone else when he creates the heavens and the earth, the flora and fauna. Only when he is preparing to create humanity do we hear conversation for the first time, which leads us to conclude that humanity is the product of this conversation. Without it, humanity would not have been created. Equally, we will die without it.

In light of this, pay heed again to the first human tragedy: "And Cain told

Abel his brother. And it came about when they were in the field, that Cain rose up against Abel his brother and killed him” (Gen 4:8). Reading according to the cantillation marks, the *etnach* guides us to understand that “Cain told [something to] Abel his brother.” Although no details about what Cain told Abel are given, we know one thing: following this conversation, they were no longer brothers. The end of the discourse was also the end of their fellowship. We learn from this that when dialogue ceases, when people are no longer willing to speak to one another, only death remains. The first murder in human history occurred as a consequence of the disappearance of dialogue.

In recent months, we have heard more than a hint that the cessation of dialogue is the proper course of action to resolve controversies. Some people are convinced that censorship, silencing, intimidation, and boycotting are important and essential tools for the creation of a better human society. In my opinion, whoever calls for an end to dialogue leads—and I have to hope does so unwittingly—to an act of murder, which includes character assassination.

I would like to remind everyone of what led to the holding of this event was an email from May 25, 2008 announcing the opening of a course entitled “Introduction to Judaism.” The course was due to start ten days after the email was sent, on June 3. In response to the email, a leader of one of the largest congregations wrote that he would not forward that email because he was not prepared to participate in disseminating “the leaven of the Pharisees and Sadducees.”

That person was not content with this step, however. He also issued an agitated call to “burn out from our midst the leaven which is . . . the teaching of the Pharisees and Sadducees, before it spreads and takes us all over. Lest we be defiled, lest we become bewitched, lest we be cut off from the grace of Yeshua.” Similar inflammatory letters were posted on the Internet, where one could read such things as “a bomb may kill the body; the teaching of the leaven [of the Pharisees] threatens our spirit.” Having said that, he then gave an ultimatum to those who hold dear the Jewish tradition: “If Yeshua’s words and warnings against the teaching/leaven of the Pharisees do not match your worldview, you

have two options: one, to change your worldview and to make it fit the words and spirit of Scripture; or two, to abandon Yeshua and his Body.”

Before I examine what leads one to conclude that “the leaven of the Pharisees and Sadducees” equals “Judaism,” I would like to turn your attention to a simple fact: Those agitated appeals to burn the “leaven” were made before the “Introduction to Judaism” course had even started. I would ask, how could anyone know that the “abhorred leaven” exists in classes that had not even been given?

Let us now venture to get to the root of “the leaven of the Pharisees and Sadducees.” I will start by trying to understand the meaning of the phrase “the leaven of the Sadducees.” To the best of my knowledge, the Sadducees disappeared shortly after the destruction of the Second Temple, following decades if not centuries of fierce controversy with the Pharisees. Therefore it should have been obvious that, if it existed at all, the “leaven of the Sadducees” was only in the margins of the periphery of Judaism (as in “Karaism”). Moreover, since the substance of the controversy between the Pharisees and Sadducees focused on the authority of Oral Law (that includes *halakah*), and since the Sadducees rejected the authority of Oral Law, Messianic Jews who reject the Oral Law are taking a “Sadducean position.” This position, as should be obvious, was rejected by Yeshua. So even before clarifying the meaning of “leaven,” lumping together the teaching of the Pharisees and the Sadducees and labeling it as “leaven” is a glaring misrepresentation of these two groups.

To understand the meaning of this “leaven,” which scares the daylights out of some people here, I will take just one verse from an abundance of New Testament verses quoted in those inflammatory letters. In Matthew 16 (the word “hypocrites” does not appear in the standard Greek text used today), Yeshua twice calls his disciples to beware of the “leaven of the Pharisees and Sadducees” (vv. 6, 11). These two admonitions follow the miracles and wonders which he had just performed in the sight of thousands of people. When the Pharisees and Sadducees approach him “to test him” (v. 11), Yeshua correctly sees this as impudence of the highest order, and responds accordingly:

“[Hypocrites,] do you know how to discern the appearance of the sky but cannot *discern* the signs of the times?” (v. 13). This means that Yeshua is labeling his opponents hypocrites because of their pretence to see one more sign while in fact all they wanted to do is to accuse him. They did not care for the signs but pretended they did. Needless to say, all Jewish factions throughout the ages unanimously rejected such behavior. Therefore, we find that Yeshua condemns it, as does R. Shlomo Ephraim of Luntshitz, who says: “The hypocrite always has his own praise in his mouth to exalt himself” (*Kli Yakar* to Exod 25:14). Accordingly “hypocrite” is a pious or righteous person in appearance only, one whose “outside” does not match his “inside.” This understanding of the term explains why Yeshua could say without contradicting himself: “The scribes and the Pharisees sit in the chair of Moses; therefore all that they tell you, do and observe; but do not do according to their deeds; for they say *things*, and do not do *them*” (Matt 23:2–3).

In the context of our present discussion, two things are important to note here. First, Yeshua does not refer to the *Sadducees* as sitting on Moses’ chair. This suggests that he does not accept their view of the Oral Law that leads them, among other things, to say that there is no resurrection from the dead. Second, the “teaching of the Pharisees” reflected in later rabbinic texts strongly denounces hypocrisy: “Fear not the Pharisees and the non-Pharisees but the hypocrites who ape the Pharisees; because their deeds are the deeds of Zimri but they expect a reward like Phineas” (*b. Sota* 22b). This Pharisaic stand sheds light on Yeshua’s instructions to obey the “teaching of the Pharisees” while rejecting hypocrisy with both hands.

This should make it perfectly clear that the “leaven” of the Pharisees is hypocrisy, and in case one still hesitates about the meaning of “leaven,” let the words of Yeshua clarify it: “He [Yeshua] began saying to his disciples first *of all*, beware of the leaven of the Pharisees, which is hypocrisy” (Luke 12:1). It follows that a responsible exegesis of the New Testament should lead to the conclusion that “the leaven of the Pharisees” refers to human behavior worthy of denunciation—not to the conclusion that “hypocrisy” is “Judaism.” Even the

Roman Catholic Church at the Second Vatican Council denounced the view that sees the Pharisee as the archetype of all Jews. This old view is rightly condemned today as anti-Semitic.

In light of this, from where does the hostility towards the “leaven of the Pharisees” come? From reading those letters, I think that it comes, among other things, from identity crises, since in one of the letters I read: “Our roots are not in rabbinic Judaism. That is a lie which must be put to rest!” Consequently the call is to dig out this root: “The issue is the leaven of the Pharisees which has penetrated to our roots. The time has come to stand firm and to put an end to it.” Now, if some Messianic Jews say their roots are not within Judaism but are deep in another soil, I have to accept their own sense of identity.

Contrary to that, I say my roots *are* deeply in Judaism—and I deliberately omit “rabbinic” because there is no Judaism apart from rabbinic Judaism. When someone says that his roots are not in rabbinic Judaism, he is effectively saying that his roots are not Jewish. I stand here today due to my forefathers, who kept faith with their tradition and refused, even at the cost of life, to exchange it for another religion. I owe them my existence. So it is insolent—and a violation of “honor your father and your mother”—to say that my roots are not in the Judaism that I inherited as a holy heritage from my father and mother, from survivors of Titus, the Inquisition, pogroms, and the Holocaust.

The “merit of the Fathers” that I inherited is not accidental. It was not pure chance that I was born to offspring of Abraham, Isaac, and Jacob. It was not a cosmic mistake that I was born in Eretz Israel, on a kibbutz, in 1955—just as it was not a mistake that I have been privileged to see Yeshua crowned in glory and majesty. In this case, too, I am part of a long chain that has not been broken of Jews who refused to sell their birthright for a pot of Christian pottage. Although most of them—like Joseph in his generation—looked completely foreign, there were some among them who knew very well where they had come from, and knew, too, the significance of the awful secret hidden in the estrangement of the Jewish people from “that man,” whose very name they did not dare to put on their lips.

These figures had the great courage to endure the suffering both of the Jewish people and of the Messiah. They did not understand what “they” and “us” mean. They knew only the reality of “us.” For those who want to learn something about this, I recommend reading “The Story of the Monk Anastasus” in Shlomo Kalo’s book *Behold Here it Comes*—an account of a Jewish convert who was executed at Auschwitz because he took upon himself the guilt of his bunkmate who hated his guts. This monk was filled with a true love for Israel—not this fiction that hates Judaism but loves the Jews.

This leads me to conclude that the Jewish religion has preserved the Jewish people in their long wanderings in the desert of the Gentiles. Some will say that it is not Judaism which has preserved the Jewish people, but God’s grace. They should rest assured. God has indeed preserved the Jewish people, and he has done so by securing them in this “ark” that is called the Jewish religion. The Jewish religion therefore constitutes a revelation of God’s grace towards the Jewish people. This religion, which arose from the smoky ruins of the Temple and which people so love to hate, is the primary instrument through which God has preserved the Jewish people. Because of it, there are Jews in the world today.

That there are Jews today leads me to the next conclusion, that lack of commitment to our Jewish heritage leads to Jewish cessation. God has not preserved the Jewish people for no reason. Nor has he done so in order to show Christians how he punishes God-killers. He has preserved the people of Israel because he chose them to bring redemption to the world; because as long as the Jewish people exist, the world will also. Conversely, we can say that if Israel’s enemies succeeded in destroying the last Jew, at that moment the world would return to chaos.

Some may say that it is Yeshua who brings redemption to the world, not the people of Israel. Again, they can rest assured. Yeshua brings redemption to the world—but who is Yeshua? We read: “Behold, my servant, whom I uphold; my chosen one *in whom* my soul delights. I have put my Spirit upon him; he will bring forth justice to the nations” (Isa 42:1). Now who is God’s “servant” here, if not the Messiah and Israel? And if there is any doubt, the same prophet says:

“Remember these things, O Jacob, and Israel, for you are my servant; I have formed you, you are my servant, O Israel, you will not be forgotten by me” (Isa 44:21). We can say similar things about the “Son of God.” Does Scripture not say about Israel: “Israel is my son, my first-born” (Exod 4:22)? In referring to these verses I am not asserting that Israel is the Messiah. What can be said is that Israel bears a messianic task which was not completed with Yeshua’s coming.

Despite the fact that, at times, it appears as though a complete correspondence exists between Israel and the Messiah, it is true that the Jewish people form the Messiah’s womb. They have always carried him within them. This means that Messiah exists because the people of Israel exist. This means that he is duty-bound to preserve them. Therefore, if for this reason alone, Yeshua’s commitment to the Jewish people is absolute: “I was sent only to the lost sheep of the house of Israel,” he said to the Phoenician woman (Matt 15:24).

Yeshua is committed to the Jewish people because he knows—as Israel is also supposed to know—that the complete redemption will only come when “all Israel will be saved, just as it is written” (Rom 11:26). Have we not already said: There is no redemption for the world apart from Israel’s redemption? Consequently, as Paul says, the Gospel goes out “to the Jew first and also to the Greek” (Rom 1:16)—and he is not talking about chronological order here. His worldview says that if the Jews do not believe in Yeshua, neither will the Gentiles. In this light, it is reasonable to assume that if Messiah’s advent into the world was dependent upon the perspective which not a few Messianic Jews insist on holding, that which sanctifies the abolishment of Torah and have no problem with assimilation—if his coming had been dependent upon this attitude, he could never have come.

On the premise that we can agree on the necessity of Israel’s existence, it must mean that Israel is distinguishable from all other nations. If the Jews cannot be distinguished as a people, their existence is meaningless. From this we understand why the majority of the commandments were given to Israel and not to the nations. This is also the reason why, when they were called upon to decide whether or not the Gentiles should keep the Torah, the Apostles necessarily

determined that the Gentiles were not so obligated (Acts 15). The opposite decision would have led to the disappearance of Israel. The later idea, developed by the Gentiles, which calls on the Jews to live like them, is foreign to the New Testament.

Because it is obvious that some people nevertheless interpret Scripture to mean the contrary—that Yeshua in fact came in order to abolish Torah, and consequently Israel—let me remind you once again that which has been heard a thousand times and still has not been absorbed: “For truly I say to you, until heaven and earth pass away, not the smallest letter or stroke shall pass away from the Torah until all is accomplished” (Matt 5:18). It is difficult to understand how such a clear statement can be so misinterpreted as to assert the precise opposite, but we cannot argue with the facts. Some will say that the Torah was fulfilled by Yeshua. However, unless I am mistaken, there is still earth under my feet and heaven above my head and therefore Torah is still valid. Some will say that no one can fulfill the Torah, which is why Yeshua fulfilled it for us. If this is true, why does Luke insist on writing that at least the entire first generation of Yeshua’s disciples continued to observe Torah and the teaching of the fathers (Oral Torah).

Although Paul writes in one place that he “counts all things loss in view of the surpassing value of knowing the Messiah Yeshua” (Phil 3:8), he emphasizes the significant word “compared to.” Everything is worthless in comparison with knowing Messiah who is the embodiment of Torah, the teacher of Torah, the one who cannot be understood apart from Torah. This same kind of statement is found elsewhere: “The Torah which a man learns in the world is nothing compared to the Torah of the Messiah” (*Kohelet Rabbah* 11:8). In the “messianic age” Messiah is the ultimate authority for interpretation of Torah, not the one who terminates it. And if someone thinks that Paul, the “Pharisee of Pharisees” truly taught that the Torah should be abolished, how is it that he said to the leaders of the Jewish community in Rome at the end of his life: “Brethren, [though] I had done nothing against our people, or the customs of our fathers” (Acts 28:17).

Paul's vow is but one example of his approach to Torah and halakah. The vow's purpose was to disprove the rumor that he was inciting Jews to forsake Moses and the traditions of the fathers. By this action "all will know that there is nothing to the things which they have been told about you, but that you yourself also walk orderly, keeping the Torah" (Acts 21:21–23). Accordingly, those who accuse Paul of not keeping Torah, and teaching others to annul it, were giving false testimony, plain and simple.

Whoever claims that a Jew is not obligated to observe Torah because this is what both Yeshua and Paul teach can be compared to that same incited crowd that attempted to lynch Paul because someone had spread a false report that he was not keeping Torah. Despite the fact that, ultimately, Paul paid with his life for this false report, some people try to convince us that this same "false rumor" was in fact true, that Paul did in fact teach the abolishment of the Torah. All of this leads to my unambiguous conclusion is that the New Testament does not teach us to abandon Torah, nor the tradition of the fathers (at least that which was known during that period). Consequently, however we understand Paul's epistles, the guiding exegetical principle for interpreting his letters must be that he remained an "observant Jew" to the end of his life—and not merely as a "missionary tactic" to win souls for Christ.

What I have attempted to say here is that Christianity has understood Paul's epistles in such a way as to sanction the creation of a new religion, one contradictory to Judaism. For its part, Judaism has jumped on this misinterpretation as on a "pearl of great price" because it understands that Christian exegesis of the Pauline epistles constitutes a powerful weapon in its rejection of Yeshua. And yet, today there are Messianic Jews who insist on holding onto this same mistake with all their might. One must wonder about this since, after all, if Yeshua and the apostles abolished Torah, in light of the command that prohibits listening to anyone who is calling for the abolition of Torah, whoever he may be, Judaism is right in its claim that he and the apostles were inciters and beguilers? It is therefore not a coincidence that the final verses in the Tanakh command us to remember the Torah of Moses, because if we do

not, God will strike the earth with a curse (Mal 4:4–6).

If this is so, is not the pronouncement that Yeshua abolished Torah a kind of declaration that he is a false Messiah? Does it not necessarily contain the seeds of calamity leading to the complete cessation of the Jewish people? And in this light, is there indeed no truth to the claim that Messianic Jews work against the existence of the Jewish people? We must ask ourselves honestly how Messianic Jews can say that they love the Jewish people at the same time as they are unfazed (in the best case) by mixed marriages? Does this not constitute an expression of lack of care for the future of the Jewish people? And how can Messianic Jews who praise God with their mouths compel others to recognize them as Jews when the two-edged sword is in their hands to “cut off” anyone amongst them who seeks to keep Torah and the teaching of the fathers?

On the assumption that most Messianic Jews do acknowledge the necessity of Israel’s continued existence, why does this attitude not find expression in the practical observance of the covenant between the people of Israel and their God, which is repeated and confirmed in the New Covenant consecrated in the blood of Messiah? As people who declare that they have taken upon themselves the yoke of the kingdom of heaven, must not love of God and love of Israel express itself in the observance of Torah? Should the marks of our identity as Jews not be expressed through keeping Torah rather than by way of such secular elements as army service and obedience to the law? And talking about civil obedience, how is it that there are those amongst us who raise the banner of obedience to the law of the State of Israel at the same time as advocating “disobedience” to God’s law? How is it that so many take even the Decalogue lightly? Let us not deceive ourselves that such lightness only relates to the “Old Testament.” Are there any amongst those who abolish Torah who observe the apostolic ordinance to refrain from blood or strangled meat? Abolishing Torah, I am trying to say, inevitably leads to the annulment of all the commandments.

It is not hard to imagine what would have happened if the apostles had taught that we should remove the yoke of Torah. My guess is that no one would have listened to them, either in Jerusalem or in the synagogues in the Diaspora. Can

anyone even imagine that Paul would have been invited to teach in the synagogue had he not observed Shabbat? Would anyone have listened to Peter if he had even remotely indicated that Yeshua has released us from the obligation of circumcision? If such had been their understanding, Yeshua would have been consigned to oblivion.

In the past, when people like Antiochus before Yeshua or Hadrian after him sought to wipe out Israel, they would issue decrees of prohibition of circumcision, observance of Shabbat and Torah study. In generations which experienced such persecution, even at risk of loss of life, Jews were keeping the Shabbat and continued to study Torah. In contrast, the majority of Messianic Jews today profane Shabbat, some even teaching that it is forbidden to keep it. Is it any wonder, then, that the name “apostates” continues to cleave to us?

Because the New Testament teaches Yeshua’s followers to observe Torah, it also necessarily teaches to keep the tradition of the fathers, or the Oral Law. I understand that many here today are deeply suspicious of this concept. Nevertheless, we must understand that the Oral Law is also part and parcel of the New Testament. I have already indicated that Yeshua’s outlook was close to that of the Pharisees, since he didn’t accept the position of the Sadducees that the Tanakh must only be interpreted on a strict literal meaning of the text. Yeshua did not know Martin Luther and was not influenced by the Reformation cry: *sola scriptura*—“Scripture only.” That this is the case we can learn even from his criticism of the Pharisees in Matthew 23: “‘Woe to you, scribes and Pharisees, hypocrites! For you tithe mint and dill and cumin, and have neglected the weightier provisions of the law: justice and mercy and faithfulness; but these are the things you should have done without neglecting the others’” (v. 23).

In order to explain what Yeshua is doing here I will quote David Bivin (Bar-Yona):

The Pharisees broadened the biblical commandment to tithe grain, wine, and olive oil in order to include all the crops used for food. Yeshua’s criticism of the Pharisees does not relate to the keeping of the halakhah itself but to the neglect of the weightier commandments in

favor of the ‘minor’ or ‘light’ ones. Moreover, it would be a mistake to think that all the Pharisees, or even the majority of them, didn’t keep the weighty commandments.²

In other words, Yeshua did not consider halakah—or the “authority of the Rabbis”—to be irrelevant or dangerous. He did not see this authority as constituting “the leaven of the Pharisees and Sadducees” which must be burnt. His rebuke was not addressed to the makers of halakah of his generation but to those who put the “light” commandments before the “weighty” ones.

There are more examples of places in the New Testament where Oral Law is found. Yet most obvious is that the Gospels are themselves Oral Law since Yeshua never wrote down one word of his teaching. The evangelists wrote them down and transmitted them and we have received them. “Transmission” and “tradition” therefore form the foundation of our faith that Yeshua is the Messiah.

When, if only for the sake of the argument, resentment of the Oral Law is put aside, one quickly realizes that without it Israel cannot be distinguished. Take the calendar as an example. The Jewish calendar follows the lunar rather than the solar system. Consequently, the determination of the lunar calendar requires eyewitnesses rather than astronomers—and indeed, in ancient times the beginning of each month (rosh chodesh) was fixed by a rabbinical court. The determination of the new moon/month initiates the Hebrew calendar, without which it would be impossible to observe Torah. Without a calendar there could be no way of knowing when Shabbat begins, when to celebrate Pesach, when to begin counting the Omer, when the “year of release” falls, and so forth.

And yet, the maintenance of the Hebrew calendar is entirely a product of Oral Law. So, however strange it may sound, the crucifixion itself could not have taken place if the “rabbis” had not determined the precise date of Pesach. Likewise, Yeshua’s promise of the gift of the Holy Spirit could only be fulfilled because the “rabbis” had fixed the exact day on which the counting of the Omer begins. Most significantly, we have to acknowledge that without the “authority of the rabbis,” most likely the Tanak as we know it today would not have been preserved. This point alone should have been enough to convince those who

regard the Bible as the word of God to treat the “rabbis” with more respect, and to credit them for allowing those who revere the New Testament to know Yeshua who cannot be known apart from the Hebrew Bible.

One might think from everything I have just said that no difference exists between the authority I attribute to Yeshua and that which I attribute to the rabbis (Jewish tradition). However, it is self-evident that not only is Judaism unwilling to listen to the possibility that “that man” is the Messiah, but it also refuses to recognize those who accept him as such as Jews. This leads the majority of Messianic Jews to conclude that any attempt to merge Judaism with Yeshua necessarily leads to the denial of Yeshua. This may be the reason behind statements such as “our roots are not in rabbinic Judaism.”

Such a position, however, leads to the creation of another type “Judaism”—maybe “biblical Judaism” or “evangelical Judaism”? Yet in this case the word “Judaism” is misleading, because in truth, apart from the name, there’s not much similarity between the prevailing Messianic Judaism and Judaism. Consequently, and in my opinion correctly, the Israeli Supreme Court has determined that Messianic Jews in fact belong to “another religion.” We need to pay attention here to the fact that the Supreme Court did not define Messianic Judaism as a Christian sect but simply as “another religion.”

In the article she wrote for *Yediot Ahronot*, Techiya Barak gave an excellent description of this phenomenon: “Like a mass in church, the believers stand in a line to receive the holy bread and wine. But in this very ceremony the leaders of the congregation also wear prayer shawls and take the Torah Scroll out of the Ark.”³ This is merely one example which corroborates the Supreme Court’s ruling that Messianic Jews are effectively members of another religion.

It is obvious that Messianic Jews have an identity crisis, and that they have to perform their own ceremonies despite the fact that they do not exist in Judaism. However, the substantial and significant difference between me and those who oppose my views lies in the fact that I do not think that we have to empty Judaism of its content and to reinvent it before Yeshua can find his place in it. I do not advocate the revolutionary path that demands that the “old world must be

razed to its foundations.” My approach is that Yeshua’s faithfulness to the Jewish people also expresses itself in the fact that he did not come to create a new religion. In other words, he did not come to bring a substitute for the Jewish people. He did not come to form his own Church.

This demands that I say something more about Yeshua’s faithfulness to the Jewish people. The prevalent view, it seems to me, is that because the Jewish people rejected Yeshua, Yeshua is no longer in their midst. He will only return when they say to him “blessed be he who comes in the name of the Lord” (Ps 118:26; cf. Mark 11:9 et al). This view is a distorted picture that internalizes Christian criticism of the Jewish people. I assume that no one here thinks that God has abandoned his people—despite the evident reality of faithlessness that characterizes most of the Jewish people today. In other words, God’s faithfulness to the Jewish people is not conditional; he is *always* present in their midst.

If this is true of God, it must also be true of Yeshua. Despite the fact that Israel rejected the Messiah, the Messiah has not rejected the people of Israel. If so, then he is in their midst, which means that he is also to be found in the way of life of the Jewish people, including their religion and culture. True, we cannot easily discern this presence, just as we cannot easily discern God’s presence in the midst of the Jewish people. But it does exist, even if it is hidden and concealed from those without faith.

If we really wish to reveal the true controversy that has recently erupted once again, it is to be found precisely here: that I believe that, in his love for the Jewish people, Yeshua allowed the development of Judaism as we know it today. I have already said that I do not see the religion of my fathers as an enemy but as a unique type of covenant ark, which has preserved the Jewish people. If so, what is necessary is not to get angry at Judaism and to demolish the ark but to reveal—to ourselves first of all—that Messiah’s light is concealed in this vessel called Judaism.

We can only understand this truth, however, if we live a Jewish life that has been shaped by Jewish tradition. Only if we pray the prayer for Rosh Hashanah can we say the following prayer:

May it be your will that the blowing of the shofar, which we perform before you, be woven from a cloth by the one appointed (Tartiel) just as you accepted it from Elijah may his memory be blessed and Yeshua the Angel of his Presence and from Metat and may you have mercy upon us.

This is but one visible example to the concealed presence of Yeshua in Judaism. This hidden presence erupts from time to time and comes to the surface. Uri Zvi Greenberg, perhaps the most important Hebrew poet of our times, hints at this when he writes: “Truth-truth-truth which my elders pronounce: the dead in the churches isn’t our brother, but Yezus” (from “In the Kingdom of the Cross”). Greenberg’s elders, among them the great rabbis of Polish Hasidism, tell him about “our brother Yeshu.”

All of this leads me to conclude that for the most part the Jewish rejection of Yeshua is not “theological” but polemical. Further, as Greenberg says plainly: Two contradictory traditions exist side by side in Judaism. The official tradition that rejects Yeshua and the unofficial tradition that accepts him. This perhaps can explain why Chabad can talk about its rebbe in terms that appear to have been taken from the New Testament. The real argument should be therefore whether one particular historical figure fits the Messianic matrix.

In light of the stormy history between Judaism and Yeshua, this claim may sound ridiculous. However, in case the Chief Rabbi of Israel ever accepts Yeshua as the Messiah, he will not need to change his religion. He will not become a priest, and he will not replace Pesach with Easter. Yeshua’s good news to the people Israel cannot be something that calls them to convert to Christianity, since the whole essence of the divine promise is to guarantee life to the Jewish people, and thereby to the whole world.

Most surprisingly, Yeshua’s good news is hinted at in the same Rosh Hashanah prayer cited above. On the day on which God sits on the Throne of Judgment, Yeshua will bring Israel’s prayers before him and intercede on their behalf. In this way, even in Jewish tradition Yeshua appears to continue praying the same prayer he uttered moments before his death: “Father, forgive them”

(Luke 23:34). Good news of this sort cannot come from the mouth of those who are angry at Judaism and speak of it in derogatory terms. From the New Testament's perspective, Yeshua is Israel's defense lawyer (*sanegor*) not her prosecutor (*kategor*).

What I have said up until now embodies my position regarding "the authority of the Rabbis." I have already said in different ways that rejecting rabbinic authority, an authority bestowed by the Torah itself, leads to the destruction of Jewish life. "Rabbinic authority" is not something which can be dismissed lightly, even if only for the reason that most Jews do not have a real problem with eating rabbinic matzah, using a rabbinic haggadah, and so on. On the other hand, those who *do* reject rabbinic authority must find another authority to marry them, bury them, and tell them to eat on Yom Kippur.

Having said that, I hope that nothing I have said so far creates the impression that I am idealizing Judaism. I am not calling on anyone to put on a *streimel* or to wear a wig. On the contrary, Judaism is as full of problems as a pomegranate is with seeds. Judaism has always been full of controversies over various issues. Weighty differences in attitude and approach exist between the Rambam and the Ramban, between Chasidim and Mitnagdim, between the national religious and the Orthodox, and so forth. This has never led to complete rupture.

In the same way, our quarrel over Yeshua's messiahship, as fierce, heated, and deep-rooted as it is, cannot end with rupture and new religion. I can listen to a Torah study given by a rabbi about the sages' interpretation about "the leech has two daughters, saying, 'Give,' 'Give'" (Prov 30:15) and at the same time disagree with his words about Yeshua in the very same lesson. This holds true also regarding other issues. So, for example, one can critique a ruling of R. Ovadia Yosef, but to decide *a priori* that he teaches "the leaven of the Pharisees and Sadducees" leads to rupture. It says that nothing good can come out of his mouth.

In light of it all, the question that needs to be asked, therefore is: Under what circumstances rabbinic authority can be overruled? Not, Should we recognize rabbinic authority? As I have already said, in Israel at least, very few people are

not subject to this authority in one way or another. Those who demand that we reject this authority are actually calling for the rejection of our Jewish identity. Considering such an alternative, the obligation to overrule rabbinic authority is imposed on us only when it is clearly and unambiguously opposed to Yeshua, his teaching, and that of the apostles. Otherwise nothing should prevent us from acting in accordance with Jewish tradition, which embodies the wisdom of thousands of years.

Let me clarify this point with one or two examples. There is halakah that says that New Testament is not saved from a fire, which means that it is not sacred. The Torah scroll, on the other hand, must be saved even at the risk of losing one's life (*b. Shabbat* 116a). Our halakah, if we will ever have any, must rule that the New Testament must be treated in the same way as the Torah scroll. The significance of such a halakah is that it recognizes the New Testament as part of Jewish Holy Scriptures. In the context of the discussion of rabbinic authority, this means that we don't have any argument whether we should save the Torah scroll from a fire. The dispute is only over whether the halakah also applies to the New Testament.

Another example is taken from the story of Yaakov of Sikhnin who sought to heal ben Dama in Yeshua's name when the former was bitten by a snake. R. Ishmael refused his nephew's request that Yaakov be allowed to heal him (*b. Avoda Zara* 27b). While we should note here that Yeshua's disciples cannot accept a halakah which rules out healing in Yeshua's name, we should nevertheless accept the halakah which forbids healing by means of contagious magic or charms.

These brief examples bring me to my conclusion. Even if I have not answered all the questions and queries about the centrality of rabbinic authority in the lives of Jewish followers of Yeshua, I hope that I have succeeded in clarifying at least one point: The New Testament gives no one the authority to reject Yeshua's explicit statements that his disciples, in principle, should observe halakah as long as it is not opposed to him, his teaching, or that of the apostles. In saying this, I want to point to a path that reduces the controversy between ourselves and

“Rabbinic Judaism” to one thing only, namely, that Yeshua is the Messiah. John the Baptist’s question, “are you the coming one, or shall we look for someone else?” (Matt 11:3) was answered two thousand years ago. What remains for his disciples to do until he returns is to resurrect the model of the first century community in the sense that “myriads of Jews there are who have believed, and they are all zealous for the law” (Acts 21:20).

In conclusion, let me make one brief point with respect to the Christians living in our midst, because probably there is someone who will distort things and claim that the position I have proposed here leads to hatred of the Gentiles. Let me say here that I warmly welcome every Christian—on the condition that he or she does not attempt to impose his or her religion on me. I regard very seriously the behavior of some Christians living in Israel who have the gall to malign the Jews living in the State of Israel merely because they refuse to be evangelicals, Lutherans, or Baptists. God-fearers from all nations are welcome to participate in the Jewish service of God as long as they do not speak against Israel, Torah, and Judaism. I do not agree with the attitude that says that in order to achieve unity with our Gentile brethren, we should remain Jews but reject Judaism. I consider this assertion as nothing less than complete and utter foolishness. God’s grace is not revealed in uniformity that almost always takes the form of American Evangelicalism. Meaningful fellowship comes through our ability to accept the other as he or she is. Therefore, while a Christian can serve the God of Israel in Church, he does not have the right to do anything that leads a Jew to abandon his heritage and tradition. Since every person should know that the Jewish people are both a religion and a people, not a few Christians create the impression that the punishment of *karet* (being cut off from the people of Israel) is in fact a sort of blessing. My request, therefore, is to remind you here today of Peter’s words, which indicate the complete opposite: “And it shall be that every soul that does not heed that prophet shall be utterly destroyed [cut off] from among the people” (Acts 3:23, quoting Deut 18:19). We need to understand from Peter that Yeshua came to guarantee the future of the Jewish people, not their demise.

Blessed is the person who does everything in his power to guarantee the future of the Jewish people, because the Redeemer for whom we are waiting will not come to Aelia Capitolina or to Al Kuds. He will come back to Jerusalem. Maranatha.

Epilogue

My interlocutor's position as presented in his lecture was based on sixteen examples that ostensibly teach that Yeshua rejected the "tradition of the elders" or "the leaven of the Pharisees and Sadducees." One such "proof" is found in: "Then some Pharisees and scribes came to Yeshua from Jerusalem, saying, why do your disciples transgress the tradition of the elders? For they do not wash their hands when they eat bread" (Matt 15:1–2). Does Yeshua categorically reject the "tradition of the elders" here—or does he in fact only object to a particular position? If Yeshua actually teaches the rejection of this institution known as "the tradition of the elders," how could one of his most devout disciples say, "now we command you, brethren, in the name of our Lord Yeshua the Messiah, that you keep aloof from every brother who leads an unruly life and not according to the tradition which you received from us" (2 Thess 3:6).

I assume that many will say that the apostolic tradition is fine, but that of the Pharisaic, no way. In this lecture, I have made the attempt to show that Yeshua did not reject the tradition of the elders but actually confirmed it. He said: "These are the things you should have done [Torah] without neglecting the others [Oral Torah]" (Matt 23:23). If this is true, it would appear that Yeshua's controversy with the Pharisees was not about halakah itself but over whether a specific halakah correctly interprets a commandment. The washing of hands (*netilat yadayim*) falls within a different category because it is one of the "seven rabbinical commandments" and is not therefore halakah. While it is not clear whether Yeshua rejected the commandment itself, it is evident that he didn't accept the reason for it. Moreover, we know from the Talmud (primarily from *b. Chulin* 105–107) that the washing of hands is required only when the person dining intends to say the *hamotzi* ("Blessed be he who brings forth bread from

the earth”). If a person is only eating greens or meat, he is not bound to wash his hands prior to eating. From the Gospels, we can understand that the Pharisaic tradition (which is not mentioned in the Talmud) was to wash hands before *all* meals.

At any rate, whether we are talking here about a rabbinic ordinance or halakah, there are no occasions on which we can say that the halakah was determined without a long and penetrating discussion, which sometimes even degenerated into physical violence. We are all familiar with the fierce controversies between the houses of Hillel and Shamai, before, during, and after the time of Yeshua. This is why Yeshua says, “your tradition”—i.e., the tradition which that particular group of Pharisees presented before him. According to this understanding, the “tradition of the elders” is not a manual of halakot but is composed of various traditions transmitted orally from generation to generation. At times, these traditions contradicted one another, and the controversies over how to settle the disputes sometimes went on for hundreds of years. This also accounts for the sages’ expectation that when the Messiah comes, among all the other things he will do, there will be a determination of halahkic controversies (which Yeshua in fact did), many of which are still unresolved today. For this reason, I called Yeshua “the greatest Tanna [early rabbinic sage] Israel ever had.”

The difficulty inherent in the “tradition of the elders,” which, as we have indicated, the Messiah is supposed to resolve, can be seen in another of the examples that were given as “proofs” that Yeshua dismissed the “leaven of the Pharisees and Sadducees” out of hand—the healing of the man blind from birth on Shabbat: “Now it was shabbat on the day when Yeshua made the clay and opened his eyes” (John 9:14). Ostensibly, this verse also points at a clear case in which Yeshua rejected the “tradition of the elders.” Precisely here, however, we can see that the Pharisees’ complaint against Yeshua—that he was profaning Shabbat and despising the “tradition of the elders”—can be perceived as a false accusation. We can see this from the reaction of the Pharisees themselves to the claim that *some of them* made against Yeshua’s alleged profanation of Shabbat: “Therefore some of the Pharisees were saying, ‘this man is not from God,

because he does not keep Shabbat.’ But others were saying, ‘how can a man who is a sinner perform such signs?’ And there was a division among them” (9:16). The arguments presented in opposition to mine therefore, sounded erringly similar to the arguments presented in the New Testament by those who objected Yeshua on the false pretence that he treated with contempt the authority of the elders.

[1.](#) This article is an adaptation of a lecture given to Messianic leaders in Israel on September 5, 2008, which was the final cord of a debate between those Messianic Jews who teach to live according to Jewish tradition and those who view this tradition as “the leaven of the Pharisees and the Sadducees.” Daniel Yahav was asked to represent the negative approach to Judaism, and I was asked to represent the positive one. The title given to the lectures was “rabbinic and halakic authority in the life of the Messianic Community in general and the messianic believer in particular.” The debate was held before what is called the “assembly of Israeli elders.” About 100 people were in attendance.

[2.](#) David Bar-Yona, “Yeshua VeHatorah Shebe‘al Peh” (Hebrew), *Kivun* 61 (July-August 2008): 16.

[3.](#) Techiya Barak, “The Messianic Code,” *Yediot Ahronot*, August 8, 2008: 24.

Sparks, Kenton L. *God's Word in Human Words: An Evangelical Appropriation of Critical Biblical Scholarship*. Grand Rapids: Baker Academic, 2008.

REVIEWED BY DEREK LEMAN

Setting the stage for his own stance toward Scripture, Kenton Sparks begins by noting three approaches to navigating faith and Bible: secular, traditionalist, and constructive. Secular approaches do not regard the text as Divine at all. Traditionalist approaches de-emphasize the human element and tend toward harmonization and acceptance of early authorship. Constructive approaches integrate critical observations of errors in Scripture with faith in the Divine authority of the Bible, an approach that Sparks also calls “believing criticism.” Constructive approaches have not produced any persuasive consensus as yet, as Sparks details in his fifth chapter.¹ Yet his own goal is to offer a constructive approach that works.²

In order to set his approach to hermeneutics in a philosophical base, Sparks reviews epistemology through the centuries. In broad strokes, he defines pre-modern epistemologies as inquiry restrained by the boundaries of tradition.³ Modern epistemologies are characterized by a full-blown suspicion of tradition.⁴ Finally, postmodern epistemologies he divides into two approaches. Anti-realism views reality as “nothing other than an invention of human culture.”⁵ Practical realism, on the other hand, sees tradition as a useful tool for grasping reality.⁶

Sparks locates his stance toward Scripture within the practical realism approach: accepting the creeds of Christianity (tradition) while deconstructing the Bible. And deconstruct the Bible he does. Sparks’ outlook on the Bible is as skeptical as possible. He makes little attempt to harmonize potential conflicts in the pages of the Bible. *God's Word in Human Words* excels as a textbook to introduce a Bible reader to every real and imagined problem with viewing the Bible as a truthful book.

Examples of skepticism about biblical literature abound. The Pentateuch is an anthology of conflicting theologies from Israel's different periods and schools and should not be read as a unity.⁷ Samuel-Kings is theological-historical fiction embellishing an unknowable legendary core.⁸ The Chronicler invents episodes to affirm the doctrine of reward and retribution in this life.⁹ Daniel's "failed prophecies" are an apocalyptic genre meant to communicate God's control but not be taken seriously as prophecy.¹⁰ John's gospel uses invented chronology to strengthen the theological theme of Yeshua as Passover lamb.¹¹

For a Messianic Jewish audience, special note should be taken of Sparks' attempt to explain the Law-free New Testament (as he interprets it) and its relationship to the eternal-covenant teachings of the Pentateuch and other Scriptures of Israel. Sparks suggests it is abundantly clear in the New Testament that Law is no longer part of the obligation of believers. Acts 15:10–11, for example, indicate that living under the Law was a burden none could bear.¹² Sparks not only fails to consider that there could possibly be a difference of requirement between Jews and non-Jews, but he also fails to explain how something like a dietary law is more difficult to fulfill than the command to love God wholeheartedly. In what sense has the Law for a Christian become easier to fulfill than it is for a Jew still following Torah? Sparks' discourse on this point suggests that he is oblivious to the academic discussion of Law and the New Testament. Yet he makes this example of a Law-free New Testament a key example of his own method of dealing with the problems of Scripture.

Sparks' principle is that the Church "should adopt as its rule of faith not what was last said in the process of inscripturation but that which seems to incarnate Scripture's highest ideals."¹³ Sparks calls his approach a trajectory model. Scripture, he says, brings us through the canon on a trajectory from earlier, more primitive theologies and social norms (slavery, divine retribution, etc.) on a trajectory toward more advanced theologies and social norms (freedom for all people, afterlife theology, etc.).¹⁴ The process of theology involves using reason (from natural revelation) and the constraint of tradition (the creeds) to follow

scriptural trajectories toward a viewpoint. The process is uncertain just as the possibility of knowledge is uncertain. Humility about the limitations of knowledge is vital and modernist arrogance is largely to blame for evangelical Christian theologies of inerrancy and biblical authority.¹⁵

Sparks' presentation is not particularly systematic, but the following points represent my summary of his view of the Bible:

The Divine voice is discernible in the human writings of the Bible.

Biblical literature is an imperfect vessel for the Divine voice, often erroneous about matters historical, scientific, predictive, and even theological.

God accommodates such errors and fabrications while showing himself subtly in the text.

The limits to this accommodation can be ascertained through the creeds of Christianity and through natural theology.

The witness of biblical literature to the Divine voice is, thus, subjugated to creeds and natural theology, which are more reliable.

Essentially, Sparks sees no contradiction or falsehood too big for accommodation except what would contradict a creedal belief. The process of theology is a matter of finding a trajectory on any issue in the Bible, from beginning to end, and correlating natural theology with the movement of biblical thought from primitive beginnings to more mature endings.

In spite of what may seem to be a low view of scripture, Sparks says, "That God speaks inerrantly, and that he therefore speaks inerrantly in Scripture, cannot be doubted by any orthodox Christian."¹⁶ The problem, he claims, is modernism's over-attachment to certainty that is too uneasy with accommodation of human error in divinely inspired texts. For pre-modern and postmodern readers of Sparks' type (practical realists), it is not difficult to affirm both inerrancy and the "foibles of human error" in the Bible.

Has Sparks succeeded in producing a constructive approach to the Bible that works? Is his "believing criticism" a satisfactory theory encompassing the

phenomena of the Bible, combining faith in its authority with honesty in recognizing its critical problems?

I do not think Sparks has achieved his goal, in spite of a valiant attempt. His acumen for theology is at times questionable. Examples of hasty judgments and immature reflections show through in places. For example, Sparks makes a case that the command to destroy the Canaanites and put them under the ban is not in any way Divine, but is human prejudice found in other Ancient Near Eastern literature being foisted on the biblical reader as if God had commanded it.¹⁷ This judgment already is dubious, calling for rebuttal, but it is in the follow-up to the discussion that Sparks' immaturity really shows. He says that perhaps those who defend the Canaanite genocide as a Divine commandment are the heretics, being guilty of a docetic view of Scripture.¹⁸ It is a stunning leap to say that those who take the text as it stands and who are able to grasp theologically God's authority in judging a nation are in some way denying the human element of Scripture.

Sparks' analysis of scriptural trajectories lacks depth in many other examples as well. On page 205, he says that God once forbade eating reptiles (Deut 14:8) but now is no longer forbidding reptilian cuisine (Acts 11:4–10). When reading this statement, I wonder if Sparks is unaware of commentary on the visions of Peter in Acts 10 and 11 or if he would actually make a sustained case that the vision was about repealing the dietary laws. The whole example has the appearance of being designed as sympathetic rhetoric aimed at an unsophisticated audience of Christians unaware of issues of Law in the New Testament.

Yet the fatal flaw in Sparks' view of Scripture is an inexplicable Divine limitation of voice. If God could make his voice heard on the small scale, as Sparks proposes in whispers amid the noise of human error, then why not on the larger scale as in traditional views of the Bible, as trumpet blasts over the voices of imperfect human messengers?

Why would God, for whom history and prophecy are evidently quite important, be constrained to hint at his presence in fabricated historical accounts

such as Sparks sees in the Fourth Gospel or Samuel-Kings? Why would not prophecy work? Could God not speak contingently but infallibly through Isaiah? If so, then why would God be obliged to speak through failed prophecies of Daniel and Revelation as Sparks proposes?

The Bible, though Sparks may claim he views it as inerrant, becomes nothing more than a record of human thoughts about God. It seems that God's voice does poke through here and there, but why is God's influence over the writers so muted and limited? The limitation of God seems arbitrary, so that one should wonder if God speaks through the Bible at all and if so, could Sparks give evidence of it.

I believe Sparks has some of the pieces of the puzzle right. "Indubitable knowledge" is not an attainable goal.¹⁹ Accommodation is without a doubt a scriptural phenomenon. Contradictions and problems do not simply disappear. Yet for the scores of contradictions and problems in biblical literature, there are ten times as many clear windows to God's being and ways. God has acted in history and has foretold both calamity and deliverance. There is a consistency and plausibility to the biblical view of history and eschatology. So a constructive view of biblical literature, balancing honest critical appraisal with faith in the text as the revealing of God, will be more believable when a theory takes Divine involvement in history and Divine instrumentality in prophecy with the seriousness it deserves. God's voice in the Bible is not a mere whisper in a room full of noise but the sound of a trumpet playing from Mount Sinai.

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¹. Sparks, *God's Words in Human Words*, 171–204.

². Ibid., 19–20.

³. Ibid., 27.

⁴. Ibid., 30.

- [5.](#) Ibid., 40.
- [6.](#) Ibid., 42.
- [7.](#) Ibid., 218ff.
- [8.](#) Ibid., 202.
- [9.](#) Ibid., 221–22.
- [10.](#) Ibid., 223–24.
- [11.](#) Ibid., 222–23.
- [12.](#) Ibid., 294.
- [13.](#) Ibid., 247.
- [14.](#) Ibid., 288ff.
- [15.](#) Ibid., 357.
- [16.](#) Ibid.
- [17.](#) Ibid., 297.
- [18.](#) Ibid., 298.
- [19.](#) Ibid., 357.

The Koren Sacks Siddur, with English Translation and Commentary
by Rabbi Lord Jonathan Sacks. Koren Publishers: Jerusalem, 2009.

REVIEWED BY BENJAMIN EHRENFELD

In 1981, Koren Publishers (Jerusalem), which was founded by the artist and typographer Eliyahu Koren, released its first siddur. This siddur is laid out in such a way as to stimulate visually a sense of the flow and dynamics that correspond to the content of the prayers themselves. Twenty-eight years later, the American Jewish community is taking significant note of the Koren Siddur through the publication of a Hebrew-English edition with a new translation and commentary by the Chief Rabbi of the United Hebrew Congregations of the Commonwealth, Lord Jonathan Sacks.

The motivation for creating another Orthodox Hebrew-English siddur comes, in part, as a response to the dominance of the Haredi, or Ultra-Orthodox community, in the publication of traditional materials, most notably ArtScroll-Mesorah Publications. The compilers, translators, and commentators of these works have a tendency to leave out much of the sensibilities of the Modern Orthodox community and, more strikingly, the implications of prayer in the diaspora vis-à-vis the State of Israel. There are four main areas in which the Koren Siddur stands apart from its predecessors and contemporaries both qualitatively and quantitatively.

First, there are a number of features in the layout and typography of the Koren Siddur that assist the user while praying. The facing English translation on the right-hand side of pages is a feature that may be unusual for some, as most siddurs have facing English translations on the left side. Nevertheless, this unique feature allows the Hebrew side to be the first side viewed while turning pages. For those who pray primarily in Hebrew, this small adjustment in translation placement can “smooth out” the praying experience.

The typography is ornamented in the original style of all of Eliyahu Koren’s

work and succeeds masterfully at providing a visual cue to concentrate on the letters of the prayers. This may be distracting for some, a needed visual stimulus for others, and an opportunity to cause all to slow down enough to concentrate on the meaning of the prayers. The vocalization of the siddur reflects that of a *tikkun korin* (book of Torah/Haftarah portions used by Torah readers) in that it alters the shape and size of letters and vowels that have unique emphases and/or vocalizations. One example (of many) is the elongation of the *qamatz katan*, which is the form of the qamatz that is pronounced as “o” as opposed to the more common “ah.” These visual alterations encourage an excellence in the pronunciation of prayers for both those who may not know the distinctions and those who may forget.

The bolding of certain words and phrases such as *Bareku* and *Ma Tov* helps to highlight the flow of the liturgy. Creative alignment and spacing also serve to emphasize meaning and flow. For example, in the concluding verses of the Shema section just following the recitation of the three paragraphs of the Shema, the word *Emet* “truth” is placed in the margin farther to the right of the rest of the text.¹ This word stands out visually as a theme in this section. Impressively, the layout of the facing English translation is a mirror image of the formatting of the Hebrew. Scripture references are found on the margins of the lines in which they are found, as opposed to put as footnotes. This frees up space for commentary and keeps parenthetical notes out of the text of the prayers themselves.

All of these unique features are in addition to clear symbols for physical movements and the volume swells for the prayer leader that are found in most other siddurs. The Koren Sacks Siddur is simultaneously technically precise, creative, and artistic in the way it presents the prayers and their translations.

Second, there are many things in this siddur that other complete siddurs do not have. The Koren Sacks Siddur contains: the service for Zeved HaBat/Birth of a Daughter, the confession before death, the funeral service, prayers for recovery from and after illness, listings of psalms for special occasions and where to find them throughout the siddur, a chart of textual variants and

permitted responses, a guide to the Jewish year and laws of daily and Shabbat prayer, services for Yom Ha'atzma'ut, Yom Yerushalayim, and Yom Hazikaron, translated selichot, and the three Atkinot Seudatot for Shabbat are translated. This siddur provides translations for material that is often considered too esoteric to be translated. It also provides resources for certain traditional prayers that many would need to look into the recesses of Talmud to uncover.² Each of these features is indicative of a desire by Koren publishers to promote modern, halakically-centered, progressive liturgical variety. When put together, these features enable the Koren Sacks Siddur to embody that goal.

Third, Rabbi Sacks' "Understanding Jewish Prayer" could easily have been a book of its own.³ To have this essay as an introduction makes this siddur an invaluable resource for Jewish prayer. Rabbi Sacks employs historical, halakic, textual, hasidic, and theological insights to form his overview. Two "stand-out" insights are that of the siddur being a joining of spontaneous prayer with the sacrificial order⁴ and the siddur being the perfect expression of Jewish theology.⁵ Rabbi Sacks' commentary is as intellectually stimulating as it is spiritually insightful.

The translation of this siddur is not one merely of words or phrases but of genres of prayers. Some of the Jewish prayer in the siddur is Scripture, some of it is poetry, some of it is study material, etc. The ability to translate sections of prayers into genres is one of the more refreshing contributions of Rabbi Sacks' translation. The translation of Adon Olam is one such example.⁶ The English rhymes in the same way the Hebrew does and yet the literal meanings remain intact. The English translation is poetic enough to be prayed but does not shift the focus away from its Hebrew origin.

Fourth, the birth of the State of Israel has impacted nearly all of Jewry around the world. It is interesting that, while much of Jewish literature addresses the Jewish State in one form or another, the American Jewish siddur did not fundamentally change. Occasionally prayers would be added in the Torah service, but it was not representative of the seriousness of the impact the State of

Israel had on a global level. The Koren Sacks Siddur is the first Hebrew/English siddur to include all of the customs unique to synagogues in the State of Israel. The Koren Sacks Siddur is also the first to have a halakic guide for visitors to the Jewish State.⁷ A Jew in the diaspora can take this siddur to almost any community in Israel and use it to pray. These features are more than just an acknowledgment of the different customs in Israel; they express the reality that there is something fundamentally different in how a Jew prays when in exile than when in the land of his or her forefathers. It is a radical reminder to the one praying outside of the land that he or she is not in Israel. Through these additions, Koren Publishers makes the statement that the advent of the State of Israel should impact the way Jews outside of the Land pray.

The Messianic Jewish community is on a journey to find its own prayerful voice in the symphony of Jewish prayer. It is an endeavor in which we must be rooted in our tradition, responsive to modern Judaism, and unafraid to express our unique theological and experiential reality. The boldness, clarity, and intelligence with which the Koren Sacks Siddur does these things with its own unique voice can be a model for our community. Our liturgy should be as deeply faith-driven as it is beautifully and intelligently compiled. The Koren Sacks Siddur is an excellent siddur to pray with now and to inspire us to create something for our community that is just as responsive to the need for our people to deepen its connection with God through prayer.

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¹. *The Koren Sacks Siddur, with English Translation and Commentary by Rabbi Sir Jonathan Sacks* (Koren Publishers: Jerusalem, 2009), 102–5.

². E.g., the list of blessings; *ibid.*, 998–1005.

³. *Ibid.*, xvii–xlix.

[4.](#) Ibid., xxi–xxii.

[5.](#) Ibid., xxxvi.

[6.](#) Ibid., 22.

[7.](#) Ibid., 1233–36.

Colonna, S. J., Carlo. *Gli Ebrei Messianici: Un segno dei tempi*.
Verona, Italy: Edizioni Fede & Cultura, 2009.

REVIEWED BY PETER HOCKEN

This is the first book on the Messianic Jewish movement of which I am aware to have been written by a Roman Catholic. The author, Fr Carlo Colonna, is a Jesuit priest serving as spiritual guide to a Catholic charismatic community, the Comunità di Gesù, in Bari, Italy. Under the leadership of Matteo Calisi, this community has in recent years hosted a series of annual conferences, on themes as diverse as 'Justice and Peace,' and 'Praise and Worship.' In 2004, they launched an annual 'Dialogue' between Catholics and Messianic Jews, with invited Messianic speakers, mostly from Israel and the United States. Fr Colonna has been part of all these meetings and in this book he shares what he has learned over the last five years. He is a theologian well versed in Catholic spirituality. This double expertise characterizes his book and gives it a particular value.

As one who has come to know Fr Carlo, I have been aware both of his scholarly gifts and his openness to Messianic Jews, though I have realized that his exposure to the Messianic movement has been limited, almost entirely restricted to the Messianic participants in the Bari meetings. In consequence, the picture given of the Messianic movement is somewhat idealistic, presenting the movement more as it could and maybe ought to become, rather than what it actually is at this point of its development. The major tensions in such issues as Torah observance, gentile membership of Messianic congregations, and different patterns of liturgy and worship are barely mentioned, along with the evident differences between the movement in Israel and in the United States. He does not show much awareness of the spectrum of Messianic theological positions surveyed now in Richard Harvey's book *Mapping Messianic Jewish Theology*.¹ Too optimistic, for example, are the references to Messianic Jews wishing to be

in communion with the whole Christian world including the Catholic Church.

However, for this reviewer these weaknesses do not diminish the real value and contribution of Fr Colonna's observations and reflections. The reason is that his reflection is primarily theological, and he shows a clear grasp of the essential challenges posed to the churches of the nations by the rise of the Messianic Jewish movement. In consequence, even if his descriptions are too rose-tinted, the challenges he identifies are the deepest challenges that will become even clearer as the Messianic Jewish movement continues to mature and is able to present a more united face to the churches. Being the first serious material available in Italian, his study will be particularly important for the Catholic world, seeing the place of the Italian language in the Vatican. Incidentally, soon after the book's appearance, an article on the Messianic Jews appeared in a popular Italian magazine written by an archbishop heading a department in the Vatican—an article that was surprisingly sympathetic considering the author thought that Messianic Jews do not believe in the godhead of Jesus.

As a Catholic theologian, Colonna throws interesting light on the much-debated issue of Torah-observance. In a section on “La Questione delle Osservanze nella Storia della Chiesa” (The Question of Observances in the History of the Church), Colonna argues that observances are necessary and inevitable in the life and practice of the Church but that there is always the danger of the ever-greater accumulation of observances that then loses sight of their relationship to the heart of Christian faith in the person and teaching of Jesus. When this danger becomes acute, it gives rise to the radical protest of a Reformer like Luther. But such a protest cannot be the last word, as every faith-community has to offer ways to inter-relate faith, worship, and the conduct of life. Looking then at the Messianic Jewish movement, Colonna sees a threefold function in Messianic Jewish observance of traditional Jewish practices: first, to express their identity as a people once granted their new identity in the Messiah; second, to express their faith in Jesus through the re-interpretation of these observances in the light of the Messiah; and third to give a testimony as to the original *charism* (“calling”) of Israel as the chosen people.²

Colonna pays most attention to the teaching and writings of David Stern, Benjamin Berger, and Julia Blum, the latter two having taken part in one or more of the Bari conferences. He takes up the insistence of Stern on restoring the Jewishness of the Gospel, seeking to complete Stern's position with reflections on its universal character. Colonna emphasizes the divine character of the Gospel that alone can impact and win over the hearts of all peoples. However, in his treatment of the relationship of the particular to the universal, the relationship of the Hebraic character of the Gospel to the divine, he is not clear enough on the way God chooses the particular to reach the universal. He clearly affirms the election of Israel. But when he writes: "L'ebraicità del Vangelo è solo l'aspetto umano entro il quale si manifesta la sua divinità" ("The Jewishness or the Hebraic character of the Gospel is only the human aspect through which its divinity is manifested), what concerns me is the "only."³ This passage reminded me of the book *Jesus of Nazareth* by Joseph Ratzinger (Pope Benedict XVI) that fully recognizes the Jewish identity of Jesus but wants, I feel, to move too quickly from the particular in Israel and in the life and ministry of Jesus to the universal and catholic character of his teaching and mission.⁴ Interestingly, a paragraph in *The Catechism of the Catholic Church* contains this statement:

Their coming [of the wise men] means that pagans can discover Jesus and worship him as Son of God and Saviour of the world only by turning towards the Jews and receiving from them the messianic promise as contained in the Old Testament. The Epiphany shows that "the full number of the nations" now takes its "place in the family of the patriarchs," and acquires *Israelitica dignitas* (is made "worthy of the heritage of Israel").⁵

I recall hearing Cardinal Christoph Schonborn, the Archbishop of Vienna, who earlier in his life served as secretary of the Commission that prepared the Catechism, explain at a Toward Jerusalem Council II consultation that the verb used in this sentence was deliberately expressed in the present not the past tense so that it remains true that "pagans" only discover Jesus by turning toward the Jews and the promises of the Old Testament.

While the first half of the book is primarily descriptive and evaluative, the second half is more visionary. It is here that Fr Colonna treats the Holocaust and the phenomenon of Jewish suffering, the Divine Presence and the Messianic Jews, the fullness of the Church and the contribution of the Messianic Jews and the mystery of Israel today.

Apart from alerting the Catholic Church in Italy to the existence of the Messianic Jewish movement, Colonna's book could be helpful in correcting some imbalances in Catholic practice today concerning the attitude of the Church to the Jewish people. In practice, the Catholic Church has abandoned all efforts to win Jews to faith in Jesus the Christ. While the Catholic authorities have generally resisted the calls of some theologians to renounce all missions to the Jewish people, there have been no specific pronouncements on the need of the Jewish people for the Gospel message of salvation. In this situation, Colonna's book is a valuable corrective. Interestingly, his teaching on Jesus as Savior of Israel comes in his section on the Shoah, where he writes: "To speak about the Holocaust in relation to the Messiah is not easy. However I am convinced that the terrible sufferings and the deep wounds inflicted on Israel in the tragic event of the Holocaust can only be understood, accepted and healed when Israel finds her messiah again."⁶ He argues that Christians need to develop a "prophetic-sapiential" reading of history in place of the secularized view, so widely accepted today, that asserts that the relationship between Israel and Jesus is irrelevant for seeking an understanding of the Holocaust. For Fr Colonna the death of Jesus on the cross is a holocaust offering in the biblical sense as the total destruction of the victim offered to God in sacrifice. It can be understood in two opposite ways: the first as the work of Satan who sought to destroy the Son of God, and secondly as part of the plan of God for the world's redemption. In the same way, he suggests, the Holocaust can be interpreted as the culmination of the workings of evil forces, and it can be interpreted by believers in Jesus Christ in the light of his death and resurrection. Colonna does not of course suggest that Israel is saved through the Holocaust, as his suggested reading is totally christocentric:

In the light of Christ, the center and the goal of history, we can say in all certitude that the election of Israel as people of God can only be understood in relationship to her Messiah, Jesus of Nazareth, and that the recognition of Jesus on the part of all Israel is near, that has begun with the phenomenon of the Messianic Jews.⁷

The blood of Jesus that covers Israel is always a salvific blood. Thus the participation in the sufferings of the Messiah at the time of the Holocaust becomes a salvific moment for Israel.⁸

There are elements in Fr Colonna's theological argumentation that I have omitted in the interests of space, e.g., his reflections of the "hour of Jesus" and the intercession of Jesus for Israel, as the intention here is only to give readers of *Kesher* a basic sense of Fr Colonna's position.

The section on the Holocaust leads on to an excellent treatment of the severity of God toward both Israel and the nations starting from Rom 11:22, leading to the complementarity of the kindness and the severity of God. Here Fr Colonna gives a thoroughly biblical account of these themes that will be "fully manifested in the world to come."⁹ He seeks deliberately to counteract the contemporary tendencies to sentimentalize Christian faith that totally ignore the theme of severity that is so abundantly manifested in both Testaments. He is not afraid to treat here the apostasy of the nations, a theme that is taken up again in the final section on the mystery of Israel today (see below).

Eschatology is not as prominent in this book as the subject warrants, but it is not entirely absent. It enters in particular through a reflection on the divine presence in Israel that Fr Colonna addresses through the theme of the spousal love between God and Israel. The reply of Jesus in Matt 9:15 shows clearly that "Jesus, the Messiah, is the Spouse of Israel and that his coming indicates that the time of celebrating the nuptials between God and Israel has finally arrived."¹⁰ Through Israel's rejection of Jesus, the union can only be celebrated with those who form the remnant. Thus "The great phenomenon of the spiritual marriage between God and 'all Israel' implies the return of the Divine Presence to the midst of Israel."¹¹ "Can we say that the return of the DIVINE PRESENCE

among the Messianic Jews signifies the start of its return to the midst of all Israel and in a particular way to Israel's capital, Jerusalem?"¹² Here Colonna takes up Isaiah 60 and referring to Matt 23:39 concludes: "When Jesus will be welcomed by 'all Israel', then the DIVINE PRESENCE will fill Jerusalem again and the glory of the Lord will shine upon her."¹³

Fr Colonna is a committed advocate of Christian unity, and it was from this ecumenical background that he approached his first contacts with Messianic Jews. He had no idea that a Church without a Jewish component was lacking an essential element needed to complete the unity and the catholicity of the Body of Christ. When he encountered the Messianic Jews, Colonna quickly grasped the key character of the "one new man" passage in Ephesians 2, and so he sees the Messianic movement as a divinely sent gift for the unity of the whole body. It is here that he says again: "Because of the current Dialogue between the Catholic Church and the Jews a kind of silence has been created over the public prayer of Catholics for the conversion of the Jews to Christ. But Catholics cannot not pray for the fullness of the Church."¹⁴ The ecumenical task of the Messianic Jews is twofold: first, toward "all Israel," secondly, toward the nations. The Jewish rejection of Messiah separated the two Testaments that belong together and the Gentile rejection of Israel weakened their connection, so that a first task for the Messianic Jews is to bring this separation to an end. But this bringing together requires that the Messianic Jews must "assimilate [maybe not the happiest word!] all the riches of the New Testament that have been hidden from them for centuries."¹⁵ Three particular ecumenical contributions need to come from the Messianic Jews: First, to show forth in a new way the element that is most important for the unity of Christians. This is the new birth that truly makes the authentic believer the image of Christ. Second, to bring back to the center of all work for unity the "holy root of Israel" through which the union between Jewish and Gentile believers is "the first and most fundamental form of ecclesial unity."¹⁶ Third is to bring "all Israel" into the Church. Fr Colonna shows an awareness of the heavy Catholic history in relation to the Jewish people but

clearly has less experience of the great difficulty that many Messianic Jews have in relating positively to the Catholic Church. It is a pity here that he does not discuss the necessity for a full and humble Catholic confession of the sins of history that alone can remove these barriers.

In the final section, Colonna identifies four stages in the relationship between Israel and the nations: first, from the birth of Israel to the coming to earth of Jesus Christ; second, the time from the first coming of Jesus to the point of separation between Israel and the nations with the Church becoming in effect the Church of the Gentiles; the third is the period of the Jewish Diaspora, during which Israel is in exile bearing the marks of her rejection of the Messiah; during this period,

The sin of the Jews has also been perpetrated by the nations of the earth. Today the true believers in Jesus the Messiah have become a 'remnant' in the midst of the unbelief of the nations just as at the beginning the Jewish believers formed a remnant in relation to the whole of unbelieving Israel.^{[17](#)}

In the fourth period, which has now begun, Israel has politically recovered her own land and it becomes essential for Israel to recover her full dignity as the people of God born from divine and not merely human roots.

This new mission of Israel is finally to restore a divine soul to the nations of the earth that have become pagan again, but this cannot happen without Israel returning en masse to the Messiah, to her Messiah . . . The same God of the origins is the God of the end and the end will see the nations of the earth and Israel united in the worship of the one God of his Messiah.^{[18](#)}

While this book is unlikely to be translated into other languages, it can be useful for Messianic leaders to be aware of it when they are in contact with Catholic bishops and priests (to be recommended), many of whom know Italian.

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¹. Richard Harvey, *Mapping Messianic Jewish Theology: A Constructive Approach* (Milton Keynes:

Paternoster, 2009).

[2.](#) Colonna, *Gli Ebrei Messianici*, 83–85.

[3.](#) Ibid., 57.

[4.](#) Joseph Ratzinger, *Jesus of Nazareth* (New York: Doubleday, 2007).

[5.](#) *The Catechism of the Catholic Church* (2d ed.; revised in accordance with the official Latin text promulgated by Pope John Paul II; New York: Doubleday, 1995), para. 528.

[6.](#) Colonna, *Gli Ebrei Messianici*, 124.

[7.](#) Ibid., 131.

[8.](#) Ibid., 132.

[9.](#) Ibid., 145.

[10.](#) Ibid., 147.

[11.](#) Ibid., 148

[12.](#) Ibid., 151.

[13.](#) Ibid., 152.

[14.](#) Ibid., 158–59.

[15.](#) Ibid., 161.

[16.](#) Ibid., 163.

[17.](#) Ibid., 171–72.

[18.](#) Ibid., 173.

Frederiksen, Paula. *Augustine and the Jews: A Christian Defense of Jews and Judaism*. New York: Doubleday, 2008.

Horner, Barry. *Future Israel: Why Christian Anti-Judaism Must Be Challenged*. Nashville: B & H Academic, 2007.

REVIEWED BY RUSS RESNIK¹

The subtitle of Paula Frederiksen's recent book *Augustine and the Jews* caught my eye before anything else: *A Christian Defense of Jews and Judaism*. I had just finished reading Barry Horner's *Future Israel: Why Christian Anti-Judaism Must Be Challenged*, which traces Christian anti-Judaism back to the great Church fathers, who wrote in the fourth and fifth centuries. After all, as both Horner and Frederiksen make clear, it was Augustine who established the idea of Israel as a witness people, whose exile throughout history testifies to the truth of God's word. Israel's exile demonstrated throughout the Roman world of Augustine's day the consequences of rejecting Messiah, even as Scripture foretold. Augustine's defense of the Jews, then, is his insistence "that Jews were not a challenge to Christianity but a witness to it. In their allegiance to their ancestral practices, he asserted, the Jews unknowingly confirmed the church's claim to their scriptures."²

Augustine expressed this understanding of Israel in what Horner calls his "famous, yet obviously mistaken, interpretation of Ps 59:12 (59:11 in Christian Bibles), 'Do not kill them [the Jews]; otherwise, my people will forget. / By Your power, make them homeless wanderers.'"³ This interpretation eventually led the Church to ensure that the Jewish people were not destroyed, but also that they did not prosper or increase. Frederiksen, however, doubts that Augustine himself would have intended such an application of his words. Just as the rhetoric of some passages of the Gospels, particularly in John, has been misapplied to fuel anti-Semitic attitudes and actions in the Christian world, which John himself, and surely Yeshua, would never have intended, so

Augustine's rhetoric fueled the idea that Jews should "survive but not thrive" in the Christian world.⁴

Augustine himself, however, interpreted the phrase, "Do not kill them," to mean "Do not cause, or even encourage, them to be separated from their laws and traditions, for that would kill them as a people." Jewish survival was not in question in Augustine's day; Jews were citizens of the Roman Empire, protected by its laws, even though these were administered in many cases by the Church. Thus, Frederiksen describes Augustine's support of one Licinius, a Jewish landholder, in his grievance against a bishop named Victor,⁵ and Augustine's apparent rejection of the coercive tactics of another bishop, Severus, against the Jews of Minorca.⁶ In short, Frederiksen finds no evidence that Augustine objected to the relative prosperity and security that Jews still enjoyed in the recently Christianized Roman Empire of his day.

Before he developed the Psalm 59 interpretation, Augustine had employed a striking midrash on the story of Cain and Abel to explain the unique position of the Jewish people. Like Cain, the Jews have killed their brother, Yeshua, because he is the favored one of God. But, "God protects the Jews as he had protected Cain. He has placed his mark upon them, protecting their special identity by protecting their ancestral practices; and these ancestral practices are themselves God's 'mark.'"⁷ This protective mark, of course, is also a stigma. Augustine sees the Jews as the perpetual outsiders in the Christianized Roman world, but he does not invalidate Jewish religious thought and practice as do so many Hellenistic thinkers of his day. Their anti-Jewishness did not generally translate into practice, but was a rhetorical position that defended "spiritual" Christianity or Neo-Platonism by contrasting it with "fleshly" Judaism. They complained that the Jews followed their Scriptures literally, refraining from work one day a week, practicing circumcision upon their infant boys, avoiding various foods, and so on. The Hellenistic perspective—whether Christian or pagan—saw such practices as meaningless in themselves, as having value only as symbols of spiritual truth. The Jews' literal application only revealed their unspiritual

outlook. Augustine,

“from the period of his own early schooling through to his productive years as a mature intellectual and a powerful bishop . . . moved entirely within a philosophical culture that valued the spiritual over the material, the eternal over the historical. Throughout his life, he thought within a range of theological cultures that . . . associated the Christian message with ‘the spirit’ and the Christian construction of Judaism with ‘the flesh.’”⁸

Frederiksen portrays this culture with great lucidity and insight, so that her book could serve as an introduction to Augustine and late classical Christianity. In this context Augustine is a defender of Jews and Judaism.

Against the grain of late Roman Neoplatonic philosophy, he emphasized the value, even the necessity, of seeing history as vital to revelation and of seeing flesh as vital to spirit . . . Praxis, the “traditions of the fathers” as Paul calls it (Galatians 1:14), is where Judaism is at its most emphatically, distinctly, carnally, ethnically Jewish. Without this, said Augustine, you cannot have Christianity; because without this you cannot have the incarnate Christ . . . *Christ is God at his most emphatically, distinctly, carnally, ethnically Jewish.*⁹

In other words, Judaism in its distinctiveness prepares the way for the distinctive historical event of the incarnation, in which God comes as a Jew among the Jews, who have been prepared for his coming through their writings and traditions. Thus Augustine asserted that “Jews as Jews . . . were not a challenge to Christian identity but a witness to it and a support for it, confirming in their allegiance to their scriptures the validity of the Christian claim.”¹⁰

Horner, on the other hand, considers not the historical Augustine, but the theological Augustine, whose “teaching concerning the future of the Jews . . . both saved them from total decimation and preserved them for intentional humiliation.”¹¹ Under Augustine’s theological influence western Christianity came to see Jews and their practice as meaningful only in a negative sense, as evidence of the consequences of rejecting the Lordship of Yeshua.

Augustine’s thought is one of the pillars of supersessionism, as expressed in

his *Expositions on the Book of Psalms*:

Let therefore no Christian consider himself alien to the name of Israel . . . The Christian people then is rather Israel . . . But that multitude of Jews, which was deservedly reprobated for its perfidy, for the pleasures of the flesh sold their birthright, so that they belonged not to Jacob, but rather to Esau.^{[12](#)}

Augustine's eschatology has no place for a millennial kingdom, in which all the prophecies concerning Israel will be fulfilled. Instead he interprets such prophecies "spiritually," as applying to the Church and to its eventual transfer from earth to heaven. Israel as a distinctive people has no real future in God's plan. This eschatology, which came to be known as amillennialism, is generally linked with supersessionism. If God is through with Israel, then what need is there for a future, earthly kingdom, with Messiah ruling over it from Jerusalem? Of course, the prophets all speak of just such a kingdom, so amillennialism must find an alternate way of interpreting their words.

Horner acknowledges that there may be different interpretations of Scripture, but urges his readers to assess an interpretation in part by its fruit.

If a Christian's eschatology produces an indifference, detachment, or even antagonism towards things Jewish . . . there is most likely something fundamentally wrong with that eschatological expression.

True doctrine, rightly comprehended, does not produce bad attitudes.^{[13](#)}

In other words, we can argue that supersessionism is wrong not only because it seems to ignore the plain sense of so many biblical passages, or rather to favor a strained interpretation over a straightforward interpretation of so many passages, but also because it has led to contempt and oppression of the Jewish people over the centuries.

Such an argument is particularly potent coming from Horner because he strongly identifies with Reformed theology, particularly of the Calvinist strain, which is normally amillennial and supersessionist. Nonetheless, he argues that bad behavior among Christians and Christian institutions may be evidence of bad underlying theology. If amillennialism has supported anti-Semitism, it might

just be the wrong approach to eschatology, even if it sounds more spiritual than other viewpoints, like premillennialism (the belief in a literal, earthly kingdom of God to come).

In *Postmissionary Messianic Judaism*, Mark Kinzer cites other Christian authors who make a similar point, based on Yeshua's teaching that Torah and the Prophets depend entirely on the two commandments to love God and love your neighbor as yourself (Matthew 22:40). Ironically, Kinzer's list of Christian references on this point includes (albeit in a footnote) Augustine himself, who once wrote:

So what all that has been said amounts to . . . is that the fulfillment and end of the law and of all the divine scriptures is love (Rom 13:8; 1 Tim 1:5) . . . So if it seems to you that you have understood the divine scriptures, or any part of them, in such a way that by this understanding you do not build up this twin love of God and neighbor, then you have not yet understood them.¹⁴

Augustine, however, did not seem to apply this truth to his Jewish neighbors—or perhaps could not conceive of them as neighbors at all—but only as “homeless wanderers,” who got what they deserved.

In contrast, writes Kinzer,

If Christians believe that anti-Judaism and anti-Semitism are incompatible with the character of God, then they must question the theological assertions that have given these attitudes and actions such powerful impetus. Furthermore, when Christians seek to take responsibility for the sins of their forbears, they must also take responsibility for the interpretive judgments that made these sins possible.¹⁵

One lasting aspect of Augustine's legacy is his fusion of Hellenistic philosophy with biblical doctrine. To this day, many Christians prefer to think of biblical truth in abstract and disembodied terms. Horner, like Kinzer and the authors that he cites, is suggesting an approach to biblical truth that looks more like the Bible itself, which tends to convey doctrine through story and precept

and to follow up its more theoretical passages with behavioral instruction. In short, the Bible handles truth in Jewish fashion, not as abstraction, but as a way of life, particularly evident in our treatment of other human beings, for “Those who say, ‘I love God,’ and hate their brothers or sisters, are liars; for those who do not love a brother or sister whom they have seen, cannot love God whom they have not seen” (1 John 4:20). That most followers of Jesus throughout the centuries, unlike Paul (Acts 22:1, 28:17; Rom 9:3), would not recognize Jews as their brothers or sisters may be evidence of Augustine’s influence.

Horner points out the great irony that Reformed theology—which expresses great confidence in the sovereignty of God and great hope in salvation as a free gift of God apart from human merit—remains firmly supersessionist in its view of Israel. It speaks of the irresistible grace of God and the eternal security of the redeemed but maintains at the same time that the Jewish people lost their standing with God irretrievably because of disobedience. And he deals at length with a corollary to this troubling position: If the Jewish people no longer have any claim to be God’s chosen, they therefore have no special claim on the land of Israel today. Thus, for example, Horner quotes seminary professor Gary Burge, who “erroneously proposes, ‘Possession of the land is tied to obedience to the covenant.’” Horner responds, “In other words, Israel lost its inheritance because of disobedience while Christians gain this inheritance, spiritually speaking, strictly by grace through faith alone in Jesus Christ.”¹⁶ In place of this inconsistent theology, Horner calls for “the acknowledgement that while grace has blessed the Gentiles in a grand manner, so too will that same grace of God, according to the same sovereign purpose, ultimately bless the Jewish people in a most climactic and triumphant sense.”¹⁷

The land of Israel, Horner argues, is part of God’s gracious gift to the people of Israel. The Mosaic covenant makes clear that disobedience will lead to exile from the Land but not to loss of entitlement to the Land. The same passages in Torah that threaten exile also promise an ultimate return (see Leviticus 26, esp. vv. 40–46; Deut. 30:1–10; these passages seem to be conditional upon Israel’s

repentance, but the Prophets, esp. Ezekiel 36–37, make it clear that Israel will both return and repent). Through nearly two millennia of exile, Israel recognized that Torah still provided its title deed to the Land and continued in prayer and longing for it. Or, to say the same thing in Reformed terms, Jews recognized that God’s sovereign choice of Israel as his people and his free gift of the Land still held, despite their sins and despite their continuing exile.

It is encouraging to see Horner marshal the resources of Reformed theology to the side of Israel and Jewish continuity, and equally encouraging to hear his citations of historic Christian voices in support of Israel and Jewish continuity. At the same time, one of the pillars of his argument might be problematic from a Messianic Jewish perspective. Horner supports Israel’s ongoing claim to the Land because it is based on the Abrahamic covenant, which the later Mosaic covenant cannot abrogate. The Abrahamic covenant, according to Horner, is unilateral and unconditional, whereas the Mosaic covenant is bilateral—involving a response both from God and from Israel—and conditional upon Israel’s obedience. The implication is that if the Land had been granted only as part of the Mosaic covenant, it would have been lost. Thus, despite Horner’s clear words in support of Israel and Jewish identity, he seems at times to reflect the familiar Christian denigration of the Law of Moses. Thus, he writes that God’s promise to Abraham that his heirs will inherit the Land “was in no way abrogated when, 430 years later, the temporary, intervening, foreshadowing administration of Moses ‘was added because of transgressions until the Seed to whom the promise had been made would come’ (Gal 3:19).”¹⁸

Here is another irony: Augustine, who sees Israel as superseded, argues that loyalty to Torah is essential to Jewish identity. Horner, who believes the covenant with Israel still stands, sees Torah loyalty as secondary. But this position seems inconsistent within his own book:

Paul acknowledged that the unbelieving Jew has present authenticity with regard to the full meaning of Jewishness. He clearly upheld this vital truth, not merely for the cause of secular convenience, but because of his bona fide identification as a fellow Israelite with “the adoption,

the glory, the covenants, the giving of the law, the temple service, and the promises” (Rom 9:4). This is not the language of superseded Judaism.^{[19](#)}

But how can Horner say this, if he believes the entire Mosaic ordinance has been set-aside in Messiah? Would not such setting aside in itself create a “superseded Judaism?” Despite these questions, I remain appreciative of Horner’s work and hopeful that he may be able to answer them in a satisfactory way in future writings.

Horner argues that supersessionism not only has borne bad fruit throughout most of its history but also impugns the character of God. This is precisely where Reformed theology is most attractive—in emphasizing God’s sovereignty, his freedom to act apart from human merit or claim, solely on the basis of his own love and goodness. Horner insists that this love and goodness govern God’s dealings with Israel, past, present and future.

But never let perish the biblical indications of God’s sovereign grace that will supremely triumph in the salvation of Israel as a nation through the mediation of its Messiah, Jesus, the Son of God, and His consummate reign from Jerusalem. Israel’s original election was according to the purest grace, and so will be the climactic salvation of national Israel unto holiness as God’s people.^{[20](#)}

Augustine denies this climactic salvation of the Jewish people. In his view, the practice of Torah provides divine protection for the Jews and, since he cannot countenance the idea of Torah-practicing Jews in the Church (at least after the New Testament period), he must leave the great majority of Jews outside it. Or, to turn this thought around, God has placed the ancestral Jewish practices as a mark of Cain upon the Jewish people, and since Augustine finds no place for such practices within the community of the redeemed, the Jews will never come into that community in great numbers. Hence, Augustine would certainly condemn our Messianic Jewish vision of faith in Yeshua and loyalty to Jewish tradition and practice. His understanding of Romans 11:26 epitomizes this position.

*“[A]ll Israel” that is saved does not and cannot mean all of “Israel according to the flesh”—that is, the Jews. What does Paul mean then? “Israel according to the spirit,” Augustine concludes; versus Israel, “true Israel,” the Israel of God. This “Israel” designates the community of the redeemed, which is composed of those particular Jews and those designated Gentiles whom God, in his inscrutable wisdom, chose to save.*²¹

In the end, Augustine’s “defense of Jews and Judaism” gives us a continuing place in God’s eschatological purposes, but still insists that that place remain one of exile and exclusion. What he terms Israel according to the flesh has been superseded by the spiritual Israel, which is the Church. In his own day, Augustine was a defender of the Jewish people, perhaps, but his rhetoric gave rise to Christian attitudes far more negative than his in the following centuries.

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- ¹. Portions of this review appeared earlier in “Rabbi Russ’s Blog” at www.umjc.org.
- ². Frederiksen, *Augustine and the Jews*, 351.
- ³. Horner, *Future Israel*, 3.
- ⁴. Ibid., 4; citing James Carroll, *Constantine’s Sword: The Church and the Jews—A History* (New York: Houghton-Mifflin, 2001).
- ⁵. Frederiksen, *Augustine and the Jews*, 312ff.
- ⁶. Ibid., 357ff.
- ⁷. Ibid., 319.
- ⁸. Ibid., 101–2.
- ⁹. Ibid., 317 (Frederiksen’s emphasis).
- ¹⁰. Ibid., 319.
- ¹¹. Horner, *Future Israel*, 3.

[12.](#) Cited in *ibid.*, 5.

[13.](#) *Ibid.*, xix.

[14.](#) Mark S. Kinzer, *Postmissionary Messianic Judaism: Redefining Christian Engagement with the Jewish People* (Grand Rapids, MI: Brazos Press, 2005), 34–35 fn. 10.

[15.](#) *Ibid.*, 36.

[16.](#) Horner, *Future Israel*, 53–54.

[17.](#) *Ibid.*, 11.

[18.](#) *Ibid.*, 226.

[19.](#) *Ibid.*, 309.

[20.](#) *Ibid.*, 321.

[21.](#) Frederiksen, *Augustine and the Jews*, 328.