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## RELIGION AND LAW

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### Abstract

The major portion of this lecture was constructed around a close exegesis of one short passage in the *Ma'ase Efoḏ* of Profiat Duran<sup>1</sup>—an early fifteenth century work composed in Spain by a colorful, versatile member of R. Hasdai Crescas' philosophic circle. The interpretation of the passage provides a stereoscopic view of the question of the relationship of Bible study to Talmud study and concretizes many aspects of the theme of religion and law as defined and structured in the first part of the paper, particularly the gnawing dissatisfaction with extreme Talmudism. By showing how this late medieval text subtly reflects earlier sources, arguments, interpretations and tendencies, this analysis also illustrates the centrality and durability of the underlying tension.

The second part of this article contains a brief digest of the exegesis; the full textual-exegetical underpinning—including the unpublished text of R. Yedaya ha-Penini's *Perush ha-Aggadot*—will be provided in a separate article. Inasmuch as we are dealing here with abstract categories (if not ideal types), references to texts, both before and after Duran, are for their representative value.

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A tense, dialectical relationship between religion in essence and religion in manifestation<sup>2</sup> is at the core of the Jewish religious consciousness—its legal configuration and its historical experience. Halakah is the indispensable manifestation and prescribed concretization of an underlying and overriding spiritual essence, a volatile, magnetic and incompressible religious force designated as Judaism. The tension flows from the painful awareness that manifestation and essence sometimes drift apart, from the sober recognition that a carefully-constructed, finely-chiseled normative system cannot regularly reflect, refract, or energize

interior, fluid spiritual forces and motives. Yet, if the system is to remain vibrant, it must.<sup>3</sup> If halakah is a means for the actualization and celebration of ethical norms, historical experiences, and theological postulates, then external conformity must be nurtured by internal sensibility and spirituality. This *concordia discordantium*<sup>4</sup>—prophecy and law, charisma and institution, mood and medium, image and reality, normative action and individual perception, objective determinacy and subjective ecstasy—is the true essence of halakah and its ultimate consummation, but this harmonious, mutually-fructifying relationship between law and experience is not always attainable. Hence, in short, the titanic Heraclitean struggle rather than the placid Hegelian synthesis is the historic and conceptual focus of this story.<sup>5</sup> When the spiritualizing speculative quest, in philosophic, mystical or pietistic terms, is overshadowed, then the incidence of atrophied patterns of behavior sets off attempts to restore the ideal equilibrium: to see that action is reflective and deliberate, that the religious performance is both an expression of as well as stimulus to experience, deep and rich, full and fresh.<sup>6</sup>

#### A

On one hand, Judaism is halakocentric. Indeed, the halakocentric nature of Judaism and of Jewish history is probably the axial concept for purposes of thoughtful Jewish historiography and the governing proposition for historiosophical analyses. This is, moreover, practically the consensus omnium—of the protagonists of the system, its inveterate enemies, newly-formed antagonists, and allegedly detached observers. Whatever the concomitant value judgments—positive or negative, appreciative or derisive, often reflected in the choice of terminology, i.e. legalism, particularism, nomism, activism, pragmatism, formalism, ritualism, Talmudism—there is agreement that what I prefer to call halakocentricity is the hallmark of historic Judaism.

A major corollary of this halakocentricity is the repeated demand for and frequent achievement of a nearly exclusive emphasis on Talmud study — a curriculum oriented towards religious practice and hence weighted with Talmud, Talmud, and more Talmud. Study is the handmaiden of practice<sup>7</sup> and Talmudic lore is the prerequisite for and source of religious performance. R. Abraham ibn Ezra, that protean twelfth century exegete, grammarian, and philosopher, reproduces—critically but faithfully—this pragmatic rationale while describing those scholars whose sole intellectual preoccupation is the Talmud. They plunge directly into the vast sea of the Talmud (*oceanus juris*) without any preliminary or concomitant studies, because Talmud provides the practical knowledge necessary for religious behavior. “For from the Talmud do we know all

the commandments . . . by means of which we shall be able to inherit the life of the world-to-come.”<sup>8</sup> Since the goal is knowledge and practice of halakah, then proceed forthwith, dispensing with propaedeutic disciplines and avoiding theoretical distractions or cosmetic additions. Ibn Ezra’s northern French contemporary, the independent, provocative Talmudist and exegete, R. Samuel ben Meir, likewise portrays this attitude very accurately—while dissociating himself from it—in the famous report of his conversation-confrontation with his aging grandfather Rashi: “To be sure, the main objective of the Torah is to teach us (conduct) and to give us pertinent information through the various methods of ordinary as well as aggadic or halakic interpretation. For this reason, the older sages, in their great piety, immersed themselves completely in the hermeneutic teachings which are essential (for practical conduct) and failed to delve into the profundities of the ordinary meaning.”<sup>9</sup> Since the goal was to determine fully the practical applications and conceptual implications of the Biblical text, all other matters were derivative and ancillary; Peshat, the attempt to establish philologically the *sensus litteralis*, was most easily discarded. This is the program and rationale of Talmudism, the child of halakocentricity.<sup>10</sup>

The other side of the ledger tells a tale of apprehension and anxiety lest the halakic enterprise become externalized and impoverished, lest that fine precision instrument with its most delicate mechanism cease to function effectively. We hear resounding calls for vigilance to assure that the halakic system remain rooted in and related to spirituality, to knowledge of God obtained through study and experience—through *both or either* of them. The spiritual concern, with its eye on the balance between essence and manifestation, will therefore trigger a sustained tendency to censure halakic intellectualism and to downgrade Talmudism which crowds sensibility and spontaneity out of the picture or even ranks a far-fetched, impracticable legal speculation higher than a theological or ethical inquiry. R. Bahya ibn Pakuda, whose *Hovot ha-Levavot* had such a remarkable resonance directly and indirectly in later Jewish history, captures the flavor of much of this spiritualist anxiety and criticism.<sup>11</sup>

And if any one of them is moved to devote himself to the study of the Torah, his motive is to be called a scholar by the masses and to gain a name among the great. And thus he turns aside from the way of the Torah to that which will neither secure for him any special moral excellence, nor free him from spiritual stumbling, and for ignorance of which he would not be punished, while he omits to investigate the root-principles and fundamental precepts of his religion, which he should not have ignored nor neglected, and without the knowledge and practice of which, no precept can be properly fulfilled.

A learned Rabbi, on being consulted concerning a strange case in the

law of Divorce, replied to the inquirer, "Thou who askest concerning a point which will not harm anyone, if he does not know it,—hast thou the knowledge of duties which thou art bound to learn, art not permitted to ignore and which it is not proper that thou shouldst transgress, that thou spendest time in speculations on curious legal problems, which will neither advance thee in knowledge or faith, nor correct faults in thy character? I solemnly assure thee that for the past thirty-five years I have occupied myself with what is essential to the knowledge and practice of the duties of my religion. Thou art aware how assiduous I am in study and what an extensive library I possess. And yet I have never turned my mind to the matter to which thou hast directed thy attention, and about which thou enquirest." And he continued to rebuke and shame him concerning the matter.

This is, in many respects, the bedrock of later spiritualist demands and criticisms of excessive Talmudism.<sup>12</sup>

A major corollary of this spiritual resurgence is the repeated demand for curricular expansion that will provide for meta-halakhic disciplines. Just as nearly exclusive emphasis on Talmud is the child of the halakocentric thesis, similarly, assigning pride of place and axiological primacy to extra-Talmudic study is the child of the spiritualist antithesis. The concept of Talmud Torah should not be excessively specialized, but instead must be sufficiently expansive and integrative so as to include specific meta-halakhic subject matter, be it philosophy or mysticism, pietism or mussar, study of Bible or aggadah. Consequently, we find Maimonides putting his immense weight as legal authority behind a normative, halakhic decision which emphasizes forcefully and unequivocally that the religious commandment of study includes metaphysics and physics as an integral, indispensable component.<sup>13</sup>

The time allotted to study should be divided into three parts. A third should be devoted to the Written Law; a third to the Oral Law; and the last third should be spent in reflection, deducing conclusions from premises, developing implications of statements, comparing dicta, studying the hermeneutical principles by which the Torah is interpreted, till one knows the essence of these principles and how to deduce what is permitted and what is forbidden from what one has learned traditionally, this is termed Talmud. . . . The subjects styled *Pardes* are included in Talmud.

R. Eleazar of Worms (Rokeah) does the same in a less eloquent but equally persuasive manner.<sup>14</sup> The study of philosophy or hasidut or kabbalah—or, as we shall see, Scripture and its full-panoplied exegesis—is thus not merely an intellectual indulgence or a sop thrown to some perverse demands but a basic religious duty.

However, not only is this study deftly grafted on to the substance of the

oral law but it is viewed as the crowning achievement, the ultimate goal and worthiest aspect. The centrality, universality, and indispensability of Talmudism are readily recognized, but hierarchical superiority is rigorously reserved for a meta-halakhic preoccupation. Philosophers and kabbalists agree on the principle, differing only on the method and content of this meta-halakhah. Maimonides' famous palace metaphor, in which the highest and noblest representatives of the homo religiosus are those philosophers who have traversed all the ante-chambers, which represent various disciplines including the study of Talmud, and are now, after having entered into the domain of metaphysics, in the presence of the King, is identical in import and impact with the pivotal position of kabbalists. Maimonides writes:<sup>15</sup>

Those who seek to reach the ruler's habitation and to enter it, but never see the ruler's habitation, are the multitude of the adherents of the Law, I refer to the ignoramuses who observe the commandments.

Those who have come up to the habitation and walk around it are the jurists who believe true opinions on the basis of traditional authority and study the Law concerning the practices of divine service, but do not engage in speculation concerning the fundamental principles of religion and make no inquiry whatever regarding the rectification of belief.

Those who have plunged into speculation concerning the fundamental principles of religion, have entered the antechambers. People there indubitably have different ranks. He, however, who has achieved demonstration, to the extent that that is possible, of everything that may be demonstrated; and who has ascertained in divine matters, to the extent that that is possible, everything that may be ascertained; and who has come close to certainty in those matters in which one can only come close to it—has come to be with the ruler in the inner part of the habitation.

In his Mishneh Torah, he conveys the same attitude boldly and succinctly, without any smokescreens or diversionary tactics:<sup>16</sup>

The topics connected with these five precepts, treated in the above four chapters, are what our wise men called *Pardes*, as in the passage, "Four went into *Pardes*" (Hagigah 14). And although those four were great men of Israel and great sages, they did not all possess the capacity to know and grasp these subjects clearly. Therefore, I say that it is not proper to dally in *Pardes* till one has first filled oneself with bread and meat; by which I mean knowledge of what is permitted and what forbidden, and similar distinctions in other classes of precepts. Although these last subjects were called by the sages "a small thing" (when they say "A great thing, *Maaseh Merkavah*; a small thing, the discussion of Abbaye and Rava"), still they should have the precedence. For the knowledge of these things gives primarily composure to the mind. They are the precious boon bestowed by God, to promote social well-being on earth, and enable men to

obtain bliss, in the life hereafter. Moreover, the knowledge of them is within the reach of all, young and old, men and women; those gifted with great intellectual capacity as well as those whose intelligence is limited.

Analogously, the kabbalists find the following midrashic text congenial and expressive of their attitude:<sup>17</sup>

If there comes before Him one who is learned in the Talmud, the Holy One says: "My son, since you have studied the Talmud, why have you not also studied the Merkabah and perceived my splendor. For none of the pleasures I have in My creation is equal to that which is given to me in the hour when the scholars sit and study the Torah and looking beyond it, see and behold and meditate these questions (concerning esoteric subjects of theosophy)."

Some kabbalists are more aggressive in their evaluations and characterizations. Abulafia, the kabbalistic enfant terrible of the thirteenth century, who earned the wrath of R. Solomon ibn Adret,<sup>17a</sup> does not shy away from asserting—with obvious desire for maximum shock effect—that the difference between the Talmudist and the one who, initiated into the vital mysteries of esoteric lore, knows the "ineffable name" is similar to the difference between the non-Jewish dialectician and the Talmudist!!<sup>18</sup>

R. Isaiah Hurwitz, prestigious author of the *Shne Lufot ha-Berit*, states in a more positive vein that the masters of kabbalah are immeasurably superior ("have ten parts more than"—II Sam. 19:44) to the masters of Scripture and the masters of Mishnah. It is incumbent upon every student to proceed, cautiously but irreversibly, to the study of kabbalah, for without it the entire structure of one's intellectual-religious achievement is jerrybuilt.<sup>19</sup>

To further validate the idea that kabbalah and philosophy are phenomenologically alike in their tense relation to halakah, it is worth calling attention to an important, rather suggestive and repercussive phenomenon of medieval Judaism. Many writers of the thirteenth and fourteenth centuries, in fragmentary autobiographical notices, chart their spiritual odyssey, describing their disenchantment with and disengagement from philosophy, on the one hand, and their fresh involvement with mysticism on the other hand. Erstwhile ardent Maimonideans—Isaac ibn Latif, Joseph Gikatilia, Abraham Abulafia, Moses de Leon—became fervent kabbalists. They move out of one spiritual ambiance into another, all along feeling the need for something to supplement positive law and invigorate it.<sup>20</sup>

## B

The early fifteenth century text (*Ma'ase Efod*) of Profiat Duran, known as Efodi, enables us to consider the fate of Bible study and its role in

this tense, complex drama, inasmuch as the reasons for its neglect as well as the arguments for its centrality provide a case study of the religion-law syndrome as here defined. We see the entrenched supremacy of Talmudism, sometimes a beleaguered Talmudism, the up-hill struggle of Bible study to win for itself a respectable place alongside of the Talmud, and the broad cultural-religious implications of this encounter, for the relation of Bible to Talmud study is, to a great extent, interchangeable with the relation of philosophy or mysticism to Talmud study.

The *Ma'ase Efod* is a study of Hebrew grammar and language, belonging to the genre of works by such authors as Jonah ibn Ganah, Abraham ibn Ezra and David Kimhi, and foreshadowing the later works of such authors as Abraham de Balmes, Immanuel Benvenuto and David ibn Yahya. However, its lengthy introduction (structured, as it is, around an analysis of the twin axes of Judaism, deed and wisdom) provides an unusual description—sometimes objective, sometimes slanted and characterization—sometimes perceptive, sometimes stereotyped—of medieval Jewish culture. There is nearly a universal consensus<sup>21</sup> that the halakic performance, in its most meticulous form,<sup>22</sup> is not self-sufficient but needs to be complemented by study of Torah, by pure intellectual achievement. The religious commitment is total and must therefore find total expression, in body and soul, in act and thought.<sup>23</sup> Any limitation or fragmentation corrodes, even destroys, the integrity of the religious commitment. It is in identifying the wisdom-component that the consensus gives way to diversity and divergence. Efodi describes three competing views—or three schools of thought—concerning the proper and noble subject matter of study: the views of the Talmudists, the philosophers, the kabbalists. Each contended vigorously, sometimes imperiously, that its special preoccupation provided the necessary and ultimate complement to the halakic act and only both, in tandem, led to the *summum bonum*. Ritual punctiliousness is not being questioned nor is there any suggestion of replacing it with an inner ecstasy or cognitive bliss; both are maintained and integrated. The shared assumption is that study is indispensable and of intrinsic, not ancillary, worth. In the process of presenting the views of these three groups—the Talmudists get the longest, apparently sympathetic, account, the philosophers get a lengthy but critical review, and the kabbalists get a laudatory but syncopated description—Duran affirms and laments a major fact of Jewish intellectual history: the deep-rooted neglect of the study of the Bible.<sup>24</sup> In fact, the long description of the Talmudic school almost turns out to be a ploy for the introduction of a fourth school—the Biblicalists, who contended that the study of the Bible is the proper intellectual complement to halakah—with which Efodi aligns himself and for which he assumes the role of protagonist and theoretician; this is the only school which does not have its band of enthusiasts. The

Bible is victimized in particular by the excessive, zealous, all-consuming study of the Talmud. Contributing causes alluded to by Duran are: the unrelenting need to underscore the supremacy and safeguard the inviolability of the oral law;<sup>25</sup> a pervasive religious pragmatism which simultaneously reflects and sustains the centrality of halakah by looking upon Bible study as derivative and ancillary;<sup>26</sup> achievement of social prominence, prestige, and power—self-aggrandizement in short—by ostentatiously parading one's judicial expertise—compounded of dialectical skills and esoteric legal knowledge—before the masses.<sup>27</sup> The major determinant, however, of this widespread unwholesome phenomenon is the dominant and domineering position of Talmud and in further explanation of this Duran constructs an analogy between contemporary medieval conditions and the original (oral) state of the Oral Law.

ומיראתו שלא יתמעט העסק בתורה שבכתב מפני עיון המקובל לא רצה שיעלה על ספר דבר ממנו, וכמו שאמרו דברים שבעל פה אי אתה רשאי לאמרן בכתב כי חשש שלא יהיה זה סבה להסתעפות הדיעות והסברות, והרבות המחלוקות בין האנשים וימשך מזה קושי העמידה על המשפטים במעשה התורה ויתחייב מפני זה שיתמעט ויחלש העסק בה, ומפני זה אמרו במחשכים הושיבני זה תלמוד בבלי.

Duran offers here a provocative explanation for the fact that the Law was designed to remain oral. The wise intent was to obviate the regrettable developments of later times (his own medieval period) when an obsessive preoccupation with the intricacies and subtleties of Talmud crowds out concern with and attention to Torah as the true fount of spirituality, religious experience, and closeness to God. There are several steps—exegetical and conceptual—in the unfolding of this explanation which, at first glance, appears stunning in its novelty but upon closer scrutiny turns out to be a remarkable, harmonious eclecticism. First of all, Duran conspicuously fails to refer to the conventional reason, frequently adduced in medieval writings, for the Law being oral; it constituted the *mysterium* of Israel—the individuating feature of the Jews vis à vis the Christians once the Bible becomes *common property* and is even arrogantly appropriated by the Christians as their special possession. The Oral Law thus remains Israel's badge of religious distinction and claim to chosenness.<sup>28</sup> Duran, skillfully grafting a Maimonidean motif<sup>29</sup> on to a compressed reformulation of an attitude elaborated by R. Isaac ibn Latif in the thirteenth century,<sup>30</sup> argues that what actually occurred in post-Talmudic times was prudently anticipated and successfully held in abeyance in the earlier period. The oral law, all agreed, had to be studied because it contained the key to the religious *vita activa*: it unfolded the meaning of the Biblical commandments, dispelled ambiguities and concretized generalities, and contained directives for normative behavior. The centrality

of Talmud is thus incontrovertibly affirmed. However, whereas a unified oral tradition provides comprehensive, authoritative guidance without preempting all one's time or exhausting all one's energies, a written text, generating a proliferation of conflicting views and dissenting interpretations, results in a certain obfuscation of the law and consequently demands more strenuous, time-consuming exertion in its study. It is much costlier to achieve the same goal. This is how he understands the famous Talmudic dictum:<sup>31</sup> "The words which are written you are not at liberty to say by heart and the words transmitted orally you are not at liberty to recite from writing." You are not at liberty to transform the oral tradition into a written codex because of its spiritually undesirable consequences. The Law, by being oral, would not become "imperialistic"; its clarity and unanimity would see to it that time and energy were available for Scriptural study, whereas the difficulties of the written Talmud tended, willy nilly, to eliminate Scriptural study. The upshot of this unqualified preoccupation with law is also startling. Total Talmudism is spiritually stultifying, inevitably leads to error and deviation by divorcing itself from the Bible,<sup>32</sup> and plunges its devotees into theological darkness. Hence the Talmudic application of darkness to the Babylonian Talmud.<sup>33</sup> "He had made me to dwell in dark places like those that have been long dead (Lamentations 3:6)." This, said R. Jeremiah refers to the Babylonian Talmud." This is also the context in which the following statement should be understood:<sup>34</sup> "When R. Zera emigrated to Palestine, he fasted a hundred fasts to forget the Babylonian Talmud, so that it should not trouble him." The relentlessly exacting nature of Talmud study is troubling; it inevitably prevents the Talmudist from devoting himself to theological and philosophical pursuits, and keeps him away from the systematic study of the principles of faith and the nature of religion.<sup>35</sup>

1. See F. Baer, *History of the Jews in Christian Spain* (Philadelphia, 1966), II, pp. 150 ff.; R. Emery, "New Light on Profayt Duran 'the Efodi,'" *JQR* LVIII (1967-68); pp. 328-337; S. Baron, *Social and Religious History of the Jews*, IX, pp. 103, 111 ff. For the name, see *MGWJ*, IV (1855), pp. 197-202.
  2. I am adapting the title of the classic work by G. van der Leeuw, *Religion in Essence and Manifestation* (Harper, 1963), 2 v.
  3. See my "The Shulhan 'Aruk," *Judaism* XVI (1967), pp. 153-154, 156-158.
  4. See S. Kuttner, *Harmony from Dissonance: An Interpretation of Medieval Canon Law* (Latrobe, Pa., 1960), pp. 1-4, and my article "Some Non-Halakic Aspects of the Mishneh Torah," *Medieval and Renaissance Studies*, ed. A. Altmann (Cambridge, 1967), p. 98.
  5. The story extends from the plaintive notes of the prophets—Isaiah 29:16—to the modern movements of hasidism and mussar (see the recent anthology *Kitve R. Israel Salanter* [Jerusalem, 1972] with a well-balanced introduction by M. Pachter, esp. p. 11). For some recent illustrations of interest, see R. A. Bornstein, *Egle Tal* (Jerusalem, 1960), introduction (unpaginated, p. 1); R. Yisrael Meir ha-Kohen (the Hafez Hayyim), *Ahavat Hesed* (Warsaw, 1967), p. 9 (interpretation of תופשי התורה לא ידעוני); Hazon Ish (A. Karelitz), *Al Inyene Emunah U-Bitahon*, Ch. 3, n. 18; J. M. Charlap, *Me Marom* (Jerusalem, 1950), introduction, p. 8 (cf. to *Ahavat Hesed*, p. 9); the exchange of letters between Rabbi Kook and R. Isaac Halevi in *Iggerot*, ed. A. Reichel (Jerusalem, 1972), p. 151.
  6. It should be stated unequivocally that there is here no natural alliance between spirituality and anti-intellectualism, as is often the case in the history of religion; cf., e.g., the excellent analysis of Giles Constable, "Twelfth Century Spirituality and the Late Middle Ages," *Medieval and Renaissance Studies* V, pp. 28-29 and passim. The usual contrast between intellect and religion—seeing "religion evaporate in intellectual terms," as formulated, for example, by William James, *Varieties of Religious Experience* (New York: Modern Library), p. 492, or stressing the need for "rehabilitating the element of feeling in religion and subordinating its intellectual part" (*ibid.*)—is neither accurate nor useful for understanding the tensions in the history of Judaism. Similarly, Wilhelm Pauck (*Journal of Religion* [1928], 453) is certainly right that "theology as the rational expression of the religious experience is always in danger of violating the inner character of religion," but the same needs also to be said for unexamined piety. It too is teetering on the brink of "violating the inner character of religion." See also Joachim Wach, *The Comparative Study of Religions* (New York, 1958), Ch. 3 ("The Expression of Religious Experience in Thought") and Ch. 4 ("The Expression of Religious Experience in Action").
- One way to achieve spirituality is by study, understanding, rationalization; emotionalism or "sensuousness" are not the exclusive, not even the preferred, means toward heightened sensitivity and spirituality. Rationalism and spirituality are congenial; the cognitive gesture is not only not antagonistic but is conducive to sensitivity, subjectivity and spontaneity. A good statement of this relationship is found in R. Obadiah Siporno, *Sefer Or 'Amim* (Bologna, 1537), introduction, pp. 3-4. From R. Bahya ibn Pakuda (see n. 11) to R. Moshe Hayyim Luzzatto the demand is for disciplined study, thoughtfulness and concentration and not hymn-singing, other ecstatic postures, or extreme asceticism. See especially Luzzatto, *Mesillat Yesharim* (Philadelphia, 1948), p. 3: "This fact has its evil consequences both for the learned and the unlearned. It will be exceedingly hard to find saintliness among us, since neither the learned nor the ignorant are likely to culti-

- vate it. The learned will lack saintliness because they do not give it sufficient thought; the ignorant will not possess it because their powers of understanding are limited, so that the majority of men will conceive saintliness to consist in reciting numerous Psalms and long confessionals, in fasting and ablutions in ice and snow. Such practices fail to satisfy the intellect, and offer nothing to the understanding. We find it difficult properly to conceive true saintliness, since we cannot grasp that to which we give no thought." Luzzatto's wide-ranging influence on both hasidim and mitnagdim has recently been documented—bibliographically—by I. Tishby in *Kiryat Sefer* XXXV (1969-70), pp. 127-154.
- Cf., however, G. Scholem, "Devekut, or Communion with God," *The Messianic Idea in Judaism* (New York, 1971), esp. pp. 215-216; *Major Trends in Jewish Mysticism* (New York, 1941), p. 91; also H. G. Enelow, "Kavvana, the Struggle for Inwardness in Judaism" *Studies in Jewish Literature* (Berlin, 1913); E. Etkas, "Shitato shel R. Hayyim Mi-Volozhin," *PAAJR* XXXVIII-IX (1972), Hebrew section, pp. 2-3 and ff; and, generally, N. Lamm, *Torah Lishmah* (Jerusalem, 1972).
7. A history of interpretation of the Talmudic dictum גדול תלמוד שמביא לידי מעשה *Kiddushin*, 40b, sheds much light on our theme. See, e.g., Rashi and Tosafot, *Baba Kamma*, 17a; Maimonides, *Hilkot Talmud Torah*, I:3 and III:3; Shem Tob Falaquera, *Sefer ha-Ma'alot*, p. 56; for Duran's statement in *Ma'ase Efod*, p. 3, cf. H. Crescas, *Or Ha-Shem*, introduction, p. 1b; "Derush" R. Zerahyah, *He-Haluz*, VII, p. 99; and for some later interpretations, see R. Elijah de Vidas, *Reshit Hokmah* (Tel Aviv, N.D.), introduction, esp. pp. 2 and 5; R. Isaiah Hurvitz, *Shne Luhot ha-Berit, Masseket Shavuot* (Jerusalem, 1969), II, p. 115b, and 118a.
  8. R. Abraham ibn Ezra, *Yesod Mora* (Prague, 1833), Ch. I. (p. 12)
 

ויש חכמים רבים שלא למדו מסורת. גם דקות הלשון בעיניהם הבל, גם לא קראו מקרא אף כי הטעמים, רק מימות הנעורים למדו התלמוד, שהוא פירוש המשנה, והם על דרכים רבים, וכולם על דרך נכונה כי מהתלמוד נודע כל המצות אשר יעשה האדם וחי בהם. See the statement of R. Eleazar ha-Rokeah cited by E. Urbach, *Arugat ha-Bosem* (Jerusalem, 1963) IV, p. 11. This seems to be an adaptation of ibn Ezra's remarks, thus providing additional proof of the penetration of philosophic ideas into the intellectual milieu of Hasidut Ashkenaz.
  9. R. Samuel b. Meir, Genesis 37:2. See S. Baron, *Social and Religious History of the Jews* VI, pp. 294-295.
  10. See, e.g., A. Figo, Commentary (*Gidule Terumah*) on *Sefer Ha-Terumot* (Jerusalem, 1961), p. 8. For the ancillary conception of philosophy in relation to Scripture, see H. A. Wolfson, *Philo* (Cambridge, 1962), I, pp. 143 ff., esp. 158.
  11. Bahya ibn Pakuda, *Duties of the Heart*, tr. M. Hyamson (Jerusalem, 1962) I, pp. 27, 29; see also pp. 35, 221. For a striking parallel to this attitude, and the very same example in al-Ghazali, see M. Watt, *Muslim Intellectual* (Edinburgh, 1963), p. 113.
  12. See the subtle comments of R. Hayyim Jair Bachrach, *Havot Ya'ir*, n. 123.
  13. *Mishneh Torah*, "Hilkot Talmud Torah," I:11-12 and note *Yesode ha-Torah* IV:13; discussion in my "Non-Halakic Aspects" (n.4) pp. 106 ff. See S. Rawidowicz, "Philosophy as a Duty," *Moses Maimonides*, ed. I. Epstein (London, 1935), pp. 177-188; also R. Brunschwig, "Averroes juriste," *Etudes Levi Provençal* (Paris, 1962) I, pp. 35-68.

14. *Sefer Rokeah* (Jerusalem, 1967), *Hilkot Hasidut*, pp. 5 ff.; *Sefer Hasidim*, ed. J. Wistinetski (Berlin, 1891), pp. 1-2. See G. Scholem, *Major Trends in Jewish Mysticism*, p. 94; E. Urbach, *Ba'ale ha-Tosafot*, pp. 325-27; Ivan G. Marcus, "The Organization of the Baqdamah and Hilekthoth Hasiduth in Eleazar of Worms' *Sefer Ha-Roqeah*," *PAJR XXXVI* (1968) 85-95.
15. Moreh Nevukim, III, 51 (*Maimonides Reader*, ed. I. Twersky, p. 342). Duran makes an original attempt to reinterpret this passage in *Ma'ase Eford*, p. 9, which is noted approvingly by Shem Tov in his commentary on the *Moreh*, *ad loc.* Duran's explanation is intended to deflate the extravagant, arrogant claims of the self-proclaimed heirs of Maimonides. See also J. Gikatilia, *Ginat Egoz*, p. 54d, and M. C. Weiler, *יוסף גיקטיליה והקבלית של ר' יוסף גיקטיליה*, *HUCA*, XXXVII (1966), p. 26; also, R. Menahem b. Zerah, *Zedah le-Derek* (Warsaw, 1880) IV:5:17 (p. 253).
16. *Hilkot Yesode ha-Torah* IV:13 (*Maimonides Reader*, p. 48). See also Maimonides' use of the midrash *Shir Ha Shirim* (I,5) in the introduction to the *Moreh*; the upshot is that the secrets of the Torah are undeniably nobler than the subtleties of halakah.
17. *Midrash Shmuel*, ed. Buber, p. 34a; Scholem, *Major Trends*, p. 71.
- 17a. Teshubot ha Rashbah, n. 548.
18. A. Abulafia in A. Jellinek, *Philosophie und Kabbalah* (Leipzig, 1854) p. 35.
19. *Shne Lufot ha-Berit*, 'Asarah Ma'amarot, *Ma'amar Rishon*, I, 66a.  
יש עשר ידות למארי הקבלה על מארי מקרא ומארי משנה.  
See the will of his son, S. Hurwitz, in I. Abrahams, *Hebrew Ethical Wills* (Philadelphia, 1948) II, p. 256: אחר שתמלאו כריסכם בתלמוד ובפוסקים, הנני מצווכם שתלמדו חכמת הקבלה כי אין אדם ירא שמים מי שאינו לומד חכמה זו. Also, R. M. Cordovero, *Or Ne'erav* (Jerusalem, 1965), pp. 11-16. A moderate, restrained formulation in R. David ibn Zimrai, *Metzudat David; Taame Ha-Mitzvot*, mitzvah 22:  
ואעפ"י שעיקר למודינו בתלמוד ובהלכות, צריך מי שחננו ד' שכל ליחד מקצת שעות לחכמה[ות] הפנימיות.  
For the meaning of *hokmah penimit*, see my *Rabad of Posquières* (Cambridge, 1962), p. 243, n. 16.  
For a philosophic parallel, see A. Bibago, *Derek Emunah, Sha'ar ha-She'lishi*, especially p. 45b. Bibago, whose work was rather influential in succeeding generations, is quoted in the *Ein Yaakov, Berakot*, end:  
ויהיו בעיניו כל הלומדים בספרי המשנה והתלמוד ככל המון ישראל ההולכים לתומם, ומידיעת סתרי תורה קצתם נעדרים.
20. Accessible references are in I. Zinberg, *Toledot Sifrut Yisrael* (Tel Aviv, 1956) II, Ch. 2 (pp. 23ff.). An illuminating example of counter-movement might be Isaac Albalag who was not enthralled by the fledgling Kabbalah and turned to philosophy; see *Tikkun ha-De'ot*, ed. G. Vajda (Jerusalem, 1973), p. 4 (also pp. 38, 60, 70).  
Of course, we are not dealing here at all with yet another motive—an outer-directed one—for the serious cultivation of philosophic studies, namely the need to maintain an impressive, intellectual profile "in the eyes of the nations"; see my "Aspects of the Social and Cultural History of Provençal Jewry," *Journal of World History* XI (1968), pp. 190, 204-205.
21. He is intolerant of the view that the Jew merits the reward of eternal bliss merely by regular performance of the commandments. See Judah ha-Levi, *Cuzari* I, 2; III, 7, 23. Cf. H. H. Ben-Sasson, *יהוד עם ישראל לדעת בני* המאה השתיים עשרה, *Perukim* II (Jerusalem, 1971), p. 152. Also, Hasdai

- Crescas, *Or Ha-Shem*, introduction, pp. 1-2; R. Nissim Gerondi, *Derashot*, ch. VI (Jerusalem, 1959), p. 44.
22. That *kavvanah* must suffice the act itself is axiomatic for Duran; see his letter on the death of R. Abraham Halevi (*Ma'ase Eford*, pp. 191-192) where he asserts that the separation of *kavvanah* from deed is the cause of destruction. The whole question of Christian contacts and apologetic motifs should be examined in this context. Clearly, his anti-Christian polemical tract *Kelimat ha-Goyim*, ed. A. Posnanski, *HaZofeh*, III and IV must be analyzed from this vantage point. See J. Albo, *Sefer ha'Ikkarim*, ed. I. Husik, (Philadelphia, 1946), III, ch. 25, esp. p. 219; the Christian indicts Judaism because "the law of Moses commands only right action (כשרון המעשה) and says nothing about purity of heart (טהרת הלב)."
23. This is the thrust of his interpretation of Deut. 18:13 (תמים תהי). *Temimut* means total commitment, total service of God by harnessing one's mind and soul as well as body and limbs. See Bahya ibn Pakuda, *Hovot ha-Levavot*, introduction, p. 36. Cf. *Mishneh Torah, Hilkot Akum*, XI:16.
24. See pp. 5, 10, 15, 41. Part ten of Duran's *Kelimat ha-Goyim* is devoted to a critical review of Christian use of Biblical passages—another indication of his deep involvement in Bible study.
25. See p. 5, the discussion of Rashi's explanation of מנעו בניכם מן ההגיון, *Berakot*, 28b. R. Judah b. Barzilai, *Perush Sefer Yezirah*, ed. S. Halberstam (Berlin, 1885), p. 5: הרבה מבעלי המקרא שאנו רואים בומן הזה כיון שאינן יודעים תלמוד ופירושי המצוות, קרובים הם להיות מינין.
26. See p. 4.
27. See pp. 5, 14. The theme can be found in Bahya ibn Pakuda, *Hovot ha-Levavot*, *loc. cit.*, and A. Ibn Ezra, *Yesod Mora*, ch. I; also, Kalonymus ben Kalonymus, *Even Bohan* (Tel Aviv, 1956), p. 56; among Duran's contemporaries see S. Alami, *Iggeret Mussar*, ed. A. M. Haberman (Jerusalem, 1946), p. 40, and among later writers, see J. Yebetz, *Or ha-Hayyim* (Lublin, 1912), p. 4b. A striking analogue is Joseph ibn Kaspi's indictment of those half-baked philosophizers whose goal is to impress the ignorant with their wisdom; see *Hazozrot Kesef* (Commentary on Proverbs), ed. I. Last (Pressburg, 1903), p. 104: הכסילים הם המתחילים בעיון, ואינם משיגים השגה שלמה, לפרסם שהם יודעים בפני הנשים ועמי הארץ.
28. See the elaborate presentation of this view in the introduction to the *Sefer Mizvot Gadol* (New York, 1959), p. 15, and briefly in *Tosafot, Gittin*, 60b and R. Judah b. Barzilai, *Perush Sefer Yezirah*, p. 6. It is referred to in *Shne Lufot ha-Berit, Masseket Shavuot*, p. 108. An alternate explanation is found in *Sefer Hasidim*, ed. Wistinetski, n. 1829 (p. 438).
29. Moreh Nevukim I, 71. Cf. *Mishneh Torah, Hilkot Mamrim*, I, 4 (*Maimonides Reader*, p. 208). See also *Iggeret ha-Teshuvah*, attributed to ibn Latif, *Kovez 'al Yad*, I (1885), p. 59. Crescas, *Or Ha-Shem*, *loc. cit.* Note how both views are combined by R. Joshua Falk, *Sefer Me'irat 'Enayim*, introduction.
30. *Sha'ar ha-Shamayim*, introduction, in *He-Haluz* XII (1887), p. 121.
31. *Gittin*, 60b; *Temurah*, 14a.
32. *Ma'ase Eford*, p. 14.
33. *Sanhedrin*, 24a.
34. *Baba Mezia*, 85a. A non-polemical, almost nonchalant statement about neglect of Bible study by Talmudists is found in the introduction to the *Yalkut ha-Makiri, Tehillim* (Jerusalem, 1964), p. 3a:  
ובטרדת לבם בתלמוד, בדינין . . . לא ימצאו ידיהם לאלתר המדרש הנדרש בכל פסוק ופסוק כפי הצריך להם.

35. This exegesis is based upon R. Yedaya ha-Penini's *Perush ha-Aggadot on Sanhedrin*, 24a. See also A. Abulafia, *op. cit.* There are striking similarities between Duran's lengthy classification and description of the three schools of thought and Abulafia's terse characterization.

An interesting application is found in Meir ibn Gabbai, *Tola'at Jacob* (Warsaw, 1876), p. 94 (epilogue), where the author apologizes for shortcomings and imperfections in his attempt to provide mystical explanations for the commandments. One of the extenuating circumstances is his sustained preoccupation with Talmud, which restricted his perception of kabbalistic truths.

דלא פסק פומי מגירסא באישון לילה ואפילה בהוויות אביי ורבא. ואמרינן  
בסנהדרין, במחשכים הושיבני זה תלמוד בבלי.

It should be noted that Duran's statement (p. 10) that mechanical reading or unreflective recitation of Torah is also significant seems, at first, to neutralize the quest for spirituality, because it is usually the profound understanding of Torah which yields spirituality. See, however, *Shne Lulhot ha-Berit, Masseket Shavuot*, II, p. 107b and I, 19b and his reference to R. Bahya b. Asher, *Kad ha-Kemah*, s.v. Torah. The special intrinsic quality ( *סגולה* ) of Scripture, deriving from the fact that it is the word of God, guarantees that even a perfunctory, soulless reading will have spiritualizing value. R. Bahya ibn Pakuda would certainly take violent exception to this theory; it is precisely for the one who is satisfied with reading Scriptural verses without achieving an understanding of their contents that R. Bahya reserved his pungent and poignant phrase *חמור נושא ספרים*. See (*Hovot ha-Levavot*, section III, ch. 4 (Hyamson, p. 219): "People who have learned the Bible and the rest of Scripture and are satisfied with their ability to read the text ( *גרסת הפסוק* ) without any understanding of the contents . . . They are akin to a *donkey laden with books*." This evaluation of *גרסת הפסוק* clearly rules out the notion that mechanical reading ( *ההגילבד היא הקריאה* ) is significant. Note finally that Duran (pp. 12-13) dissents from Maimonides (*Moreh*, III, 51) who views reading of the Torah as propaedeutic, conditioning one for higher spiritual activities; for Duran, reading is a goal.

I plan to publish a complete evaluation of Duran in the near future.

## THE ETHICS OF MEDIEVAL JEWISH MARRIAGE

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The prophetic image of marriage as a covenant between a man and woman solemnized by an oath to which God Himself served as witness (Ezekiel 16:8, Malachi 2:14, Prov. 2:17) marks the highest expression of the biblical appreciation of marriage.<sup>1</sup> I believe that the specific religious significance of this image failed to exert an influence in Talmudic and post-Talmudic literature commensurate with its profundity. There, notwithstanding the rabbinic term *qiddushin*, believed by many to have originally denoted a type of "sanctification" and despite the religious significance of the seven marriage benedictions, marriage is basically treated as a secular institution. This observation is in no way intended to question the sincerity of the words of the rabbis which reflect a most definitely positive approach towards marriage. They considered marriage itself to be a *miswah*, in the fulfillment of which the religious man and woman are expected to achieve and pursue high ethical goals.

During the Middle Ages significant advances were made in strengthening the bonds of marriage and its ethical dimensions and in advancing the status of women, both through formal enactments and as a result of local custom. Marriage and divorce were brought under the careful supervision of rabbinic authorities. Far-reaching changes were made in the marriage ceremony itself and in such fundamental areas as polygamy. Some of the basic principles which had governed divorce law were altered. This period also witnessed the growth, in some quarters, of a mystical interpretation of marriage, an analysis of which is found, for example, in Monford Harris' informative paper on *'Iggeret ha-Qodesh*, "Marriage as Metaphysics."<sup>2</sup> At times the financial structure of the family was transformed so that women were given economic powers far beyond those assumed by standard Jewish law. These and other processes are described