Is Judaism Democratic?

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The Jewish State and the End of Democratic Judaism
Meirav Jones

The question of this volume, “Is Judaism Democratic?” seems to be missing a word, state.

Since before the formulation of Israel’s declaration of independence, and increasingly in the last twenty-five years, the question of how to settle the apparent tension between Jewish state and democratic state, or the demands of Judaism with those of a democratic state, has been the subject of books, articles, position papers, educational programs, rabbinic responsa, university courses, yeshiva arguments, and more.¹ It seems that with so much effort having been put into exploring Judaism’s approach to democratic governance—or how Judaism might be compatible or incompatible with democratic governance—there would be little more to be said.

But the question “Is Judaism democratic?,” absent the term state, provides a new challenge. It asks of Judaism itself whether the highest authority is in the people. And as we see in the array of essays in this volume, Judaism itself is and has been many things.

In this essay, I will ask a political theorist’s question: what difference does a state make to the locus of power in Judaism? If the case can be made—and has often been made—that Judaism itself, as lived in many places and times in the Diaspora, was in some sense democratic, with the ultimate authority in the hands of the people who constitute their own community and leadership, how does the fact of a Jewish state change, preserve, or challenge this? What does a state—particularly a modern state of the sort conceived in the sixteenth and seventeenth century by Jean Bodin, Thomas Hobbes, and their contemporaries, a state constituted by the people for their protection—do to the locus of power in Judaism?

The essay is in three parts. The first is a brief discussion of Judaism before the state or without the state. As this is not my area of expertise and some of the contributors to this volume have spent years studying Judaism throughout the ages, I will keep this section to a talmudic story that sets the terms for thinking about Judaism as democratic, and I will focus on one particular Jewish practice—ritual immersion in a mikveh—to explore how the highest authority being “not in heaven,” translated to the people administering their
own religious lives. In looking at the mikveh and other aspects of Jewish life, I introduce a little-known text from around the time the modern state was being consolidated, which confirms my understanding. I will offer a view that Judaism before the state or without the state belonged to the people, as a legacy they preserved, and this had an effect on the diversity that developed within Judaism.

The second part of the essay is about the modern state: the Westphalian state established at the heels of Christendom, formally in 1648, but consolidated in the centuries that followed, and still the key ordering principle of world politics today. What I’m particularly interested in engaging here is what the modern state does with religion and what it sought to change about Europe and particularly European religious life when it came into being. My choice to discuss the European state model founded in the seventeenth century is based on the fact that will be explored in the third part of the essay, that this was largely the model adopted by Zionism and then by the founders of the modern State of Israel.

The third part of the essay explores what modern statehood does to Judaism when a “Jewish state” is founded on the seventeenth century model. I claim that at the establishment of the Jewish state in 1948, Israel’s founders applied the idea of the modern state to a Jewish state without addressing the need to theorize Jewish statehood or consider how a Jewish state might differ from a “regular” (or “Christian”) state. Of course, the case can be made that the modern (even the modern Christian) state is built on Jewish models, and scholarship in the field of political Hebraism has explored the extent to which this is the case. But whatever Jewish models and ideas were employed by the founders of modern sovereignty, the state was ultimately established to resolve a Christian problem, and interpretations of Jewish sources and models were carried out by Christians for Christians, often with little regard for Jewish exegetical traditions. When the founders of Israel applied the modern state model to their state, without conceiving a particular type of state suited to the needs of the Jews, this was set to affect the locus of power in Judaism. I identify how the Jewish state on this model undermines the democratic character of Judaism—its belonging to the people—by offering itself as a higher authority, and then present some alternatives that were available to the founders of the Jewish state and may still be available today. I argue that Judaism is less democratic today than ever due to the role played by the Jewish—even the Jewish and democratic—state.

The question of whether democracy is an end worth preserving or whether the democratic characteristics of Judaism are worth preserving
remains a question. I end the essay with a reflection on teleology, messianic
times, and the state, refracted through John Milton’s understanding of what
Judaism had to contribute to the argument for free speech and multiplicity of
voices at the dawn of modern politics. My reflection on the telos of democratic
Judaism will be an addendum to my main argument which will run as follows:
(1) Diasporic Jewish life could be described as democratic in certain respects,
as an ideal and in practice, in the sense that practices and institutions belonged
to the people participating in them; (2) the nature of the modern state is such
that it purposely limits the role of the people in constituting religious life when
it sets a single sovereign over civil and religious matters; and (3) that if Israel
does not define its statehood otherwise, Judaism will cease—and in some areas
has already ceased—to be ultimately in the hands of its constituents.

JUDAISM BEFORE THE STATE

Any discussion of locus of authority in Judaism before the state has to contend
with the background story of the “oven of Achnai.” In this remarkable story
recounted in Babylonian Talmud, Bava Metziah 59b, Rabbi Eliezer claims the
truth of his halachic position against the position of the sages on the question
of whether a particular sort of oven can be defiled. He calls upon the heavens
to support him when the other sages will not. He calls out: “If the halachah
[religious law] is in accordance with me, let this carob tree prove it!” The carob
tree moves, but the sages reply that nothing can be proven by a carob tree.
R. Eliezer then calls out on the channel of water to prove him correct, and
though the channel of water flowed backwards, the sages responded together,
“No proof can be brought from a channel of water.” He then calls on the
walls of the house to prove him correct, but when the walls tilted as if to fall,
R. Joshua rebuked the walls, saying, “When disciples of the wise are engaged
in a halachic dispute, what right have you to interfere?” According to the
story, the walls did not fall in deference to R. Joshua but they did not resume
their upright position in deference to R. Eliezer; they are still standing aslant.
Finally, R. Eliezer says to the sages, “If the halachah agrees with me, let it be
proved from heaven.” A divine voice is then heard crying out, “Why do you
dispute with R. Eliezer, with whom the halachah always agrees?” R. Joshua
stands up and protests: “‘The Torah is not in heaven!’ [Deut 30:12]. We pay
no attention to a divine voice because long ago at Mount Sinai You wrote in
your Torah, ‘After the majority must one incline’ [Exod 23:2].” God finally
rejoices in his sons defeating him. The Torah is not in heaven.
What is remarkable about this story when it comes to democracy is that “the majority” overrule God when it comes to religious law. What is less remarkable, and what might be used against the argument that the story represents an inclination toward democracy, is that the majority that overruled God was not a majority of men, but rabbis. Of course, this does not preclude democracy: only a certain class of Greeks were included in Greek democracy, and there were modern democracies before women had the right to vote. But a situation in which the law is in the hands of the majority of rabbis is different from a situation in which the people—even some classes of men—is the highest authority. The move away from divine authority to human authority, even the authority of sages, is certainly a move toward democracy, but it is not definitive. We would want to see that the rabbis are not understood as representing God, or as kings or prophets. We would want to know how rabbinic authority is constituted. And we would want to know how texts such as this were understood by Jews administering their public lives.

Many of the essays in this volume discuss Jewish political life in diaspora communities and accounts of such life found in rabbinic responsa that support the understanding that ultimate authority was in the people or those viewed as representing the people, rather than in God or in those viewed as representing God. We find examples of how Jews in diaspora communities built and maintained their communal institutions, how they represented themselves to non-Jewish rulers of the states via elected officials, and how they allowed for popular constituency with the prominence of the idea of covenant. The fact that there were occasionally “states of emergency” where such protodemocratic practices were curtailed serves as an exception to the rule that Judaism was generally run bottom-up rather than top-down, belonging to the people. For present purposes I refer to the contributions of my colleagues and teachers.

But because I intend to explore the difference a state makes to the locus of power in Judaism, I will look to a concrete Jewish practice that persists today, which was part of Jewish life from ancient times and which I believe exemplifies the extent to which Judaism belonged to the people—even radically so—before the state. The example is the mikveh, the Jewish ritual bath in which women immerse monthly in observation of “the laws of family purity.” The mikveh, I suggest, properly belonged to the people, which meant that the people were the highest authority and ultimately that the women of each community were its custodians. The mikveh is thus brought to exemplify how Jewish life was run democratically, as Judaism had the women owning this
institution, bottom up, before women were granted the rights to be part of democratic society, top-down. This will be shown to be in stark contrast to how this institution is run in the Jewish state, to which I will return in the third part of the essay.

In what sense did the mikveh belong to the people; to the women?

First, in terms of belonging to the people, the mikveh was built by the community through the collection of taxes, so it was built bottom up, by the people with their funds. While this has been likened to the way a state collects taxes and then builds institutions for the people to use, there is a key way in which the building of institutions outside the state differs, and this is the fact that without a state presiding over religion, the mikveh in the diaspora belongs to the diverse Jews, with their diverse practices, who contributed to the building or to its fund. We see this clearly in a twentieth century ruling of R. Moshe Feinstein, who was asked to rule about whether a mikveh that was built by an Orthodox community with funds gathered both from within the community and outside of it should be available for use by Reform and Conservative rabbis for conversion purposes. R. Feinstein ruled that the mikveh properly belonged to all those who had participated in building it. This meant that not only must non-Orthodox women be welcome to use the mikveh for postmenstrual immersion, but also Reform and Conservative rabbis should be able to use the mikveh for conversion purposes if they contributed funds for the construction of the mikveh.

If we look now at the sense in which the mikveh belonged specifically to women, we can observe that once built by the community, the structure itself was handed over to the women of the community as custodians of the postmenstrual immersion practice. The few artistic renditions we have of the practice show bathhouses resembling women-only spas, with no men in sight. As the artwork is not by women, this shows a male acceptance of such a female realm. In searching for a female account, I found a wonderful recent book in which a secular Israeli woman with a religious background describes herself letting go of the preconceptions with which she entered the mikveh to find herself enjoying a “supreme physical pleasure,” of being pampered by other women who she likens to “bacchantes in a Dionysian orgy.” It is described as an essentially feminine encounter, an ancient female ritual, and in that vulnerable and spiritual time of nakedness, there is no higher authority present, and no intermediary. The idea that Judaism allows and encourages such a feminine encounter in which men have no part other than to build the structure and enable women contributes something to our
understanding of what exilic Judaism looked like—and in some places still looks like—and how it was run.

Interestingly, rabbis have long related women's administration of the practice to the way the halachah on postmenstrual immersion was constituted. Most interpretations of *Babylonian Talmud*, Nidah 66b, where it says “the daughters of Israel were stringent upon themselves,” find that the root of the current-day practice is in the stringency women placed upon themselves, which was later adopted approvingly by the rabbis. Both Maimonides and Nahmanides find women to have constituted the mandated practice through their custom, though some rabbis hold a different opinion and interpret the halachah to have been brought about by rabbinic interpretation of the Torah. If indeed women constituted the halachah by their own stringency, then we see the law itself being shaped by the people over whom it became law, even when the people were women, marking a form of democratic legislation.

The administration of the practice by women, and their ruling of this realm of their lives also comes out in accounts of the “mikveh rebellion” in Egypt at the end of the twelfth century, in Maimonides’ time, and also in a similar period in Byzantium. The rebellion was a well-coordinated refusal of women to attend the mikveh and to rather turn to the Muslim bathhouses, the hammam, which were common in Egypt and which may have been cleaner with better access to hot water than the mikveh. The influence of Karaism was also likely a factor. The rabbinic response was extreme and mostly ineffective and included threatening Ketubah [marriage contract] money. The fact that men—even rabbis—could do little to enforce this aspect of Jewish life attests to the extent to which it belonged to women. One of the few questions rabbis discuss and disagree on regarding women's immersion is whether it is permissible to bathe after the mikveh. This discussion is said to have been rooted in the period of rebellion, as apparently a common misunderstanding (or disagreement) developed, that what purified women was not the water of the mikveh but the mere act of washing, such that any baths were adequate.

Finally, we can find evidence of the extent to which the mikveh belonged to women by the dearth of rabbinic discussion about it. While recently there has been some excitement about the rise of mikveh scholarship among rabbis, perhaps there should be more positive reflection, in retrospect, at the halachic void that left space for women to constitute their practice prior to the recent surge in interest among men in this area, which curiously coincides with the Jewish state’s rulings on religious matters, including on the mikveh.
The result of women running the *mikveh* for themselves, according to a legal regime they initiated and with little observation, enforcement, or rabbinic discussion, was that the practice of ritual immersion was observed distinctively in different communities and became reflective of the character of the women in those communities. In a fascinating account of Jewish life in North Africa in the early modern period, English Anglican author Lancelot Addison discussed the *mikveh* as one of the aspects of Jewish life practiced differently in Barbary and in Europe. While much of his work, titled *On the Present State of the Jews (More Particularly Relating to those in Barbary)* and written following his travel in that region,\(^{11}\) draws on accounts of Jewish life and laws that Addison read in Hebraist works merged with his observations and accounts heard in North Africa, in his account of the *mikveh* he drew a distinction between North African Jewish life and Jewish life as reported in Hebraist sources. Addison wrote of the “discrete matrons” responsible for the “tabila” [*tvilla*, immersion] in Barbary and described the practice they were in charge of carrying out, comparing the women of Barbary to the women described by other Hebraist authors. He found that the young Jewish women of Barbary were more modest than Jewish women he had “heard of” elsewhere (likely in Johannes Buxtorf’s *Synagoga Judaica*) and would not have paraded with the young bride on their way to and from the “bath,” which would have been contrary to their modest ways.\(^{12}\) Here we have testimony to a variety of ways in which *mikveh* was practiced by women, and there is no mention of male involvement or mandate over the practice, even when a male rabbi described the female practice in Barbary to the male author (Addison) who recounted it and compared it to another male Hebraist’s account.

Addison’s work is more than an account of the practices of women in Barbary. It is also an account of Jewish life there, and the account gives a strong impression that despite the restrictions on the Jews that amounted to forced separation from Muslims and separate living quarters, within their quarters Jews lived as they always had, with their own legal codes and institutions. Their separation by external symbols and walls was only a forced physical expression of a separation Jews themselves would otherwise have maintained without physical symbols. The book ends up being about Jewish life as governed by custom and text. About the *mikveh* and the prayers, about the Sabbath and about trade. The Judaism Addison describes was an inherited tradition—a comprehensive way of life—that Jews in different places accommodated to their time and place. This was in line with the seventeenth century perception of the Jews in general, that would have the Jews as a people who observed and preserved their own texts and traditions in distinct teachings and practices.
This—Judaism belonging to the people wherever they lived—was an aspect of Judaism that seventeenth century thinkers correctly understood. James Harrington, an influential English republican thinker, proposed settling the Jews in Ireland because “The Jews of all people never incorporate.” Even if placed in the same space with non-Jews, Jews would choose to take part in their own distinct form of life. But the modern state could not tolerate a people that wouldn’t incorporate. The modern state didn’t section off land for people to be different and to rule themselves, not in the seventeenth century or in the French Revolution, or in the nineteenth century colonies or nation-states. When we look at the meaning of the modern state, we understand the necessity of incorporating—becoming one with the people and its religion—in the eyes of the founders of modern sovereignty. The fact that the modern state requires conformity becomes a primary justification for a Jewish state, but it also means that a modern Jewish state, on what has become known as the Westphalian model that will be explored in the next section, contains an inbuilt threat to a Judaism in which the highest authority is the people.

THE NATURE OF THE MODERN STATE

In 1576, Jean Bodin first published his work *Six Books of the Commonwealth*, which is well known for its founding the idea of modern sovereignty that has become synonymous with the modern state. But what exactly was Bodin’s idea of modern sovereignty, why was it needed, and what change did it propose from what came before? Most students of the history of political thought these days aren’t able to answer these questions well. The only full English translation of Bodin’s *Six Books* was published in London in 1606. Since then, Bodin’s theory of sovereignty has been promoted in an abridged translation published in 1955, which can be found online, but most commonly in four chapters in a very thin book titled *On Sovereignty* published by Cambridge University Press.

What is hard to tell from the abridged editions of Bodin’s *Six Books* was the extent to which the modern state was initially conceived to resolve a Christian problem that rose at the beginning of the Protestant era. The onset of Protestant Christianity brought Europe sudden and quite intense religious heterogeneity—or diversity—radically transforming a largely homogenous Catholic world. Europe’s wars of religion followed, and Bodin was the first in a series of authors, and political theorists in particular, who would consider heterogeneity a cause of war and would offer a political resolution—a form of
state—to end the conflict. This form of state, needless to say, was imagined as largely homogenous, and the homogeneity was in the form of uniform public religion.

And so, while the modern state, in line with Renaissance ideals that predated Bodin, sought to create lasting and peaceful political units that would not be destroyed from within and that would protect those within them from threats without, modern sovereignty sought to achieve this with a single sovereign who was to be the undisputed highest order of command, created by the people themselves by covenant, who would rule over civil and religious matters. That the sovereign was to preside over religion is generally underemphasized, but the meaning of this is that Christian Europe, at its first moment of religious diversity, sought to tame it. The sovereign would be the highest authority on religion, state religion would support his authority in all areas, and Bodin cited “all wise men and lawgivers” on the importance of religion serving the sovereign.\footnote{15} The successful sovereign—even the sovereign who could best protect his constituents’ lives—would be the sovereign who could preserve his own sovereignty and thus demonstrate stability, and religion was a key ingredient for preserving sovereignty. Whereas religious diversity was a cause of discord, religious unity under a sovereign was a way of maintaining peace.

Thomas Hobbes’s \textit{Leviathan} follows from Bodin’s \textit{Six Books}, developing the idea of modern sovereignty while addressing specifically English problems. “My highest priority was to absolve the divine laws,” wrote Hobbes in his correspondence on the question of why he chose to write \textit{Leviathan}—a work about sovereignty—at the time he did, during England’s wars of religion.\footnote{16} Hobbes was concerned about the divine laws being used to undermine sovereignty. English preachers, some even speaking from the pulpit in parliament, promoted the idea of England as a new Israel, justifying using political means to reach salvation or the kingdom of God. Hobbes found these preachers to be the cause of England’s civil war, as they presented themselves representing and promoting a spiritual kingdom that could be at odds with the ends of the civil kingdom, which were for Hobbes first and foremost self-preservation.\footnote{17} For Hobbes, unity between the spiritual and the civil under one sovereign was imperative for the sake of peace. This unity would be achieved by the sovereign determining the religious canon—namely, which books of the Bible were to be considered God’s word—and there would be no higher appeal on matters of religion or state.\footnote{18} The sovereign would be, quite explicitly, like God over the Israelites.\footnote{19} For those who did not truly believe, Hobbes affirmed freedom of conscience, meaning freedom to believe internally whatever one liked, but the
sovereign could command any ritual or law with the highest authority. And Hobbes was quite possibly not ignorant of what Judaism certainly knew, that ritual had the power to create something that looked very much like conscientious belief.

While there were other ideas of politics floating around early modern Europe and a very different idea of Church-State relations that developed in America, Bodin's idea of the state that Hobbes affirmed and enriched, with religion serving the sovereign, reflected and guided the actual formation of modern European confessional states. The modern state was characterized at the peace of Westphalia in 1648 in the same terms as the peace of Augsburg in 1555, *cuius regio eius religio* [he who holds the region holds the religion]. The Peace of Westphalia, in 1648, was defined as “a Christian and universal peace” that sought to end “Christian wars” between “Christian king” and “Christian majesty” mostly by setting a religion over each territory: Catholic, Lutheran, or Calvinist.

Interestingly, this idea—in fact the modern state itself—in Hobbes's *Leviathan* is portrayed as temporary. Temporary until the second coming of Christ when the kingdom of God would be restored. Until that messianic moment, Hobbes tells us, we need a Leviathan—an earthly sovereign. The commonwealth is described as mortal; it will die when God comes to rule in person. Until then, the sovereign rules over civil and religious matters, not in order to bring about the messianic moment—which Hobbes found humans could not know how to do—but in order to protect life and strengthen the sovereign who protects life.

Thus far the modern state. A commonwealth constituted by covenant—social contract—to protect the lives of its constituents partly by presiding over religion and preventing religious warfare from within or without.

It may seem odd that I am about to end a description of the nature of the modern state and its approach to religion in the middle of the seventeenth century, particularly as I am about to move to the implementation of the model of the modern state in a Jewish state. Should we not move now to consider the nation-state model of the nineteenth century? My position is that there was no new state model proposed in the nineteenth century, but that the nation-state was a direct development—in some respects a secularization—of the Westphalian model. “Westphalian sovereignty” is still the form of sovereignty honored by the United Nations, and when the idea of sovereignty is being scrutinized today, it is the seventeenth century idea that is being scrutinized. If we are to consider the founding of the state of Israel, the seventeenth century
provides as much background as the nineteenth. Not only was there was actually a proposal for a modern Jewish state framed in the seventeenth century that is strikingly similar to nineteenth century proposals (I will discuss this in the next section), but the justification early Zionists found for a Jewish state in the nineteenth century was grounded in the justification for states in the seventeenth: protection of life, religion, and liberty. Theodor Herzl famously sought a state to protect the Jews, and his diplomatic interlocutors in the nineteenth century spoke in no novel terms about their desire for homogeneity.

A JEWISH STATE AND THE LOCUS OF AUTHORITY IN JUDAISM

Just as I ended the discussion of the modern state in the seventeenth century, I begin my discussion of the modern Jewish state in the that same period, two centuries before the rise of modern Zionism. For contrary to common perception, the first proposal for modern Jewish sovereignty came not with the Zionist movement in the nineteenth century, but with the sovereignty theory of the seventeenth. When they conceived of the modern state partly to resolve religious conflict, early modern political theorists considered the implications of their approach for politically resolving the problem of Jewish diversity, which was largely theoretical. Should Jews be tolerated or encouraged to cohabit states with Christians, or should they live in separate political entities?

Jean Bodin, writing in France where Jews were prohibited from living but where crypto Jews were victims of the violence of the wars of religion, considered the implications of the statelessness of the Jews. He explained that it was quite natural for men to be jealous of their religion, and that the Jews’ insistence on preserving their “strange religion” would cause others “to hate and condemn them.”

Bodin speaks of the “great poverty of the Jews themselves, who in no place of the world may possess any lands, means that they need the less and are indeed the less able to fight for their religion and liberty.”

In the absence of land, according to Bodin, the Jews are unable to protect themselves or their religion, as they cannot be included in the lands of others. While Hugo Grotius, writing in a Dutch context, differed and found Jewish difference not so essential as to mean the Jews’ exclusion from political society or even from a minimal civil creed, Thomas Hobbes agreed with Bodin, referencing the fact that the Jews were the only religion not allowed in the Roman republic. The Jews, as I quoted from Harrington above, didn’t “incorporate.” It is worth considering that the Dutch context was one in
which Jews lived, de facto, when Grotius wrote, whereas there were no open Jews in England or France. This brings us back to Harrington who, in 1656 when Cromwell was consulting on the reintroduction of Jews to England, first proposed giving the Jews land and arguably sovereignty or statehood. His proposal, which he lamented hadn’t been “thought of in time,” was that the Jews should be settled in Ireland, in perpetuity, under their own laws and institutions. Harrington’s discussion of the Jews, and even his proposal for Jewish sovereignty, was very much in line with the discussion and the terms set by Bodin and Hobbes.

Why this matters to the present discussion of the democratic nature of Judaism and the question of what statehood does to the locus of authority within Judaism is that it highlights the type of state the modern state on the Westphalian model is. Even when discussing a Jewish state, non-Jewish sovereignty theorists at the onset of modernity conceived of a Jewish confessional state. The model then was *cuius regio eius religio*—he who holds the region holds the religion—only that the religion held in the lands imagined for Jews would be Jewish. On this state model, diversity within Judaism would be no more a virtue in the Jewish state, no more a contribution to stability, than diversity within Christianity was to a Christian state. The same sovereign constituted by the people who would decide on civil matters would decide on Jewish religious matters, at least for the purposes of outward religion.

Two hundred years later, when Herzl sought a state for the Jews, his theoretical and utopian writings opened up various possibilities for encountering difference other than the possibilities imagined by early modern sovereignty theorists. Herzl imagined, for example, preserving the unique character of diverse Jewish communities and a mutually enriching relationship between the Jews and other inhabitants of the land. But still, Herzl considered religion an important factor for maintaining social cohesion in the state, and he imagined Jewish religion playing this role just as sovereignty theorists in the seventeenth century had imagined the role of Christian religion within the states they conceived. Herzl was also wary—as were the founders of modern sovereignty—of what religion interpreted in certain ways could do to society, only that unlike the founders of modern sovereignty, Herzl’s approach was not to suppress or exclude difference, but rather to meet it with radical toleration and to recognize the dangers of doing otherwise.

Whatever Herzl’s ideal and whatever its deviation from the early modern encounter with religious difference was, his successful diplomacy appealed to a European Christian—even a Westphalian—mindset. Herzl wrote in and for
a world in which the Jews were unprotected in their absence of a land and for a Europe that understood the state as sustained by a single public religion to which the Jews were outsiders.\textsuperscript{32} It is interesting to note that Herzl’s appeal to representatives of the Ottoman Empire was not successful, even when the Ottoman model for encountering difference was treated with great respect in \textit{Altneuland}.\textsuperscript{33} Rather, Herzl was successful in appealing to Europeans—markedly the English—and Russians interested in reducing heterogeneity in their states by sending the Jews elsewhere.\textsuperscript{34}

The partnering of Herzl with other organizations and individuals in the Jewish world, the split between territorialism and Zionism, and the settling of Palestine in the early twentieth century must largely be set beyond the limits of this essay, so as to allow me to reengage the foundations of Jewish sovereignty with how the state eventually defined—or in some cases did not define—its relationship to lived Judaism in its founding years and again today. Yet it is important to acknowledge the extent to which the partnering of Herzl with his Westphalian mind frame, and religious Zionists who sought not only to protect the Jews and facilitate their cultural flourishing but also to begin the long-awaited redemption, was among the complex of positions that became the Zionist movement constituting the State of Israel. The joining together of post-Catholic European secular political ideals and messianic-religious ends in the early years of the state meant that various arrangements were made by the secular establishment to create common cause with religious Zionism. Set beyond the pale were Jewish voices, religious and nonreligious, that warned of the dangers of statehood for Judaism and who called for separation of religion and state. If in \textit{Altneuland} Herzl had considered the dangers messianic ends could pose to political life and imagined a society in which the problems the modern state had with religious difference would not apply, partly due to some degree of separation between religion and politics, separation was out of place in the Zionism that came to build the state. The British Mandate’s governing of religion through status quo agreements, and not the nature of Judaism in the Diaspora, was the starting point for relating religion and state in Israel.

Exemplifying the extent to which separation of religion and state was beyond the limits of Zionist discourse in the founding years of the state, we find the correspondence between R. Isaac Halevi Herzog and R. Haim Ozer Goroditzky. Herzog would become Israel’s chief rabbi, whereas Goroditzky was the head of Moetset Gdolei Hatorah [Council of Rabbis] in Europe before the Holocaust. The rising religious leader in Palestine had turned to the European Jewish leader to consult on the relationship between Jewish law and state.
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law in Israel. Goroditzy proposed that the state set up two parallel sets of laws, thus continuing a relationship that Jewish law had had to state law outside the Jewish state. Herzog was apparently surprised by Goroditzky’s response and would not accept his recommendation. To Herzog, it was crucial that Jewish law be expressed in state law.\textsuperscript{35}

Yet when Herzog was appointed to the position of chief rabbi, it was under the state and under a secular administration in which many presumed that Judaism itself, as religion, would become redundant once Jewish life was protected in the state.\textsuperscript{36} Jewish law, then, could not simply (or in any complex adaptation) become state law, and the relationship was never clearly defined. It is well known that Israel does not have a constitution, and over the years the Knesset and Supreme Court have sought to balance the desire of Jewish statehood—with such agreed-upon ideas as Shabbat and the Jewish calendar being expressed in the public sphere—with the needs of a modern society and a large secular population.

There is surely some irony in the fact that in the Jewish state, from its founding, the agreed-upon framework for the balance between religious and secular legal realms was based upon status quo arrangements that would continue the British Mandate’s approach to religion rather than seeking a Jewish approach. But together with the formation of a state rabbinate and with the state’s providing of religious services, religion-state relations in Israel today actually resemble neither pre-state Judaism or Mandate arrangements. Rather, they exemplify the Westphalian principle of \textit{cuius regio eius religio}: a top-down power structure, with rabbis appointed by the state and serving the sovereign, the chief rabbinate and local rabbinic council being arms of the state.\textsuperscript{37} Religious pluralism has been enabled through lack of definition and purposely left loopholes, but recent rulings and proposed laws have revealed a closing-in on this pluralism in a manner made possible given the definition—and lack of definition—of the relationship between religion and the state. With the sovereign today being bolder than ever in legislating religion,\textsuperscript{38} the locus of authority in Judaism is changing on account of the state, which is problematic both for the state and for Judaism more broadly.

Before returning to the \textit{mikveh} as an object of parliamentary legislation, I state my understanding that when the Jewish state positions Judaism politically, this affects not only the locus of power in Judaism within state borders, but the locus of power in Judaism itself. For, certainly the fact that conservative women who attend \textit{mikvaot} in the United States will not find one to attend in Israel could be described as a local issue, to do with how Judaism is practiced
in different locations. It could be argued, indeed, that when the state of Israel owns Judaism within its borders, this is equivalent to a large community owning its Judaism without this affecting other communities. But this is not presently the case. The fact that Israel was established as a national home for the entire Jewish people, with the potential for Jews to gather there at any time as necessary or desirable, means that Jewish religious authorities throughout the world will administer their affairs such that their constituents will be able to conduct their lives in Israel. Any rabbi conducting a conversion, for example, will want the convert to be able to move to Israel and marry an Israeli. This means that if the Israeli rabbinate sets particular standards for conversion, rabbis abroad will likely abide by these standards as a service to their constituents.

A recent incident demonstrates the extent to which Israel’s rabbinate, a body appointed by the sovereign in the Jewish state, is a higher authority beyond the Jewish state, in its own perception and in the perception of rabbis around the world. The incident was the leaking of a “black list” of rabbis put together by the Israeli rabbinate. Whatever the purpose of this contentious list, its existence conveyed a simple message: rabbis worldwide were expected to understand that if they want their decisions and authorizations to be respected in Israel—even the conversions and marriages they conduct and the letters they write—they are to abide by and respect the standards of the rabbinate in Israel, even with a degree of trepidation. This means that a rabbi appointed by a community in New York, who is part of the Orthodox Union, or local rabbinic council, in such a way that reflects the traditional democratic nature of Judaism and its belonging to the people, cannot simply rely on the democratic basis of his authority. He must, for full authority and credibility, even among his own constituents, bow to the standards set by the Israeli rabbinate that serves under the sovereign state of Israel.

We return now to the mikveh, and to how this aspect of Judaism that once belonged to the people—even in a sense to women—became (though perhaps not irreversibly) a tool in the hands of the state, marking a move away from democracy in Judaism.

In Israel, the mikveh is a state institution built with taxpayer dollars. It is run by municipal councils in accordance with their understanding of the makeup of their community and always within the framework of Orthodox Judaism. There have long been—and increasingly over recent years—accounts of women feeling uncomfortable with the way in which their local mikveh was run. Recently in Ramat Beit Shemesh, women opted to drive far from home to avoid being handled by the Haredi [ultra-Orthodox] women running their
local mikveh in a stringent, and reportedly physically painful, manner. In response to such complaints and others, an organization called ITIM, which rose to assist Israelis in their encounter with state-administered religion, filed a request with Israel's Supreme Court that women in Israel be permitted to use their local mikveh without an attendant, which had not been previously possible. The Chief Rabbinate and Religious Council agreed to the change, and the response came from the State Attorney’s office, though the rabbinate made clear that its halachic ruling was still that women should bathe with an attendant. What is important in this ruling is that it was up to the state to make a decision about how the mikveh would be run and what the limits of this practice are in the state. The state was able to broaden the scope of permissible practice beyond what the rabbinate would have liked, but this political decision could be changed by the state too.

Indeed, the state currently appears to be moving towards enforcing more stringency on the way the ritual baths are used in the state. The Torah Judaism party in Israel’s Knesset recently proposed a “mikveh bill,” according to which regional religious authorities (all of whom are Orthodox and serve under the Chief Rabbinate) would have the discretion to bar individuals from using state ritual baths, regardless of any previous agreements. The impetus was a Supreme Court ruling requiring the state to allow reform and conservative bodies to use the mikvaot provided by the state for their conversion purposes. To the court, this was a matter of taxpayer dollars serving the general public. In the past, rabbinic authorities might have ruled like the Supreme Court—as we saw with R. Moshe Feinstein—that those who contributed to building the mikveh should be allowed to use it. But in the Jewish state, the mikveh is a state institution, funded by the state. The logic of cuius regio eius religio means that the fact the state is funded by the taxpayers does not require it to provide equal religious services that serve all. A Catholic state might use taxpayer dollars for Catholic institutions but not for Lutheran or Jewish ones, and if Catholics were divided, the state could choose a position. The fact that mikveh, once built by a community and handed over to women, is a state-provided service in a state with a particular understanding of Judaism set by coalition politics marks a real change in the institution, away from popular authority and toward state authority.

There have recently been a number of other examples of the state legislating on religious matters, not only to restrict secular or non-Orthodox ways of life but also to limit the diversity within orthodoxy. A conversion bill now on hold seeks to make the Orthodox Rabbinate the only body in Israel legally allowed to conduct conversions in Israel. The question of whether any shops
will be allowed to open on the Sabbath or any modes of public transportation will be allowed to run have long been in the hands of the Knesset. For the nature of Judaism, these all mark a fundamental change, away from the people administering their own religious lives and toward the state administering Judaism. Religion, in Israel, is very much governed by the sovereign. But if at the founding of the state the sovereign was a secular leftist establishment that assumed religion would disappear, today the sovereign itself is strongly invested in religious interests. Initial concessions made to religious authorities under the state, primarily over matters of marriage, divorce, and burial, initiated a process by which the state changed the locus of authority for rabbis and Jewish institutions in Israel and around the world.

Is there an alternative that would allow the locus of authority in Judaism to remain with the people, while still having a Jewish state? Separation of church and state that became the principle for relating religion and politics in America is the alternative Western politics has to offer to the confessional state, but this developed in the American colonies through Christian evangelical and local political concerns. Any alternative conceived for Israel will more likely be rooted in Jewish concerns and local Israeli concerns.

Such concerns were very recently expressed by a prominent rabbi in Israel. In a rare and bold interview published in *Makor Rishon*, R. Shlomo Riskin of Efrat described how the rabbinate in Israel has become corrupt to the extent that there are five municipalities in Israel in which it is not possible to get kosher food. Riskin, interestingly, writes that in such a situation it would be preferable to separate religion and state, sounding a voice—even a political possibility—for returning Judaism to its constituents. This is a voice that has been long suppressed in Zionism and no less in religious Zionism.

Indeed, there have long been rabbis who sided with a separation of religion and politics, such as R. Goroditzky, who was discussed earlier. But such rabbis generally did not identify as Zionists, and their concerns have generally been kept out of mainstream Israeli and Jewish public discourse. Even the mere desire for continuity between pre-state Judaism and post-state Judaism is generally seen as a denial of one of the key principles of Zionism: the need to overhaul Judaism and overcome the Diaspora. But it may be time to consider that negating exilic Judaism may not be a necessary component of Zionism. After all, it is the Westphalian state of *cuius regio eius religio* that changes the locus of authority in Judaism, and not a particularly Jewish form of state.

The idea that there might be an alternative to state-owned religion for Judaism and for the Jewish state first occurred to me when reading Herzl's
works. Herzl’s initial vision was that: “Every group will have its rabbi, traveling with his own congregation. Local groups will afterward organize themselves around their rabbi, and each locality will have its own spiritual leader.” Herzl imagined communities maintaining their difference in the state. Further, he wrote the following:

Anyone who has seen anything of the world knows that just these little daily customs can easily be transplanted elsewhere. . . . There are English hotels in Egypt and on the mountain crests of Switzerland. Viennese cafes in South Africa. French theatres in Russia. German operas in America, and the best Bavarian beer in Paris. When we journey out of Egypt again we shall not leave the fleshpots behind. Every man will find his customs again in local groups, but they will be better, more beautiful, and more agreeable than before.

It is enough to compare Herzl’s fleshpots to Ben Gurion’s melting pot to understand the extent to which Israel’s founders sought homogeneity over diversity and to relate this to the singular Judaism developing as state-Judaism in Israel. The state currently follows Hobbes: it chooses the canon, the extent of rabbinic authority, and the rabbis who run the mikveh; even the women who supervise are public servants. Accountability is not to the people, but to the state. How distant from a Jewish world of communities living in accordance with their rabbis, who are accountable to them. How distant, indeed, from diaspora Judaism as it is still lived in the United States and elsewhere.

It may be worth reflecting on the fact that not all of Judaism as lived in Israel is distant from community lived and run Judaism. The Haredi establishment continues to run its own courts and schools and continues a more diasporic, people-owned Judaism in Israel, largely in private. To an extent, it lives a separation of religion and state by not accepting religion as interpreted by the state. This is true even when Haredi politicians are among the most vociferous arguing in the Knesset for religious laws: for public transport not to be run on Shabbat, for mikvaot to allow only the Orthodox, for secular schools to teach Judaism as religion. The way Haredim live in Israel offers a view into the possibility of living out a separation of religion from state, even a communal existence with representation in a greater state framework. Imagining this is beyond the scope of this essay. But such a framework could be created in the Jewish state today, which would contain the possibility for returning some of the democracy to Judaism, some of Judaism to the people.
AFTERWORD: THE END OF DEMOCRATIC JUDAISM

In the introduction, I promised to end the essay with a reflection not only on the bringing-to-an-end of democratic Judaism, which I have claimed is the result of administering a particular kind of Jewish state, but also of the end—in the sense of a “telos” or teleological end—of democratic Judaism. What end does democratic Judaism serve, such that it might be justified to preserve this aspect of Judaism, even if this means changing the ways in which the Jewish state currently relates to Judaism?

When we think of the telos of Judaism, we may think of messianic times, and there is a complex relationship between Jewish statehood and messianic times, since before the establishment of the state, some religious Jews considered the return of the Jews to the biblical land to mark the onset of messianic times, while others considered the return to Jewish statehood a sin, until messianic times, and there are many positions in between. In fact, insofar as a messianic end is part of the way some branches of religious Zionism understand the state itself, it has become part of what justifies the “bringing to an end” of democratic Judaism.

But messianic times as an end can be interpreted in many ways, as there are multiple conceptions of messiah within Jewish tradition, many of which do not involve a progressive idea of history that would involve bringing traditional Jewish life to an end at a messianic moment. The idea that Judaism as we know it ends with the coming of the messiah—that messianic times supersede life in this world—is a quintessentially Christian idea that many of the rabbis actively rejected. Maimonides, for example, famously argued that messianic times—marking the time at which God would once again dwell with the people—would not fundamentally mean changing Judaism or Jewish life, but only changing the king. God’s intention for the way Jews should conduct themselves in the world would not change. We saw that in the Talmud, the Oven of Achnai story has the people constituting the law in the direct presence of God, just as they did in his absence. Democratically lived Judaism, in which the constituents hold the highest authority, seems according to the rabbis to itself fulfill God’s intentions, both in his absence and his presence.

I would propose, then, that the end of Judaism as lived democratically be detached from conceptions of change or progress or even messianic times and that we focus, rather, on the human ends about which there is generally agreement. God bequeathed his law at Sinai to the people, who accepted it as one voice and committed to continuing to transmit, adapt, and legislate
in continuing God’s work. Man, through owning the law, comes to live in as close as possible proximity to God’s intentions; both God’s intention for man and God’s intention for the world. Living in accordance with God’s intentions, and in proximity to God himself through the legislative work that was once God’s own, is an end in itself. Such a life also encourages a certain humility, as man recognizes the tentative nature of his legislation, bequeathed to future generations, and realizes the timelessness and greater perspective of God.

John Milton, the seventeenth century poet and political writer, understood Judaism in this way, and his work allows us to explore how Judaism lived democratically might be compatible with modern politics. In *Areopagitica*, a pamphlet in favor of freedom of the press published in 1644, Milton argued that the closest we can come to the rule of God in the absence of the kingdom of God—in the meantime—is to allow for a plurality of voices, even false voices, in public space. His argument was that freedom of the press and the human encounter with a variety of opinions and positions allow truth to emerge, and this is God’s intention for how men should recover truth in the world. While recovering truth through encountering multiplicity, Milton also finds that men leave space for the return of God’s rule, as no one usurps God’s authority in the meantime. In another text, Milton found multiplicity to be the way of rabbis, as he argued with his interlocutor by siding with some rabbis over others, acknowledging that there is no single rabbinic viewpoint that is authoritative, but multiplicity. Milton of course was a Christian, and the idea that God would eventually return and end the human search for truth was integral to his understanding, but his idea of human politics was very much compatible with both the human constitution of truth and law and with a state that allows such pursuit to occur within it—a state that does not promote a single truth at the expense of all others.

It is interesting to contrast Milton’s ideas with those of Hobbes on this matter. Both Milton and Hobbes consciously wrote for a period in which God was absent, and both authors considered the meaning of human rule for the interim period between God’s kingdom over Israel in the past and his future kingdom promised in messianic times. Yet Hobbes had human rule mean that men authorized a sovereign to make decisions for them, while Milton considered the continuous acts of men constituting and considering texts and truths to be a godly activity in which they were supposed to participate. The difference between Hobbes’s idea and Milton’s can be analogized to the difference between R. Eliezer and the sages in the Oven of Achnai story. R. Eliezer would like to be the highest authority, and he has every reason to believe his
title to be true, only that God himself authorized not a single highest authority, but the people. Once God placed the law in the hands of the people, the people are not authorized to return the law to heaven. This is not the nature of the Torah or God’s law. There is not a single truth to be obeyed, but it is through multiplicity that God intends for men to reveal truth themselves in his image. This may be read to imply that not only may men not return the law to heaven, but they may also not relinquish their ownership of it to a sovereign, Hobbes’s mortal God.

If we consider the situation in the state of Israel, where the state is the highest authority on matters of religion, we see state-appointed authorities leaving little space for dissenting voices and practices or for people to constitute their own laws and practices. The result is the alienation of many traditional Jews from the state and the alienation of many within the state from Judaism. The end of democratic Judaism may have been a human end, to allow Jews to engage the laws and participate in Torah discourse, while at the same time leaving space for divine authority. The end may simply have been to live in accordance with God’s intentions. The end of state-run Judaism abandons these ends of democratic Judaism in favor of strengthening the sovereign—the end of state religion for Hobbes—and this is a high price to pay.

Judaism, we have learned from history, is capable of leaving space for the state. It allows the law of the state to be the law, Dina Demalchuta Dina, and provides a realm for the Jewish people to own, each in their communities; a realm where they are the highest authority. The question now facing the Jewish world is whether the Jewish state is capable of leaving space for Judaism as it has been lived for generations. A Judaism where the highest authority lies not in a state or even in God, but in its constituents.

NOTES

1. Regarding the increase of interest in the combination between “Jewish” and “democratic” over the last 25 years, a search on scholar.google.com (search conducted August 7, 2017), reveals that only 58 scholarly books and articles were published mentioning “Jewish and democratic” between 1948 and 2001, whereas 2,980 scholarly books and articles mentioning “Jewish and democratic” were published between 2002 and 2017. The rise of interest in “Jewish and democratic” as paired principles followed the legislation of two laws by Israel’s High Court of Justice in 1992, which were specifically justified as reflecting Israel’s “Jewish and democratic” character. Prior to the legislation of these laws, the pairing of “Jewish and democratic” was not to be found in official state documents, and most scholars employing the phrase were considering the general incompatibility of the ideas in the Israeli context or not speaking of the Israeli context at all. The two laws that
raised interest and scholarship on this construct were “Basic Law: Human Dignity and Freedom” and “Basic Law: Freedom of Occupation.” Israel’s Declaration of Independence, contrary to common belief, does not mention the democratic nature of the state, though its references to “benefit of all its inhabitants,” “freedom, justice, and peace as envisaged by the prophets of Israel,” and “complete equality of social and political rights to all its inhabitants” as well as “freedom of religion, conscience, language, education and culture” and its offer to Arab inhabitants of “full and equal citizenship and due representation in all its provisional and permanent institutions” were understood as referring to democracy.


4. Conservative rabbis have recently offered alternative names for the ritual of immersion, including the laws of sanctification of marriage or the laws of sanctifying the family, taking the emphasis away from purity and impurity and towards sanctity.


7. Varda Polak-Sahm, The House of Secrets: The Hidden World of the Mikveh (trans. Anne Hartstein Pace; Boston: Beacon Press, 2009). To experience the mikveh in this way in the State of Israel, the author had to shed not only clothing, childhood memories, and preconception, but also thoughts of the watching eye of the state.

8. See Rambam, Hilchot Isurei Biyah 11:10; Ramban, Hilchot Niddah 1:19. For rabbinic authorities that see hilchot niddah of seven days a stringency of the rabbis, rather than a custom of the women later agreed upon by rabbis and much later codified, see Tosefat
Megillah 28b, which says that the rabbis would not enact something that was not in the Torah, implying the role of the women to have been insignificant.


11. The first edition of this work was published under the title *On the Present State of the Jews (More Particularly Relating to those in Barbary).* *Wherein is Contained an Exact Account of Their Customs, Secular and Religious. To Which is Annexed a Summary Discourse of the Misna, Talmud, and Gemara* (London, 1975). The second edition of the work was published under the same title only without reference to the Jews in Barbary, reading *On the Present State of the Jews, Wherein is Contained an Exact Account of Their Customs, Secular and Religious. To Which is Annexed a Summary Discourse of the Misna, Talmud, and Gemara* (London, 1976). Both editions contain a frontispiece of an American-Indian looking “barbarian” with the short title “On the Present State of the Jews in Barbary.”


18. The frontispiece of Hobbes's *Leviathan* (London, 1651, multiple editions) is a powerful image of an “artificial man,” made of numerous men, presiding over church and state. This is in line with the subtitle and content of the work, which speaks of a commonwealth “ecclesiastical and civil.”

20. While there is a vast literature on church and state in America, which is structured on a different model than the European confessional state, which sowed the seeds for the European nation-state, I found Teresa Bejan’s recent work on Roger Williams’s idea of toleration and its roots in Evangelical Christianity particularly interesting as a view into how religious politics can yield diverse interpretations on how the state should relate to religion. For Bejan’s account, see Teresa M. Bejan, “Evangelical Tolerance,” *Journal of Politics* 77:4 (October 2015): 1103–14.


24. Ibid., 3.8.


29. In *The Jewish State*, Herzl imagined communities continuing as they had outside Israel, insofar as this was considered desirable by the members of the communities, and even languages preserved in a “federation of tongues.” In *Altneuland*, the visitors to Palestine are introduced to a Muslim member of the Jewish “New Society” and are introduced to Jewish Palestine not as a “state” in the European sense, but rather a society where all are treated as “men,” though religion is preserved and seems to serve an important role,

30. Shlomo Avineri wrote on the religious element in the portrayal of Jerusalem in *Altneuland*, that for Herzl, “religion, and certainly the Jewish religion, was to be respected in the future of the Jewish state. Religion was an important force for social cohesion on the symbolic level. It was not, as Protestant tradition would have it, only a matter of inner personal faith.” See Shlomo Avineri, *Herzl: Theodor Herzl and the Foundation of the Jewish State* (trans. Haim Watzman; London: Weidenfeld & Nicholson, 2013).

31. It is worth considering the place of Rabbi Dr. Geyer, in *Altneuland*, Book 3, who is described as having brought the prejudice of Europe to the New Society.

32. The secularization of this idea is beyond the bounds of this essay, but it is possible not only to understand religion as something from which the Jews were outsiders, but also irreligion and nationhood as well.

33. The Muslim member of the Jewish society in *Altneuland*, represented by Reschid Bey, offers the insight that he did not learn toleration from the Europeans, but that Muslims had long tolerated the Jews, whereas Christians had not.

34. In February 1897, *Die Welt*, the Zionist newspaper edited by Theodore Herzl, visionary of and diplomat for the establishment of the modern Jewish state, published an interview with Prince Dimitrie Sturdza, former prime minister of Romania. The Prince said: “I consider Dr. Herzl’s idea to be excellent; in fact I may say the one and valuable way of solving the Jewish question. . . . The Jews are the one people who, living in foreign countries, do not assimilate with the inhabitants as others do.” Translated in Avineri, *Theodor Herzl*, 153.


36. A poignant critique of this position of the secular Left, not only among Israel’s liberationists but also among the leftist liberationists of India and Algeria, active at roughly the same time, can be found in Michael Walzer, *The Paradox of Liberation: Secular Revolutions and Religious Counter-Revolutions* (New Haven: Yale University Press, 2015).

37. This had long been ambiguous, and religious courts tended to rule beyond their official state jurisdiction, as many considered these courts continuous from Diaspora rabbinic courts. Recent Supreme Court rulings, which limited the jurisdiction of rabbinic courts based on the fact that they are an arm of the state, have more clearly defined the relationship between church and state in Israel, while creating controversy and spurring a religious resistance in the form of resort to private courts. On this see Arye Edrei, “Judaism, Jewish Law, and the Jewish State in Israel,” in *The Cambridge Companion to Judaism and Law* (ed. Christine Hayes; Cambridge: Cambridge University Press, 2017).
38. While the focus of the discussion here is the role of the Knesset in legislating religion, often spurred on by challenges from the Supreme Court based on appeals by citizens, still there is a place beyond this essay to discuss the extent to which the Supreme Court itself has been involved in legislating religion, even in seeking to shape halachah for today’s world. Arye Edrei’s work in this area is fascinating, and I direct the reader to his recent article, “Judaism, Jewish Law, and the Jewish State in Israel.”


43. Marissa Newman, “Knesset Approves Law to Bar Non-Orthodox from Ritual Baths,” Times of Israel, July 26, 2016, http://www.timesofisrael.com/knesset-approves-law-to -bar-non-orthodox-from-ritual-baths/ (accessed August 4, 2017). Interestingly, in the discussions surrounding this law, the United Torah Judaism MK, Moshe Gafni, who proposed the bill, vociferously argued that Reform Jews in the United States did not seek mikvaot, and only in Israel they wish to attend. This demonstrates an unsurprising ignorance of what has been considered a “mikveh revival” in the American non-Orthodox,

44. Salo Baron, in a 1928 article, offered the perspective that a lachrymose view of Jewish history was not necessary for Zionism. He implied that there could be a Zionism without *shlilat hagalut* [denial of the exile], but did not expand on how such a Zionism would relate to religion and state. See Baron, “Ghetto and Emancipation,” *Menorah Journal* (1928).
