JEWISH LAW AND THE LAW OF THE STATE
A Study in Authority and Dissent
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INTRODUCTION: “THE LAW OF THE KINGDOM IS LAW”

Throughout the two and a half millennia that have passed since the end of the first Jewish commonwealth (586 BCE), Jews and Judaism have confronted the challenge of relating to the demands of the ruling power. In the spirit of accommodation to the law of the state, Jeremiah counseled the Judeans exiled to Babylonia to “seek the peace of the city whither I have caused you to be carried away captive, and pray unto the Lord for it; for in the peace thereof shall ye have peace” (Jer 29:7). Similarly, Nehemiah advised the Judeans living under Persian rule to accommodate themselves to their subjugation, for God had willed that their overlords “have power over our bodies, and over our cattle, at their pleasure” (Neh 9:37). Living at a time of Roman rule, Rabbi Hanina, declared: “Pray for the welfare of the government, for were it not for the fear of it, men would swallow each other alive” (Avot 3.2).

Not until early in the third century CE was a legal principle addressing the issue of the Jews’ relationship to state law formulated. In the three words dina de-malkhuta dina [the law of the kingdom is the law], the Babylonian amora [Talmudic sage] Samuel enunciated a doctrine that was to become the basis for defining church-state relations in Jewish law. There are but four references to the principle in the Talmud (Ned. 28a; Git. 10b; B.K. 113a–b; B.B. 54b–55a), none of which sets forth a legal foundation for the dictum.
As did Babylonian Jewry, the European Jewish communities of the Middle Ages enjoyed substantial control over the conduct of their legal affairs. As long as Jews exercised such autonomy, the principle *dina de-malkhuta dina* remained limited in the scope of its application; it was invoked primarily in the realms of taxation, confiscation, and the execution of bills in non-Jewish courts. Its application was defined by rabbinic authorities. The principle served not only as a means of accommodation to the will of the monarch; it was also interpreted to provide a legal basis for resistance to the arbitrary demands of the ruling power. Unjust decrees were pronounced *gezelah de-malkhuta* [robbery by the kingdom] and were deemed beyond the scope of the king’s authority. *Dina de-malkhuta dina* thus reflected elements of both authority and dissent.

After briefly examining the Talmudic origins and various bases adduced for Samuel’s statement, this essay explores the scope of the principle’s application in medieval times through its use by the Assembly of Notables convened by Napoleon in 1806. Over these more than fifteen hundred years, changing notions of law and the Jews’ standing in society contributed to an evolving definition of *dina de-malkhuta dina*. Consistent with the general trend toward the acceptance of positive law in the thirteenth and fourteenth centuries and in response to the reality of the *servi camerae* [servants of the royal chamber] status to which the Jews were reduced in the aftermath of the Crusades, determinations of *gezelah de-malkhuta* —the basis for resistance to unjust decrees—significantly diminished over time.

During the long span of years between the third and eighteenth centuries, there was remarkable uniformity in the range of issues arising in connection with *dina de-malkhuta dina*. This is in great measure attributable to the legal authority that characterized Jewish life until the emancipation. From the perspective of medieval kings, the law of the land governed the Jews; the king, however, chose to accord his Jews significant communal autonomy. From the Jewish perspective, *dina de-malkhuta dina* gave limited recognition to foreign law, based on Jewish law.

With the erosion of the corporate society of medieval Europe and the emergence of the modern state, the legal autonomy enjoyed by Jewish communities since the initial formulation of Samuel’s dictum came to an end. Starting in the eighteenth century—and brought to a head by Napoleon—the state increasingly encroached on domains previously reserved to the jurisdiction of the Church. In this new historical milieu, the principle *dina de-malkhuta dina* again evolved, providing the legal framework for Jewish accommodation to modern Western society. The extent or limit of its application became a matter of vigorous debate between Jewish traditionalists and religious reformers. This internal debate over *dina de-malkhuta dina* reflected a larger narrative of authority and dissent with respect to the continuing role and scope of Jewish law in modern society.
LEGAL BASIS OF **DINA DE-MALKHUTA DINA**

The Talmudic references to *dina de-malkhuta dina* affirm the ruler’s authority to collect customs (*B.K.* 113a), appropriate palm trees for the construction of bridges (*B.K.* 113b), require written deeds of sale to effectuate land transfers (*B.B.* 54b), confiscate and sell land for failure to pay the land tax (*B.B.* 55a), and ordain that forty years’ unchallenged occupancy of land establish an impregnable claim of ownership (*B.B.* 55a). Samuel’s statement is also brought in his name to afford legal recognition to bills executed by non-Jewish courts, with the specific exclusion of divorce and manumission (*Git.* 10b).

The Talmud is silent as to the legal foundation of the principle *dina de-malkhuta dina*. During the medieval period, however, a number of bases for the principle were proposed. Rashi (1040–1105) predicated Samuel’s statement on the commandment obligating non-Jews to enact laws to preserve social order. Although all humankind (“the sons of Noah”) was obligated to maintain order in the world, the nations of the world were not expected to observe the strictures of Jewish marriage and divorce law. Hence the specific exclusion of writs of divorce from the jurisdiction of non-Jewish courts is readily understandable (Rashi, *Git.* 9b). Other scholars viewed the principle as a matter of implicit, contractual agreement between the king and his subjects. Thus, Maimonides (1135–1204), in codifying the law that the principle applies to the edicts of a king whose sovereignty is demonstrated by the circulation of his coins as common, local currency, avers that the inhabitants of that country have accepted him and take it for granted that he is their master and they are servants to him (Maimonides, *Yad*, *Gezelah*, 5:18). Similarly, Rashi’s grandson, R. Samuel b. Meir (1085–1174), commented: “For all the citizens accept the king’s statutes and laws of their own free will” (Rashbam, *B.B.* 54b). Rabbi Nissim of Gerondi (ca. 1310–1375) explained the contractual basis of *dina de-malkhuta dina* more starkly: because the king owns the land, the Jews are obligated to obey the conditions he establishes for residence thereon (Ran, *Ned.* 28a). Yet another basis for the contract was the principle that a king acquires total sovereignty over his subjects through military conquest (Rashba, *Yev.* 46a). A third rationale for *dina de-malkhuta dina* was first put forward by Rabbi Ya’akov Täm (ca. 1100–1171), younger brother of the Rashbam (Rabbi Samuel b. Meir). Rabbeinu Täm based the rule on the right of the court to uproot a law of the Torah in matters of civil law, *heker bet din hefker* (*Git.* 36b, *Yev.* 89b). Another view analogized the authority of the ruler to the power of a king of Israel (*Hidashei ha-Ritba*, *B.B.* 55a). A fifth view based the legal underpinning of the principle on the halachic validity of customary law (*Aliyot de-Rabbeinu Yonah*, *B.B.* 55a). Salo Baron aptly observed that, in the Middle Ages, “**Dina de-malkhuta dina** was more frequently invoked than clarified.”

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LIMITATIONS ON THE SCOPE OF
DINA DE-MALKHUTA DINA

A fundamental principle, upon which all authorities agreed, was that *dina de-malkhuta dina* recognition extended only to monetary matters [*mamona*] and not to religious ritual prohibitions [*issur ve-hetter*]. Another universally accepted axiom was that the law of the kingdom must apply equally to all the kingdom’s inhabitants (Maimonides, *Yad*, Gezelah 5:14; *Sh. Ar*, H.M. 369:8). But if a law fell equally upon all Jews, even though it was discriminatory against Jews as a class, it was at times upheld (*She’elot u-Teshuvot Maharik* 194). This qualification reflected the feudal realities of European Jewish life; the principle was not so qualified by the rabbinic authorities living under Moslem rule.

In the spirit of medieval jurisprudence, most of the *rishonim* [early medieval Jewish legal authorities] limited the application of *dina de-malkhuta dina* to ancient law, excluding new legislation enacted by the king (*Ḥiddushei ha-Ritba*, B.B. 55a). With the developing trend toward the recognition of positive law in the later Middle Ages, there were changes in the Jewish legal position with regard to new legislation. A distinction was made, however, between legally warranted taxes (those within the scope of *dina de-malkhuta dina*) and taxes considered *gezelah de-malkhuta* [robbery by the kingdom] and hence avoidable.

Though the king was by no means bound by rabbinic pronouncements, a rabbinic declaration that an act was *gezelah* had implications within the Jewish community. If property were stolen, one who later came into its possession would not be considered the rightful owner. A Jew could not benefit from the unlawful confiscation of another Jew’s property. To this extent, the principle *dina de-malkhuta dina* was not only one of accommodation but also one of resistance and dissent.

RESORT TO NON-JEWISH COURTS

The issue of the validity of bills executed in non-Jewish courts was a matter of substantial rabbinic discussion during the Middle Ages. A *mishnah* [oral teaching recorded early in the third century] in *Gittin* [Talmudic tractate Divorce] permitted recourse to non-Jewish courts for the limited purpose of executing certain bills (*Git*. 10b). However, a further *tannaaitic* [material attributed to the sages quoted in the Mishnah] passage absolutely forbade seeking judgment before a non-Jewish tribunal: “It has been taught: R. Tarfon used to say: In any place where you find heathen law courts, even though their law is the same as the Israelite law, you must not resort to them since it says, ‘These are the judgments which thou shalt set before them,’ [*Exod* 21:1] that is to say, ‘before
them’ and not before heathens” (Git. 88b). The Ashkenazic *rishonim* [early rabbinic authorities] insisted upon the exclusive jurisdiction of rabbinic courts for Jewish litigants, and this provision was successfully solicited from the secular powers in the Jews’ corporate charters.

At a synod at Troyes, about 1150, Rabbeinu Tam and other authorities, with the assent of a large group of northern French and possibly western German rabbis, decreed:

1. We have voted, decreed, ordained and declared under the *ḥerem* [ban] that no man or woman may bring a fellow-Jew before Gentile courts or exert compulsion on him through Gentiles, whether by a prince or a common man, a ruler or an inferior official, except by mutual agreement made in the presence of proper witnesses.

2. If the matter accidentally reaches the government or other Gentiles, and in that manner pressure is exerted on a Jew, we have decreed that the man who is aided by the Gentiles shall have saved his fellow from their hands, and shall secure him against the Gentiles . . . and he shall make satisfaction to him and secure him in such manner as the seven elders of the city will ordain. . . .

3. He shall not intimidate the seven elders through the power of Gentiles. And because the masters of wicked tongue and informers do their deeds in darkness, we have decreed also excommunication for indirect action unless he satisfy him in accordance with the decision of the elders of the city.

The continuing prohibition against recourse to non-Jewish tribunals was not only rooted in the struggle to preserve judicial autonomy but also in a belief that these forums were fundamentally corrupt and unfair. Thus even for the purpose of accepting a document drawn in a non-Jewish court as evidence of a sale, Maimonides required that it be established that the judges and witnesses in the court in question did not accept bribes (Yad, Git. 1.5).

Over time, owing both to external pressures and to the internal weakening of rabbinic authority, the exclusive jurisdiction of Jewish tribunals over cases involving Jews began to erode. In an effort to combat this trend, a synod of the heads of various German Jewish communities gathered at Frankfurt in 1603 decreed:

It is a common offense among the people of our generation to refuse to obey Jewish law and even to compel opposing litigants to present themselves before secular courts. The result is that the Holy Name is profaned and that the Government and the Judges are provoked at us. We have therefore decided that anyone who sues his neighbor in secular courts shall be compelled to free him from all the charges made against him, even though the courts decided in favor of the plaintiff. A person guilty of taking a case to Gentile courts shall be separated from the community of
Israel, shall not be called to the Torah, and shall not be permitted to marry until he repents and frees his fellow from the power of the Gentile courts. If the defendant was compelled to undertake expenditures in order to bring the infraction of this ordinance before the Jewish courts, the offender shall be compelled to bear the expense.\(^8\)

Notwithstanding the forceful tone of the ordinance, the problem it addressed does not appear to have been solved, as evidenced by continuing rabbinic fulminations against recourse to non-Jewish courts throughout the eighteenth century. Implicit in the choice of non-Jewish courts was dissent from the authority of rabbinic courts. The erosion of rabbinic authority was exacerbated by the fact that the charters granted the Jews in the seventeenth and eighteenth centuries substantially eliminated rabbinic judicial authority in other than ceremonial and ritual matters.

**THE NAPOLEONIC PHASE: BACKDROP TO THE ASSEMBLY OF NOTABLES**

In France, the abolition of corporate society as part of the Revolution led to the phenomenon of the Jew as state citizen. This new standing vis à vis the state called for a redefinition of *dina de-malkhuta dina*. Although the French Revolution eventually extended citizenship to the Jews, it was Napoleon who demanded a definitive pronouncement on the relationship between Jewish law and the law of the state.

In dealing with the institutions of religion in French society, Napoleon sought above all a means of subordinating them to the state; this began with the Church. Long before his rise to prominence, Napoleon had written:

> It is axiomatic that Christianity, even the reformed kind, destroys the unity of the State: (1) because it is capable of weakening as well as of inspiring the trust which the people owe the representatives of the law; (2) because, such as it is constituted, Christianity contains a separate body which not only claims a share of the citizens’ loyalty but is able even to counteract the aims of the government. And, besides, is it not true that that body (the clergy) is independent of the State? Surely this is so, since it is not subject to the same rules. Is it known for defending the fatherland, law, and freedom? No. Its kingdom is not of this world. Consequently, it is never civic-minded.\(^9\)

During his second campaign in Italy in 1800, Napoleon began negotiations with Pope Pius VII toward a concordat between the Catholic Church and the French state.
His position was ostensibly rooted in Gallicanism, which maintained that the Church in France had ecclesiastical liberties independent of papal jurisdiction. Unlike earlier expressions of Gallicanism, however, Napoleon’s version permitted state involvement in Church affairs. Notwithstanding the compromising nature of the first consul’s demands, the pope was anxious to reach an accord that would rescue the Church in France from the precarious position it had occupied during the more radical phase of the Revolution and from which it had not recovered.

The agreement that emerged provided that Catholic clergy would henceforth be nominated by the first consul and only then be consecrated by the pope. Salaries of the Catholic clergy would be paid by the state. Bishops could control churches necessary for worship, and the Church would be permitted to receive bequests and endowments. It was agreed, however, that the holders of former Church properties nationalized during the Revolution would not be disturbed in their possession. The pope further agreed that the French government could issue such police regulations for religion as it deemed necessary. Pursuant to this last provision, Napoleon enacted Organic Articles for the Catholic Church at the same time he published the concordat with the pope in 1802.

The Organic Articles provided that Catholic seminaries were to employ exclusively French teachers and to profess the principles of Gallican liberties. No papal bull was to enter the country without government approval. In addition, there would be one catechism for all France. This uniform catechism emphasized that the Church was to be in the service of the state. It read in part:

Q. What are the duties of Christians with respect to the princes who govern them, and what are in particular our duties toward Napoleon I, our Emperor?
A. Love, respect, obedience, fidelity, military service, tributes ordered for the preservation and defense of the Empire and of his throne; we also owe him fervent prayers for his safety and for the spiritual and temporal prosperity of the State.

Q. Why do we have these duties toward our Emperor?
A. First, by bountifully bestowing talents on our Emperor both in peace and war, God has established him as our sovereign and has made him the minister of His power and His image on earth. To honor and serve our Emperor is therefore to honor and serve God himself. Secondly, because our Lord Jesus Christ . . . taught us what we owe to our sovereign. . . . He has ordered us to give to Caesar what belongs to Caesar.

Q. Are there not special motives which must attach us more strongly to Napoleon, our Emperor?
A. Yes, for he is the one whom God has given us in difficult times to re-establish the public worship of the holy religion of our fathers and to be the protector of it. He has re-established and maintained public order by his profound and
active wisdom; he defends the State with his powerful arm; he has become the Lord’s anointed through the consecration which he received from the pontifical sovereign, head of the universal Church.

Q. What must one think of those who may fail in their duty toward our Emperor?
A. According to the apostle Paul, they would resist the established order of God himself and would be worthy of eternal damnation.\(^{14}\)

Similar articles were drafted and implemented for the regulation of Protestants in France. The government named all Protestant seminary teachers, paid ministers’ salaries, and assumed the right of approving all Church doctrinal decisions. Only French nationals could serve as clergymen, and they were forbidden to have relations with any foreign authority.\(^{15}\)

In January 1806, while returning from his German campaign, Napoleon stopped briefly in Strasbourg, where he gave audience to several deputations of farmers and landowners who brought claims against Jewish usury. On that backdrop, he called for an assembly of principal Jews that, among other things, was to seek out ways “to replace the shameful expediency to which many among them have devoted themselves from father to son for many centuries.”\(^{16}\) Napoleon’s prefects in the various lands under his rule were to select deputies from among the rabbis, landholders, and other distinguished Jews in their district; the deputies so designated—eventually numbering 111—were to arrive in Paris by July 10, 1806, and await further instructions.

On July 22, Napoleon communicated the text of questions to be put to the Assembly, with the objective of “reconciling the belief of the Jews with the duties of Frenchmen, and to make them useful as citizens.”\(^{17}\) A clear symbol to the challenge of the state to the place of religion in the life of the Jews was the insistence that the Assembly convene for its first session on Saturday, July 26.\(^{18}\) Dina de-malkhuta dina was to figure prominently in addressing the matters raised by Napoleon, as highlighted below.

**DINA DE-MALKHUTA DINA AS INVOKED BY THE ASSEMBLY OF NOTABLES:**

**THE JEW AS STATE CITIZEN**

Napoleon’s commissioners presented twelve questions to the Assembly:

1. Is it lawful for Jews to marry several women?
2. Is divorce allowed by the Jewish religion? Is divorce valid, even when not pronounced by courts of justice and by virtue of laws that contradict the French code?
3. Can a Jewess marry a Christian, or a Christian woman a Jew? Or does the law order the Jews to marry only among themselves?
4. In the Jews’ eyes, are Frenchmen considered as brethren or as strangers?
5. In either case, what relations does their law prescribe for them toward Frenchmen who are not of their religion?
6. Do the Jews born in France, and treated by the laws as French citizens, acknowledge France as their country? Are they bound to defend it? Are they bound to obey its laws and to follow all the provisions of the Civil Code?
7. Who appoints the rabbis?
8. What police jurisdiction do rabbis exert among Jews? What judicial power do they exert among them?
9. Are these forms of election, this police jurisdiction, requested by their law or only sanctioned by custom?
10. Are there professions which are forbidden to Jews by their law?
11. Does the law of the Jews forbid them to take usury from their brethren?
12. Does it forbid them, or does it allow them, to take usury from strangers?

The Assembly adopted a declaration that was to precede its responses. The declaration read:

The assembly, impressed with a deep sense of gratitude, love, respect, and admiration for the sacred person of his Imperial Majesty, declares, in the name of all Frenchmen professing the religion of Moses, that they are fully determined to prove worthy of the favors His Majesty intends for them, by scrupulously conforming to his parental intentions; that their religion makes it their duty to consider the law of the prince as the supreme law in civil and political matters, that, consequently, should their religious code, or its various interpretations, contain civil or political commands, at variance with those of the French Code, those commands would, of course, cease to influence and govern them, since they must, above all, acknowledge and obey the laws of the prince.\footnote{10}

At first glance, the declaration seems to be a simple expression of the principle dina de-malkhuta dina. A careful reading, however, reveals that its scope is not limited to monetary matters \([mamona]\). The broad statement that the Jewish religious code is subordinate to the state’s civil and political laws makes no distinction between monetary and ritual matters \([mamona-issura]\). Nonetheless, the basis of authority for the civil-religious distinction is clearly Jewish law.

In its reply to the first question, the Assembly asserted that, though polygamy had at one time been practiced among the Jews, the herem de-Rabbeinu Gershom\footnote{11} [ban decreed by the authority of R. Gershom, ca. 960–1028] had banned the practice and it no longer existed among European Jewry. Implicit in this response is the statement that a rabbinic synod is empowered to enact legal measures binding upon the Jewish
people. This statement is double-edged: first, it calls into question the religious authority of a non-rabbinic assembly; second, it suggests the possibility of convening a duly authorized synod to enact new regulations. In any case, it is clearly grounded in internal Jewish legal principles.

The second response opened with a declaration that a Jewish divorce was valid only if previously pronounced by the French Civil Code. Although no Jewish law was violated by securing a prior civil decree, the absence of such a decree had never been held to impair the validity of a properly issued get. This extension of dina de-malkhuta dina to an issue of family law required a halachic rationale and, for this purpose, the Shulḥan Arukh [Code of Jewish Law] was invoked:

According to the Rabbis who have written on the civil code of the Jews, such as Joseph Caro in the Even ha-Ezer [a section of the Shulhan Arukh], repudiation is valid only in case there should be no opposition of any kind. And as the law of the state would form an opposition, in point of civil interests—since one of the parties could avail himself or herself of it against the other—it necessarily follows that, under the influence of the civil code, rabbinical repudiation cannot be valid. Consequently, since the time the Jews have begun to enter into engagements before the civil officer, no one, attached to religious practices, can repudiate his wife but by the law of the state, and that prescribed by the law of Moses.22

The Bible requires a bill of “cutting off” to effectuate a divorce (Deut 24:1). Based upon this requirement of a total severance of the marital relationship, the rabbis held that if at the time of the issuance of a get [Jewish legal divorce document] there remained an as yet unfulfilled condition, the get was ineffectual (Sh. Ar., Even ha-Ezer 137, 143). The Assembly declared that a failure to comply with state law would leave the marital tie unsevered because one of the parties could attack the get as incomplete. This halachic support is novel in acknowledging that noncompliance with state law might provide a halachic basis for challenging the validity of a get; it established concurrent jurisdiction between state and religion in marriage and divorce law. As a final rationale for extending dina de-malkhuta dina to the field of family law, the response invoked the contractual theory of dina de-malkhuta dina: the rabbis, having sworn allegiance to the sovereign, agreed thereby to incorporate his demands into their juridical proceedings.

The sixth question, concerning the obligation of military service and of conforming to the laws of the Civil Code, struck at core issues in complaints alleging the Jews’ abuse of citizenship. The Assembly’s answer affirmed the Jews’ duty to defend their country. Rabbi Ishmael of Modena, who was eighty-three years old at the time the Assembly convened, did not attend the proceedings but formulated responses to Napoleon’s questions, presumably as a guide to the Italian deputies. While affirming the obligation of military service, Rabbi Ishmael underscored the limits of dina de-malkhuta dina:
“Samuel has said dina de-malkhuta dina... But ritual matters are not included in this, for surely the king grants permission to all inhabitants of his state to fulfill the practices of their law, each one according to their religion.” Rabbi Ishmael—as the Assembly of Notables—acknowledged that the era of rabbinic jurisdiction over civil matters had come to a close; yet there remained a sphere in which traditionalist rabbis might resist the encroachment of state authority.

SUMMARY AND DENOUEMENT

During the corporate phase of Jewish life, European Jewry enjoyed far-ranging judicial authority. Under such conditions, dina de-malkhuta dina was narrowly applied. The principle was not strictly one of accommodation; it provided a rationale for resistance to unjust decrees. It served as a basis for dissent against the authority of rulers deemed to be acting ultra vires [that is, beyond their legal power].

Consistent with the general trend toward the acceptance of positive law in the thirteenth and fourteenth centuries and in response to the reality of the servi camerae status to which the Jews had been reduced in the aftermath of the Crusades, application of the concept gezelah de-malkhuta significantly diminished. The king’s law, whether preserving “good old law” and whether equitable or not, was law, at least in the commercial sphere. Even so, the basis for extending the principle’s application was ostensibly rabbinic decision. By the seventeenth century, there was a marked decline in the exclusive jurisdiction of rabbinic courts in Western Europe; recourse to courts operating under the king’s law became increasingly common. In matters of religious prohibition [issura], however, rabbinic jurisdiction remained unchallenged.

Jews were first accorded equality of citizenship in revolutionary France. Napoleon demanded a clear statement of the Jews’ relationship to the state, summoning an Assembly of Jewish Notables (followed immediately by a Sanhedrin to formalize its pronouncements) to relate to this subject. Recognizing and accepting the collapse of Jewish legal autonomy, the Paris Assembly and successor Sanhedrin asserted only the continuing validity of Jewish ritual law, specifically in matters of marriage and divorce. This new definition of synagogue-state relations can be seen as the ultimate stage in a process that began as early as the thirteenth century. Once the absolute power of the king to legislate in the commercial sphere was acknowledged, the abdication of all but ritual jurisdiction was conceivable. The total loss of communal autonomy subjected even the ritual authority of the rabbinate to voluntary compliance by individuals following the French Revolution.

Jewish religious reformers in the decades following the Assembly of Notables were to carry the principle dina de-malkhuta dina to what they saw as its logical conclusion. Matters involving interpersonal relations, particularly if regulated by the state, were
civil \textit{mamona}; only the private matter of religious belief was beyond the scope of \textit{dina de-malkhuta dina}. Such practices as strict Sabbath observance and special family law usages, they argued, retained no compelling place in Jewish life in the modern state. This conclusion, invoking \textit{dina de-malkhuta dina}, effectively turned Samuel’s dictum on its head; it evoked vigorous, traditionalist response. Two centuries later, revisiting debates over the scope and application of \textit{dina de-malkhuta dina} during an era of dramatic change serves as a significant backdrop to understanding divergent expressions of Judaism that have since evolved.

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Readers interested in further exploration of \textit{dina de-malkhuta dina} might also consult Leo Landman, \textit{Jewish Law in the Diaspora: Confrontation and Accommodation} (Philadelphia: Dropsie College, 1968); and Shmuel Shilo, \textit{Dina de-Malkhuta Dina} [Hebrew] (Jerusalem: Hebrew University, 1974).

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**NOTES**

4. R. Yonah ben Abraham Gerondi, ca. 1200–1263, found in \textit{Shitah Mekubbezet}.
8. The attitudes of medieval rabbinic authorities to notions of natural and positive law are

9. See, e.g., *Teshuvot Maharam* (Rabbi Meir of Rothenburg, ca. 1215–1293), no. 128. In certain cases, taxation beyond ordinary limits was accepted, as, for example, “for great needs,” such as financing a war (*Haggabot Mordecai*, B.B. no. 659).

10. In Spain, rabbinic jurisdiction was in some respects more limited than in Western Europe, and in other respects it was greater. Most Jewish courts in Spain were empowered to adjudicate criminal cases with the full support of the state’s coercive force. Jewish courts used the prisons of the country to compel obedience to their orders. Floggings, fines, imprisonment, excommunication, and, in extreme cases, mutilation or death were among the penalties imposed by the Jewish courts. *She’elot u-Teshuvot ha-RI*, 122; *She’elot u-Teshuvot Ribash*, 232; *She’elot u-Teshuvot ha-Rosh*, 8, 17.


15. On Napoleon’s relations with the Church, see ibid., 121–38.


18. The deputies met for Sabbath services that morning and proceeded to the meeting, which was called for eleven o’clock.


21. An eleventh century rabbinic ordinance so called after Rabbeinu Gershom *Me’or ha-Golah* [Light of the Dispersion], ca. 960–1028, under whose authority the ordinance was issued.

23. Baruch Mevorach, *Napoleon u-Tekufato* (Jerusalem: Mosad Bialik, 1968), 115. Moses Mendelssohn had, one generation earlier, distinguished between elements of the Mosaic constitution, which were no longer applicable since the dissolution of the nation’s civil bonds, and the religious laws that were strictly binding. Moses Mendelssohn, *Jerusalem and Other Writings* (trans. Alfred Jospe; New York: Schocken, 1964), 104.