

## EMUNAT ḤAKHAMIM

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We have not abandoned God in our worship, and He has shown kindness unto us before mighty kings in distant lands and seas ...for by the mercy of God they receive us kindly, [granting us] spiritual freedom to observe and do all that our God has commanded us in the holy laws of his Torah....The wise among them grant us not only spiritual freedom but also physical freedom.<sup>1</sup>

With these words R. Moshe Hagiz describes the new Jewish communities of the seventeenth and eighteenth centuries. Outwardly, they enjoyed both physical freedom and freedom of conscience, being liberated from the yoke of the Inquisition. Internally, they showed signs of considerable spiritual ferment. This took expression in numerous conflicts, only a few of which have been studied satisfactorily by scholars. Research on Sabbateanism and the renewed interest in Spinoza and Prado has overshadowed other important features of Jewish life in the seventeenth century.<sup>2</sup>

In the extensive theological literature of the period in Spanish, we are informed of the appearance of several types of people who were considered dangerous. The Catholic and the Calvinist, although outside the Jewish orbit, jeopardize the hoped-for return of the *converso* to Judaism; occasionally they even persuade Jews to convert. But even within the Jewish orbit there exist two types who threaten the religious life of the community: the atheist, who denies the existence of God, and the deist, who believes in God but denies prophetic revelation and therefore the authority of all positive religions.

<sup>1</sup>R. Moshe Hagiz, *Eleh ha-Mitsyot*, Commandment 564, pp. 110-111.

<sup>2</sup>On this issue see Dr. Yosef Kaplan's comprehensive study, *From Christianity to Judaism, The Life and Work of Isaac Orobio de Castro* (Hebrew; Jerusalem, 1983). On the general intellectual atmosphere of the Amsterdam community as reflected in the manuscripts of the 'Ets Ḥayyim collection, see Richard H. Popkin, "Filosofyah ye-Pulmus be-Kitve ha-Yad shel 'Ets Ḥayyim," in *Mehkarim 'al Toldot Yahadut Holand*, 3, pp. 55-63.

These are familiar figures. But we hear of yet another type who, although he acknowledges the authority of revelation, accepts only the Written Law. Izhak Orobio de Castro describes two variations of this type. There are those who deny the oral tradition—that is, the Sages' interpretation of the Written Law; and there are those who accept the interpretation of the Sages but deny their authority to add “fences” or to enact decrees (*gezerot*) and ordinances (*taqqanot*). A fifth type is thus added to the assembly, joining the Catholic, the Calvinist, the atheist and the deist. It seems to me that in the description of this fifth type we can perceive signs of an abortive movement, a sort of Jewish Protestantism which did not develop sufficient strength to change the face of reality.

Nothing has remained of this “movement” but a few isolated expressions. However, if we put the strands together it may be possible to reconstruct to some degree the difficulties which beset this period. The pieces of evidence we possess span the period from the beginning of the seventeenth century to the middle of the eighteenth century and demonstrate that there was very widespread unrest, which was expressed in both rationalistic and Kabbalistic terms and at whose core was what we have designated the “Protestant idea.”

#### 1. *The Movement That Never Was*

I know for a certainty that the imagination of man's heart is evil from his youth, and it is wont to tempt the sinner and to entrap him little by little. It begins by saying to a man, What are these to you, the fences and restrictions enacted by the Sages, who are flesh and blood like you; pay no heed to their words; it is more than enough that you should believe and observe all that is written in the Lord's Torah.<sup>3</sup>

Further on, we shall touch briefly on the most important pieces of evidence for the existence of this “movement.” Although most of them are familiar to scholars, the impact and extent of the phenomenon they represent has not been sufficiently recognized, and the danger it posed for the rabbinic tradition in Western and Central Europe has not been sufficiently stressed.<sup>4</sup>

One of the early events in the chain of developments we wish to describe is associated with the figure of Uriel da Costa. In 1616-17,<sup>5</sup> R. Yehudah Aryeh de Modena writes to the *parnassim* of the Hamburg community:

We have heard, and our heart is faint, that one of your congregation has presumed—a demonic spirit having certainly possessed him—to speak deceitfully against the Oral Law and the teachings of the Sages. We do not know whether he is a Sadducee, a Boethusian or a Karaite; it is enough that he is a heretic and an utter Epicurean in that he speaks

<sup>3</sup>*Mishnat Hakhhamim* (Chernowitz, 5624; offset edition, Jerusalem, 1964; henceforth *MH*), No. 509, 64r.

<sup>4</sup>For an attempt in this direction see I. Sonne, “Yahaduto shel Spinoza,” in *Hado'ar* 13 (1933-34), pp. 7-8, 56-60, 70-71.

<sup>5</sup>In this year there also appeared *Magen Va-Tsinah*, Modena's response to the criticisms “of an erring man and a fool, wise in his own eyes.”

presumptuously against the words of our Sages, words upon which the edifice is founded—the House of Israel in all the places of its dispersion....<sup>6</sup>

But Uriel da Costa is not an isolated case. On the 28th of Av 5378 (1618), the Venetian community announced the imposition of an excommunication, and thus we read:

And now the voice of them that shout, that in their hearts affront the emissaries of God (namely the Sages who interpret the Torah...) is heard in our land as well as beyond, for there are some evil persons, sinners against the Lord, who deny the words of the sages and their allusions, and who place their own word above all. Had the scale spread only within their dwellings and among themselves...we would hold our peace and say, May their souls perish, it will be enough for them to receive the punishment they deserve in this world and the world to come.<sup>7</sup>

In what follows, we learn concerning this group that “their voice goes about like a snake,” like “a band of prophets, harp and psaltery” going about the cities, converting others to their view, and by their sharp criticisms causing the weakminded to transgress. Excommunication was therefore imposed on them, and it was decreed that “any person who should hear another speak against the Sages is obligated, by force of this enactment, to make it known to the *parnassim* and rabbis of the city where he dwells....”

In Chapter 29 of his *Nomologia*,<sup>8</sup> R. Immanuel Aboab tells us of an encounter in Italy with two “adversaries”<sup>9</sup> who rejected the Oral Law. One of them denied that Jacob was seventy-seven years of age when he came to the house of Laban, or that he was eighty-four years of age when he married Laban’s daughters. The second, who regarded himself as a scholar,<sup>10</sup> asked what was the source of the laws of ritual slaughter and of the second day of Festivals, laws which seemed to him to violate the explicit prohibition against adding to or diminishing from the words of Scripture.<sup>11</sup>

<sup>6</sup>C. Gebhardt, *Die Schriften des Uriel da Costa* (1922), p. 150 (henceforth Gebhardt).

<sup>7</sup>*Zera’ Anashim* (Husyatim, 1902), No. 29 = Blau (1905), p. 95f. = Gebhardt, p. 153.

<sup>8</sup>Immanuel Aboab, *Nomologia o Discursos Legales* (5389), p. 312.

<sup>9</sup>Adversarios.

<sup>10</sup>Que presumia mas de letrado.

<sup>11</sup>I. Sonne is of the opinion that the two antagonists are Abraham Farrar and Uriel da Costa; see Sonne (1932, 1948) and also B. Klar, “Sha’agat Aryeh ‘al Khol Sakhal,” *Tarbits* 13, 147. I do not believe that there is any basis for such an identification. It appears to me that Abraham Farrar represents a different case altogether. We do not know enough about him; however, it seems to me that on the basis of this passage we can sketch the figure of a critic who continues in the radical medieval rationalist tradition (*Zikne Yehudah*, p. 48). Such is the description in the collected responsa *Bet Haddash* of R. Yoel Sirkes: “So-and-so, the physician who declares the worm pure...for some time he has prided himself in openly ridiculing the teachings of the Sages, may their memory be blessed, [especially] their *aggadot*; he also strikes at Kabbalah and mocks the true science [Kabbalah] and has cast aspersions on it. And he has said that

Hector Mendes Bravo, the *marrano* who returned to Judaism but subsequently reverted to Catholicism, describes in a confession made before the Inquisition in Lisbon in 1617 his confusions and the questions which arose in the course of his spiritual wanderings. One of these questions brought him to the *Hakham* Izhak Uziel of Fez, who advised him to believe as other Jews and not to stumble in the errors of the Karaites (*Kara'im*).<sup>12</sup>

Thus far, several examples from the early seventeenth century. But similar themes are also heard in the latter part of that century. At that time R. Abraham Haim Viterbo (of whom we shall speak further on) describes the “unruly generation” in Italy,<sup>13</sup>

those who constantly pose difficulties, in order to destroy and pull down the teachings of our Sages; their whole aim is to teach and prove that the Oral Law is not consistent with the Written Law, and that it is a fabrication of their [the Sages'] hearts, according to whatever they pleased. They also mock their precious teachings, saying that several *aggadot* and *midrashim* were uttered out of ignorance—and this [they maintain] because they do not fully understand them.

Similarly, in his discussion of “an eye for an eye,” R. Moshe Hagiz writes:<sup>14</sup>

For the impudence has been made known of the Epicureans (woe to them, and may the names of the wicked molder away), who grumble and complain concerning the fundamentals of the Oral Law, who following their [own] contaminated opinion wish to add to or diminish from it and to change its formulation; for they say, If such is [the law], why does the Torah not state explicitly “money” [*for an eye*], and why do we find *keri* and *ketiv*...? They provoke those who observe the Torah saying, they have [dared to] do not only this but have based several fundamental laws on a homiletical interpretation of a superfluous letter, or on a *gezerah shava*, or on one of the thirteen rules of rabbinic interpretation. But all those who are sons of Abraham, Isaac and Israel, and of the students of Moses, may he rest in peace, whose fathers stood

he values only philosophy, and every person should be drawn to it [philosophy].” But the accusation against “so-and-so the physician” is that he has licensed a ritual slaughterer deemed insufficiently expert; we do not hear explicitly of his “Karaism.” See Kayserling, “Un Conflit dans la Communauté Hispano-Portugaise d’Amsterdam—ses conséquences,” *REJ* XLIII (1901) 275f. And see Gebhardt, p. 244. In the case of Abraham Pereyra, we find critical remarks concerning the *aggadah* similar to those of the two “adversaries.” A clear parallel exists in the questions of Uriel da Costa, who ridicules the notion “that Eliahu saw twelve generations” (Question 11; Gebhardt, p. 10). But in my opinion we must distinguish between rationalist criticism and “Protestant” criticism; only the latter interests us in the present context.

<sup>12</sup>C. Roth, “The Strange Case of Hector Mendes Bravo,” *HUCA* XVIII (1944) 243.

<sup>13</sup>*Emunat Hakhamim in Ta'am Zeqenim* (Eliezer Ashkenazi; Frankfurt-am-Main, 1854).

<sup>14</sup>*Eleh ha-Mitsyot*, p. 72.

at Mt. Sinai, are believers, sons of those who believed that we have received the truth...; it is not to be doubted.

Even as late as the first half of the eighteenth century, in 1732, R. Binyamin Rafael Dias Brandon<sup>15</sup> writes in his collection of responsa *'Emek Binyamin*: I have heard—and my stomach turns—the voice from lips that complain and mouths that profane, in that they affront the emissaries of God [in speaking] about the teachings of the Sages, who represent truth and whose words are truth and from whose waters we drink and from whose lips we live. They say, Why should we believe them, for they are men like ourselves, and who can testify that they have spoken honestly? Cursed be these evil and sinful men, for aside from not accepting upon themselves the yoke of the kingdom (Who are the kings? the Sages) in saying, We recognize nothing but what is written in the Written Law [by] the finger of God, they heap sin upon sin in that they do not even receive upon themselves the yoke of the kingdom of heaven, of Him who has blessed us with His commandments and commanded us to heed the voice of the Sages, even if they should say that right is left, and left right.<sup>16</sup>

At the close of the period under discussion, R. David Nieto describes in the introduction to his *Kuzari ha-Sheni* the reasons which led him to write this work:

Disaster comes upon disaster, for there has arisen a rabble of men wise in their own eyes, who have never seen the light of Torah, who...say, Our lips are our own, who is Lord over us? What do we care about the disputes of the *tana'im* and *amora'im*, what do we care about the debates of Rav and Shmu'el? For this is the Torah which Moses set before the children of Israel, as pure as the sun, enlightening the eyes; none shall be weary or stumble in it; for the book of God's Torah is lucid and can be grasped by reason.<sup>17</sup>

## 2. *The Areas of Conflict*

An examination of the few passages by those who objected to the Oral Law which have been preserved and a reconstruction of their arguments on the basis of apologetic literature reveal the range of topics which became the focus of the intellectual struggle. We will attempt to present the focal points of the dispute as reflected in the works of R. Moshe Hagiz. In these works we confront an array of orientations and points of conflict which shall be surveyed here in a generalized fashion.

a) The theological orientation. The problem of immortality is the outstanding problem in this sphere. R. Hagiz paraphrases his opponents thus:

<sup>15</sup>*'Emek Binyamin*, published posthumously as the second part of *Orot ha-Mitsvot* (Amsterdam, 1753).

<sup>16</sup>21v (p. 25, according to the erroneous printed pagination).

<sup>17</sup>*Ma'ateh Dan*, introduction of the author (Warsaw, 5644), pp. 1-2.

Let me advise you, and may God be with you, that you not seek and not pay heed to what they [the Sages] instruct you. Pay no heed to [conditions of] reward and punishment not formulated explicitly in God's Torah...for who is the Existence of this world, and who went and returned to us to announce to us all those things spoken by the Sages, which are nothing but fabrications of their heart; [for] they have produced them in order to intimidate and threaten the people, and to hold sway over them....Certainly all this is nothing but the imaginings and vanities of the Sages, who cause anguish to the hearts of man for nothing, as it were, and add to and diminish from the Torah against the will of God who wrote in his Torah, "Ye shall not add...neither shall ye diminish from it."<sup>18</sup>

It is not difficult to perceive here the tracks of Uriel da Costa and of the modern "Sadducees" who resembled him on this particular point.

b) The criticism directed at the Sages who "add to and diminish from the Torah, against the will of God who wrote in his Torah 'Ye shall not add...neither shall ye diminish from it'." The classic examples of such behavior are the addition of the second day of the festivals, and, as regards diminishing, the annulment of blowing the shofar or taking the lulav on the Sabbath, and the arbitrary interpretation of the expression "the fruit of the tree *hadar*," taking it to mean *etrog* (509).

c) Antinomianism, that is, the idea of the future abrogation of the Torah (529-531). In R. Hagiz we hear echoes of a battle against ideas based on "a literal interpretation of certain sayings of the Sages who said: 'In future days, all the sacrifices will be abolished except that of thanksgiving'; and they have also said, 'A garment woven with linen and wool may be used as a shroud for the dead.' And R. said: 'That is to say, in future days the commandments will be abrogated'."

Total antinomianism is linked to a Christian position. But within the Jewish orbit a position of partial antinomianism is adopted, holding that only certain commandments are abrogated.<sup>19</sup> Against this R. Hagiz argues,

<sup>18</sup>*MH*, No. 509, 64a. Cf. No. 536, the interpretation of the *mishnah* from *Pirke Avot*: "Be not like the servants who serve the master on condition of receiving a gift" (66v). Further quotations from this work will be cited according to the passage number.

<sup>19</sup>On this, cf. the response of R. Moshe Hagiz: "To us it is clear that even one small letter cannot alter His testament, for if a bit is annulled all is annulled, Heaven forbid that God, may He be blessed, He who is eternal, should annul a single thing of His eternal Torah. All the more [impossible is it] that He should annul a commandment or change a commandment, that is, permit what has been forbidden" (*MH*, No. 548, 68v). The words of the *midrash*, "the Lord permits and prohibits," are taken as "a single opinion—the Lord, may He be blessed, will pardon the one who gave support to sinners with such statements." In the true interpretation, these words refer to the teaching of the Sages that God has permitted us, under certain circumstances, everything that he has forbidden us in other circumstances. The milk of an animal which has been sacrificed on the altar is forbidden, while the milk of a wild animal is permitted (*ibid.*)

employing a statement of R. Hanania b. Akashya, that “His hope and His desire and His will, may He be blessed, are only to benefit Israel; therefore He has increased for them Torah and commandments.” The “increase of Torah” clearly refers to the theoretical study of the laws of the Torah. But what is the meaning of the “increase of commandments”? From this expression we learn, according to R. Hagiz, that there are sufficient commandments so that the Jews can hold to them under any conditions, whether in a time when they live in their land and the Temple stands, or in Exile, when they are unable to observe more than those sixty commandments which are always binding. According to R. Hagiz, R. Hanania’s statement comes to refute a view holding that the destruction of the Temple brought with it the abrogation of the Torah. This position is incorrect, R. Hagiz asserts, for from the fact that certain historical changes have altered the force of certain commandments we can learn nothing that would alter our view of the eternal validity of the Torah and its commandments.

We may have here an echo of a polemic position against a view which regarded the Torah as a political constitution, one which had lost its validity with the destruction of the Temple—an idea developed by Spinoza in his *Tractatus Theologico-Politicus*.

d) Elsewhere R. Hagiz treats yet another idea of dispute in the overall struggle. In his *Eleh ha-Mitsvot* he points out the dangers of teaching the more perplexing Talmudic *aggadot*:

“The words of the wise [*ḥakhamim*] are like spurs” [Ecclesiastes 12:11] and strong warnings have been given concerning those teachings of the Sages which may strike the masses as strange, and it is fitting for one who fears God, who preaches or teaches to the many, to conceal them discreetly. And concerning these [teachings] I say, “his banner over me was love” [Song 2:4], for he who teaches them literally causes the Torah to be held in contempt, for even if his interpretation is successful, he puts a stumbling block in the way of the many and violates a negative commandment, “Thou shalt not put a stumbling block before the blind.”<sup>20</sup>

There can be no doubt that we have evidence here that the controversy concerning the Oral Law included an attack on the *aggadot*. It appears from a survey of the apologetic literature that such attacks were quite common. R. Hagiz argues that the masters of *aggadah* “followed in the footsteps of the early philosophers, in that they concealed deep matters under an ancient covering and veil.” It is those who fail to grasp the esoteric meaning who “disparage and ridicule the *aggadot*; and [they] fail to recognize that they will be responsible with their souls in speaking of God and of Moses who received

<sup>20</sup>MH, 54. In this R. Hagiz follows the teachings of his father; *ibid.*, 55.

the Torah at Mt. Sinai...including new interpretations which will be established" by future scholars.<sup>21</sup>

### 3. *The Ideology of the Movement*

*And* [as for] these students of whom you spoke to me in your inquiry, I do not believe that they ponder Torah truly...for they who speak in such a manner are the cause of this great transgression....And this matter about which you have asked, let it be for you as an exemplification of all the false deductions that you have heard and will hear from them. For they sow in vain and bring forth for terror against the truth of the words of the Torah, and the Prophets, and the Writings, and our divine Sages, may they be blessed.<sup>22</sup>

#### 3.1 *The New Karaism*

I am approaching this study not from the point of view of the historian, but as a scholar of the history of ideas and of the development of Jewish thought. This study cannot therefore describe the social and communal scope of the phenomenon under consideration. It will be limited to a study of the development of intellectual themes. At any rate, we shall attempt to limit it to such until such time as scholars in the field of history permit us to complete the picture.

I would therefore like to open the discussion with clarification of several intellectual themes at whose core lies the "Protestant" concept which I have mentioned above.

There have been numerous attempts to determine at what point modern Jewish thought begins. Should its beginnings be identified with Moses Mendelssohn's work, or must we go back to seventeenth-century Amsterdam? There can be no doubt that a comparison of the problems and themes which occupied these two periods is required—including a comparative study of the theme which constitutes the focus of our discussion.

<sup>21</sup>*Eleh ha-Mitsvot*, Commandment 564, p. 111. See also R. Hagiz' commentary on one of the *aggadot* of the Sages, according to which there was no old age until Abraham's time; *Shete ha-Lehem*, introduction of the author, fol. 3r. R. Hagiz is aware of attacks on the Torah claiming it is unethical: "And as for what they claim, that the Torah commanded, 'Thou shalt save alive nothing that breatheth' [Deuteronomy 20:16], and so on, there are already books full of this claim, which has no basis whatsoever. We know this not only from the Oral Tradition, but from the Torah, where it is stated explicitly that these passages refer only to the seven peoples who were enemies [of Israel]" (*Eleh ha-Mitsvot*, Commandment 564, p. 112). In the same context R. Hagiz deals with relations with gentiles in several areas (theft, fraud, the taking of interest, etc.—*ibid.*), and cf. Commandment 573, p. 117: "It is forbidden to take exorbitant interest, the limit being what is necessary for subsistence." It would be easy to demonstrate on the basis of an examination of the literature of the period that this was one of the central themes in the deistic literature of this time. But the attack we are discussing was aimed at the Written Law, not at the Oral Law. We encounter a similar problem in Viterbo's book.

<sup>22</sup>*Sefat Emet* (Vilna, 5636), pp. 18-19.



An effort to bring about religious reform and change can be identified with two possible viewpoints. It can be based on an ideology which calls for restoration, that is, a return to the original sources of the religion—a call prompted by the perception that these sources have been distorted and corrupted over a long period by the religious establishment. The latter is held responsible for the tragic situation which has only become perceptible at this point. Such an ideology can be termed “Karaites”; at its heart is the call for a return to divine revelation, the source which has been befouled by men.

Thus far, one possible approach. But there exists another: the assertion that the existing situation, which must be changed, is a result not of corrupting human activity, but of a *lack* of vigorous human activity. According to this view, the secret of the vitality of religious faith and law is the latter’s constant progressive development. This development is perceived as having come to a halt as a result of a sort of spiritual sclerosis afflicting the institutions of religion. This is a reformist ideology which, taken in a general way, was to become the basis for the Reform Movement in nineteenth-century Germany.<sup>23</sup> This is an approach which looks not to the past but to the future.

The distinction between “Reformist” and “Protestant” is, from a terminological point of view, arbitrary. I have used it in order to make vivid an intellectual distinction which seems to me basic. By means of this distinction we can analyze what occurs among the critics of rabbinic Judaism in the seventeenth century.

The dominant theme among opponents of the Oral Law in the seventeenth century belongs to the “Protestant” category. There are many references to the Karaites (and sometimes to the Boethusians and the Sadducees) in the literature of the period. Some of these we have cited above and some we shall cite further on. It can easily be shown that the relationship to the Karaites in this period is purely literary. There exists no direct historical influence, and, when the *hakhamim*<sup>24</sup> speak, for example, of “one who disputes and seeks to alter any of the particulars of our tradition, in the manner of the Karaites, of accursed memory,”<sup>25</sup> they refer strictly to contemporaries who have arrived at conclusions which resemble those of the Karaites, but who owe no actual intellectual debt to the Karaites.<sup>26</sup>

<sup>23</sup>On a “Karaites” tendency in the nineteenth-century Reform movement see J. J. Petuchowski, “Karaites Tendencies in an Early Reform Haggadah,” *HUCA* XXXI (1960) 223-250.

<sup>24</sup>We shall use this term to refer to the rabbinic authorities of the period under discussion; we shall use “the Sages” to refer to the *hakhamim* of the Talmudic period.

<sup>25</sup>R. Moshe Hagiz, *Eleh ha-Mitsvot*, Commandment 422, Part 2, p. 30. R. Hagiz is aware of the link between contemporary criticism of the Oral Law and the Karaites position. “The argument of the evil inclination concerning the blowing of the *shofar* and the taking of the *lulav* on Sunday, [that is,] postponing them from the Sabbath—that is the contention of that accursed sect the Karaites who threw off the yoke of the Oral Law.”

<sup>26</sup>See J. J. Petuchowski, *The Theology of Haham David Nieto* (New York, 1954), p. 6f. Petuchowski attempts to find actual contact with Karaites in this period. But as we

In the literature of the period, the term “Karaites” is used to refer to one who rejects the Oral Law in its entirety. The terms “Sadducee” and “Boethusian,” on the other hand, refer to those who fail to believe even in the immortality of the soul.<sup>27</sup> In remarks by opponents of the Oral Law we find, in similar fashion, that the *hakhamim* are referred to as the modern successors of the Pharisees, such a reference possessing the pejorative connotation found in the New Testament and in the Christian tradition. This serves to emphasize the aim of returning to the Written Law in its purity, that is, in the purity it possessed before its corruption by men.

The most striking expression of this tendency which has survived from the early part of the period under discussion is that of Uriel da Costa. With da Costa we find not only the claim that the tradition has been falsified, but also the claim that this falsification has been intentional: it has been done in order to reinforce the Sages’ authority and to facilitate their domination of the masses. R. David Nieto, who came to refute da Costa’s views, summarized the latter’s argument thus: “Our Sages and elders—it is they who have deceived us”;<sup>28</sup> “they have made the explicit obscure and have jumbled verses that are

shall see further on, this “Karaism” had only a literary significance. Although R. David Nieto makes use of a Karaite text (*Maṭṭeh Dan*, fol. 4r)—a text of Eliahu b. Moshe Bashyazi (cf. Petuchowski, p. 77), this was certainly a rare case, and it seems to me altogether insignificant in the historical development of the movement. R. Nieto’s remarks, “and the above-mentioned *hakham* sought to refute their contentions with this syllogism which I have learned from their teachings, may their memory be blessed,” refer not to Bashyazi, as Petuchowski maintains, but to R. Imanuel Aboab (see fol. 3v). Bashyazi is cited only “that there were three disputes among them at different times concerning circumcision on the Sabbath” (*ibid.*, fol. 4r).

<sup>27</sup>Thus, for example, R. Leone da Modena writes in his book of Jewish ritual in Italian that the Karaites, unlike the Sadducees, believed in immortality, since the refusal to accept this doctrine would bring upon them the hostility of all the religions. See *Historia dei riti ebraici Venetia* (1638), pp. 101ff.; N. Porges, “Das Wort Pharisäer bei Spinoza,” *MGWJ* 61 (1917) 150-165. Porges has brought our attention to the fact that R. Gedaliah ibn Yehiah writes concerning Abner of Burgos that the latter “became a Sadducee” (*Shalshet ha-Ḳabbalah* [Jerusalem, 1962], p. 128). The term “Sadducee” as used in the latter work may be interpreted in various ways. It may be used purely as a literary device (in the manner of the statement, “Yohanan the High Priest...became a Sadducee”) or as a veiled reference to Christianity. But the fact that the writings of Abner of Burgos served as a source for a “Sadducean” criticism in the seventeenth century (for example, in *Ḳol Sakhal*) requires an explanation. It may be that R. Gedaliah ibn Yehiah was familiar with Abner’s work, which would explain his remark. The authors of the period undoubtedly maintained a distinction between Karaite (rejection of Oral Law) and Sadducean (denial of immortality of the soul and resurrection of the dead). Thus, for example, Manasseh ben Israel’s book on the resurrection of the dead is directed against the “Sadducees”: “En los quales contra los Zaduceos se prueba la immortalidad del alma y Resurreccion de los Muertos” (1636). See also Porges, p. 165.

<sup>28</sup>R. David Nieto, *Maṭṭeh Dan*, fol. 4r.

lucid in order that they might interpret as they pleased”;<sup>29</sup> “and although they [the innovations of the *ḥakhamim*] cause loss of wealth and loss of life, there is benefit in them to the Sages, because through them they extend their dominion and impose great fear on the community, in order that they should be respected and venerated forever.”<sup>30</sup> And elsewhere, the Sages’ aim according to opponents of the Oral Law is summarized thus by R. Hagiz: “to threaten and intimidate the people, and to dominate them.”<sup>31</sup>

In the da Costa episode we find the “Protestant” theme accompanied by a rationalistic world-view. But this is not the only possibility. We encounter the same theme in the Sabbatean theology of Abraham Michael Cardoso. For Cardoso regarded his own Sabbatean thinking as an attempt at “restoration,” at reviving an ancient theology that had been falsified by the rabbinic-philosophical tradition.<sup>32</sup>

I have heard it said that members of this sect maintain that after the *amora'im* the true faith was forgotten among Israel, and that in their days [i.e., of the *amora'im*] and in days of the *tana'im* and the prophets and the patriarchs, they [the Jews] held the beliefs espoused by the Thorn [Cardoso].<sup>33</sup>

Cardoso’s approach is exceptional in that he designates the point at which the break with the authentic tradition was made as falling *after* the period of the Talmud. In his view, the Talmud belongs—at least to some degree—to the “positive” period in the theological history of the nation. But this is a detail and does not alter the fact that Cardoso attacks the rabbinic tradition and calls for a return to the original sources of the religion.

### 3.2. *Links to Sabbateanism*

Dios mande el que ha de embiar y venga el que ha de venir  
Para que el mundo no crea tanto Sabatay Sebi.<sup>34</sup>

The “reformist” theme, in the Sabbatean version, views a change in the binding character of Halakhah as necessary not as the result of a return to an ideal past, but as part of a transition to a more “progressive” period. Behind these two conceptions lie two contrary philosophical conceptions of historical time.

The literature of the period testifies that the issue of antinomianism was the focus of the conflict between the *ḥakhamim* of the period and the various apostates. But as we shall see further on, we find in the arguments of the

<sup>29</sup>Ibid., 2, 3, fol. 8r.

<sup>30</sup>Ibid., 2, 85, fol. 11v.

<sup>31</sup>*MH*, No. 509, 64r; see further on Ch. 3.

<sup>32</sup>Behind his approach lies a Sabbatean distinction between the Cause of Causes and the God of Israel, who was revealed to our fathers. Under the influence of foreign philosophies, the *ḥakhamim* forgot the tradition of their fathers, and in their worship turned to the Cause of Causes rather than to the God of Israel.

<sup>33</sup>I.e., Cardoso, in a Hebrew translation of the Spanish word.

<sup>34</sup>*Ets Ḥayyim* 48A 18, p. 532.

apostates, in the context of this conflict, not only Christological interpretations of Scripture, but also various antinomian themes—and even a diversionary Christian attack on the Sages condemning them for their deviation from the Written Law.

This is a conflict with an external foe. Far sharper was the dispute over this issue when it arose from within. Its most important internal expression is to be found in the Sabbatean controversy.

The relationship between Sabbateanism and antinomianism is well established. We would like to show that there apparently existed within the Sabbatean movement a moderate current which envisaged a partial abolition of accepted Halakhah on the basis of a new interpretation of the Written Law.

It is clear that this approach could only be adopted by persons educated in the classical Talmudic tradition. There even existed a possibility that such moderate antinomianism might be anchored by the dialectic method in the very Halakhic tradition which paradoxically was to be demolished by it.

But there are different approaches to the abrogation of the commandments—that is, different expressions of antinomianism—within Sabbateanism.

We must first distinguish between two phenomena (and this is an accepted distinction): on the one hand, symbolic antinomianism—the transgression which is transformed into a symbol of the messianic age, such as, for example, the abolition of fasts; and on the other hand antinomianism proper, the Torah being abolished in the conviction that the messianic age has actually arrived. Only the latter represents antinomianism in the full sense. It seems to me that this type of antinomianism was less widespread in the Sabbatean movement than is generally believed. At any rate, we must distinguish between the belief in total abrogation of the commandments and an attack on the commandments *as they are understood according to the Oral Law*.

It is my opinion that in the early stages of the Sabbatean movement, as well as in the period after Shabbetai Tsevi's conversion, we can discern a moderate sort of antinomianism. At any rate (and this is very important) the movement was understood as such by its opponents. Whether or not this moderate antinomianism was a dominant feature of Sabbateanism, it seems to me that it has not been sufficiently stressed. One can at least surmise that, while antinomianism among the masses constituted an expression of revolt against the Oral Law, among the chief theologians it had a different character.

R. Jacob Sasportas informs us of a certain historic juncture in the course of the Sabbatean movement at which there appeared an explicit expression of revolt against the Oral Law, a revolt which R. Sasportas calls “the ultimate Epicureanism” adopted by

the uneducated who perceive a lack of truth in the teachings of the Sages, who open their mouths neither in holiness nor purity and say,

One cannot rely on the Sages<sup>35</sup>...and from this time on, the teachings of the sages are not [regarded as] prophecy.<sup>36</sup>

Such attacks were not made by the ignorant. They are without doubt ambiguous. In addition to their Kabbalistic meaning, they have an exoteric meaning—revolt against the Sages' authority. Of course such remarks might be understood as advocating a new mystical interpretation of the Halakhic passages of the Torah. But if so, it is no accident that the new reading being advocated is associated with a rejection of the traditional status of the Sages, whose words are no longer "words of prophecy."

It seems to me that in a later period, after Shabbetai Tsevi's conversion, the antinomianism of the movement becomes focused specifically against the Oral Law. In this connection it is of interest that R. Hagiz also views the Sabbatean movement as a movement which attacked the Oral Law. In his *Mishnat Ḥakhamim* he speaks of the activity of those

who have licentiously rebelled against the Torah of Moses and Israel and have inclined towards evil beliefs which they have devised and fabricated in their sinful hearts, the well-known imposter Shabbetai Tsevi [lit., *tsefa'*, "snake"] and his friends, may their bones be pulverized, the accursed Cardoso, and the abominable Nehemiah Hiyah Hayon, may the name of the wicked rot...the insane fool Leib Prossnitz and his friend, as evil as he, Moshe Meir of Zholkva and the aforementioned Snake [Shabbetai Tsevi].

He describes these figures as having launched an attack on the Sages and on rabbinic authorities throughout the ages.

He spoke slanderously not only about all the *aggadot* and *midrashim* of the Sages, interpreters of the Twenty-Four [books of the Torah], but also about the works of the rabbinic authorities and moralists, recent as well as ancient, until they have caused us to be abhorred.<sup>38</sup>

Concerning Nehemiah Hayon, R. David Neito writes:

<sup>35</sup>Cf. R. Hagiz' remarks on this statement (*Sefat Emet*, p. 15f.). R. Hagiz emphasizes that indeed "*hakhamim* possess the authority to uproot from or add to the Torah, therefore the Torah has warned that [the particle *et* in the verse] 'Thou shalt fear the Lord thy God' [comes] to include *hakhamim*." This "uprooting" of a thing from the Torah is not actually uprooting, but planting, "in accordance with the immediate need to check something" (ibid., p. 17). (Cf. his remarks on this topic in *Mishnat Ḥakhamim*, No. 523, where it is stressed that this is indeed Rava's definition of Epicureanism; fol. 65r.)

<sup>36</sup>*Sefer Zizat Nobel Zvi*, p. 87. See G. Scholem, *Shabbetai Tsevi yeha-Tenu'ah ha-Shabbeta'it bi-Yeme Ḥayyay*, p. 132. Cf. *Torat ha-Ḳana'ut* (Lvov), p. 53, of which Graetz has taken notice (*Geschichte der Juden* [Leipzig, 1896], Vol. 10, p. 451). And see the remarks of R. Jacob Sasportas in *Sefer Zizat Nobel Zvi*, p. 149f., on the strange acts of Sabbetai Zvi.

<sup>37</sup>*MḤ*, No. 519, 64v-65r.

<sup>38</sup>Ibid., No. 521, and see Nos. 521-522 for a description of the story of "Rechle, wife of the accursed Yosel Halberstadt."

I have witnessed a disgrace...concerning the Lord our God, may His name be blessed, and concerning his sacred and perfect Torah and the *tana'im* and the *amora'im* and the *ge'onim* and the rabbis...who are the pillars of truth and instruction in all the places of their dwelling.<sup>39</sup>

We find a parallel phenomenon in a completely different cultural and geographical setting. In the declaration of excommunication made in 1726 against the Sabbateans of Prague, the excommunicated are described as having dared "to ascribe things to *hakhamim* [disrespectfully]."<sup>40</sup>

#### 4. *Apologetic Literature*

Anda la Ley sacra en cueros  
par poderla bestir  
nos viene a pedir de boca  
la tradicion Bocasi<sup>41</sup>

In the face of the perplexity and criticism aroused concerning the rabbinic tradition, there appeared quite extensive apologetic literature which sought to defend the authority of the Oral Law. We shall try to survey the chief works, pointing out the main intellectual trends to be found in each of them. At a later stage we shall deal with the development of these different ideas.

The attack on the Sages was felt to be a severe and immediate problem. As we shall show further on, most of the works dealing with it did not seek to develop a theoretical defense. They were popular works aimed at educating the wider public.

Occasionally, we find lists of texts which were regarded as potentially useful in educating the public on this subject. In a responsum which we shall discuss further on, R. Shmuel Aboab gives a long list of early sources touching on the subject. It includes the following works: *Emunot ve-De'ot* of R. Sa'adia Ga'on (43), the *Kuzari* (3, 30), Maimonides' introduction to the *Mishnah Commentary* (14:9-10) and his *Hilkhot Mamrim* (83), R. Abraham ibn Ezra's introduction to his commentary on the Torah, *Sefer ha-'Ikkarim* (3, 22) and *Sefer*

<sup>39</sup>Que son los maestros de la verdadera doctrina en las tierras donde residen. *Esh Dat*, first dialogue, 20, fol. 1v. In Spanish, *ibid.*, p. 4. The author is referring to the interpretation of the teachings of the Sages—an incorrect interpretation.

<sup>40</sup>A. Freimann, "Tosafot le-Bikoret Shabbetai Tsevi ve-Kat Frank be-Prag," *Ha-Tsofeh le-Hakhamat Yisra'el* 6, 44. It seems to me that the term "*talmide hakhamim*" refers not only to the rabbis of the period, but to scholars of various periods.

<sup>41</sup>A rhyme (*Copla*) which he composed, AG5. 'Ets Hayyim 48A 18, p. 529. *Bocasi* has a double meaning. It is a sort of fabric; but *boca si* means "[Torah she baah] pe [mouth]—yes." The Written Law is *en cueros*—naked—and requires *bocasi*, a fabric to cover its nakedness. From Abraham Gomez Silveyra, *Preluminarias que deven anteceder a todo genero de controversias en materia de Religion que sirven de Prologo a la Respuesta humilde que haze A. G. S. En cinco Libros al que hizo el Doctissimo Senor Ishac Jacquelot, Intitulado Disertaciones sobre el Mesias*. My friend Dr. Yosef Kaplan is currently engaged in extensive research on Silveyra, and with its completion we will be able to grasp the importance of this figure.

*Tehilah le-David*.<sup>42</sup> Both R. Shmuel Aboab and R. Moshe Hagiz recommend three works whose authors are “*ḥakhamim* from the congregation of the *Sefardim*, who have recorded something of their wisdom for gentiles”: the *Conciliador* of R. Menasseh ben Israel, the *Nomologia* of R. Immanuel Aboab, and the translation of the *Kuzari*.<sup>43</sup> The translator of the *Kuzari* into Spanish, Abendana, added an introduction to the third part of the work, in which he defended the tradition of the Sages and the Oral Law.<sup>44</sup>

Let us begin our survey with R. Simha Luzzatto. We will conclude with a brief discussion of the works of R. Yehudah de Modena.

#### 4.1. R. Simha Luzzatto

R. Shmuel Aboab informs us of “a booklet in manuscript to be found among us, by R. Simha Luzzatto, containing fine things concerning the truth of the Oral Law, from Scripture, from the tradition, and on the basis of intellect.”<sup>45</sup> This work has not been preserved.

#### 4.2. R. Shmuel Aboab

We mentioned above R. Shmuel Aboab’s responsum concerning the authority of the Oral Law. I will touch on its significance further on. A similar reference is to be found in R. Aboab’s *Sefer ha-Zikhronot*, a homiletic work of admonitions and ethical instruction. It is interesting that the first part of the book is dedicated “to the obligation to heed the judges of Israel.”<sup>46</sup> This commandment, R. Shmuel Aboab emphasizes, is one of the obligatory commandments binding at all times and incumbent upon every person. Were it not for the tradition, no two persons would interpret the Torah in the same fashion; “May He be blessed Who designated the Sages his servants, them and their teachings.”<sup>47</sup>

<sup>42</sup>Responsa collection *Devar Shmu’el*, No. 152, fol. 52v.

<sup>43</sup>*Sefat Emet*, pp. 17-18.

<sup>44</sup>And see an additional list in *Eleh ha-Mitsyot*, Commandment 613, which lists the works of R. Manasseh ben Israel—“the choicest of them for [strengthening] the observance of religion is that called *Conciliador*, as well as a paraphrase of the godly rabbi R. Izhak Aboab, may his memory be blessed, and the *Nomologia* of R. Imanuel Aboab, and a book written by the God-fearing *ḥakham* Izhak Cardoso, a physician expert in healing body and soul, called *Excelencias de los Hebreos*, all of these being useful in instructing the common people to believe the true and righteous teachings found in the words of the Sages, and guiding the Jew in the ways of the Lord and His Torah, with the required faith” (68v, 69r).

<sup>45</sup>*Devar Shmu’el* (Venice, 1720), No. 152, fol. 52v.

<sup>46</sup>*Ibid.*, fol. 1a.

<sup>47</sup>*Sefer ha-Zikhronot*, 61v. And see in what follows a defense of the Oral Law relying on the *Kuzari*. See also fol. 63r on the “democratic” intention of the commandment of Torah study, which applies to all. This observation undoubtedly comes to reply to a claim, the echoes of which are heard elsewhere, that the rabbis and other religious functionaries are required to study Torah, while other Jews are required only to gain the minimal necessary knowledge—the essential commandments and guiding principles of traditional Jewish life.

#### 4.3. R. Immanuel Aboab

R. Immanuel Aboab occupies an important place in this period. He composed "a pleasant book in the Spanish language on this matter and called it *Nomología* (religious disputations); and everything in it is true and correct."<sup>48</sup>

According to R. Aboab, the central idea of the Torah is the imitation of God (p. 1f.), the free will inherent in man being the image of God in him; and it is this which distinguishes man from other creatures (pp. 2-3).<sup>49</sup> Man's path is beset with dangers. The sacred Torah alone insures man's survival and indeed that of the entire cosmos. R. Aboab, following Albo, interprets Psalm 19 as affirming the uniqueness of the divine law (p. 15). Human intelligence is incapable of arriving at a comprehensive understanding of this law, for the reasoning of God does not resemble that of man. In the formulation of the philosopher, there is no analogy between the Creator and the creature (p. 16).

After thus introducing the book, R. Aboab sets out to prove the necessity of the Oral Law (p. 17).<sup>50</sup> He cites seven reasons ("she has hewn out her seven pillars," Proverbs 9:1), each of which he subsequently develops. They are as follows: 1) the Written Law possesses apparent contradictions (Chs. 5-8); 2) the information given in the Written Law is not by itself sufficient (9-12); 3) certain commandments are completely incomprehensible (13); 4) there is no precise description of the scope of the commandment of *kiddush ha-shem* (14); 5) we have no explanation for the repetitions in the Written Law (15); 6) there is no order to the calendar (16-21); and 7) the Written Law possesses no principles (such as the thirteen rules of rabbinic interpretation) by which to resolve doubts (22-25).<sup>51</sup>

The second part of the work comprises a historical description of the development of the Oral Law. In it R. Aboab also discusses, in an incidental manner, such topics as the theory of angels and of prophecy. But the book's chief aim is to reinforce the reader's faith in the rabbinic tradition and in the Oral Law.

#### 4.4. R. Moshe Rafael d'Aguilar

In 1639 R. Moshe Rafael d'Aguilar composed a reply to the arguments of Uriel da Costa, *Reposta a certas propostas contra a tradiçãõ*. D'Aguilar's replies to Uriel da Costa closely resemble those found in the other texts under discussion. The very need to read Scripture (p. 356), or to apply the com-

<sup>48</sup>R. David Nieto, *Matteh Dan*, fol. 3v. The pagination of passages from the *Nomologia* will be cited in parentheses in the body of the text.

<sup>49</sup>The idea of the imitation of God was extremely prevalent in Jewish thought of the period, especially in the literature composed in Spanish. Cf. the remarks of R. Moshe Hagiz in *Eleh ha-Mitsyot*, Commandment 359, Part 2, p. 5: "Rather, his speech must always be truth, so that he will resemble his Creator, who is blessed by the lips of every soul, who speaks and acts, decrees and fulfills."

<sup>50</sup>Ley Mental.

<sup>51</sup>See Ms. 'Ets Hayyim 48A 11, pp. 355-391; written on 5 Adar 5399. The numbers in parentheses refer to the pagination in this manuscript.



mandments in problematical circumstances (for example, circumcision on the Sabbath), and the need to grasp basic tenets of faith such as the immortality of the soul (p. 357) make the existence of the Oral Law necessary.<sup>52</sup>

#### 4.5. R. Shaul Mortera

In 1648, R. Shaul Mortera wrote a commentary on certain Talmudic passages as a reply to the misrepresentations of Sixto, the apostate of Siena.<sup>53</sup> Mortera stresses the fact that the Torah was not abandoned by the Jews even during the persecutions of Antiochus. This serves, in his view, as proof of the constant presence of Divine Providence among the Jews.<sup>54</sup> We shall touch on certain problems inherent in R. Mortera's positions further on.

#### 4.6. Shmuel da Silva, R. Menasseh ben Israel

We mentioned above that the *Conciliador* of Menasseh ben Israel was in its time considered one of the required texts for the guidance of the bewildered. The place of Menasseh ben Israel among those we are discussing is a prominent one, since he dedicated great efforts not only to Halakhic problems but also to another area of dispute—the issue of the immortality of the soul.

Attacks on this belief are especially striking in the writings of Uriel da Costa. Even before the publication of Menasseh ben Israel's book in 1623, Shmuel da Silva published a book defending belief in the immortality of the soul;<sup>55</sup> this work produced a reply by Uriel da Costa in 1624.<sup>56</sup>

The writings of Menasseh ben Israel should be understood in the context of the continuing struggle against the modern Sadducees. In 1636 Menasseh ben Israel published his book on the Sadducees in Latin,<sup>57</sup> and in 1651 his Hebrew *Nishmat Ḥayyim*.<sup>58</sup>

<sup>52</sup>*Ley de Boca.*

<sup>53</sup>*Declaracion de diferentes Mahamarim del Talmud Explicados por el Doctisimo Senor H. H. Saul Levi Mortera contra las Calumnias del seniense* (henceforth, *Declaracion*). I have used Ms. 'Ets Ḥayyim 48C 5. See Yosef Kaplan in *Mehḳarim 'al Toldot Yahadut Holand*, Vol. 1 (Jerusalem, 1975), pp. 9-23. On his polemic against Sixtus of Siena, see C. Roth, *The History of the Jews of Italy* (1946), pp. 302ff.

<sup>54</sup>Cf. R. Moshe Hagiz, *MḤ*, No. 546, 68r: "There is therefore no room at all for doubt...in matters like this, for it will never be forgotten by the seed of Israel."

<sup>55</sup>*Tratado da Immortalidade da alma.*

<sup>56</sup>*Examen dos Tradiçoes Phariseao conferidas con a ley escrita, par Uriel, Jurista Hebraea, con reposto a hum Semuel da Silva seu fabo Calumniador.*

<sup>57</sup>*De resurrectione mortuorum libri III.*

<sup>58</sup>On this aspect of Izhak Cardoso's thinking, see Y. H. Yerushalmi, *From Spanish Court to Italian Ghetto* (New York and London, 1971), pp 254-264, esp. p. 256, n.104. On the internal dispute concerning eternal punishment, see A. Altmann, "The Eternality of Punishment, A Theological Controversy within the Amsterdam Rabbinate in the Thirties of the 17th Century," *PAAJR* XL 1-88. Twelve sermons of R. Yehudah Minz are devoted, in large part, to proving and defending the doctrine of the immortality of the soul. It may be that in this case, too, we are dealing with an attempt to respond to attacks by actual opponents of the doctrine.

#### 4.7. R. Izhak Orobio de Castro

Orobio dedicated a considerable part of his *Epistola Invectiva* to the campaign against those who rejected the oral Law. We will return to his ideas further on.

#### 4.8. Eliahu Moneyro

A small work in Portuguese by Eliahu Moneyro, *Emunat Hakhamim*, is dedicated to proving the truth of the Oral Law. It has been preserved in manuscript.<sup>59</sup>

In his Hebrew introduction, the author writes that the Talmud has been accepted by us "even though all the nations mock it," and even though vulgar people do not accept it. "It is the Oral Law which guards Israel, and it is for this reason that it is called *GeMaRA*, signifying Gabriel, Michael, Rafael and Uriel, which is to say that the angel of God stays close by one who occupies himself with *Gemara*, in order to save him."

This small work is written in the form of a sermon, embellished with numerous verses from Scripture. While the focus of the work is a defense of the Oral Law, it deals with other topics as well and includes a defense of the chief tenets of faith against atheistic claims. The author employs certain fundamental Kabbalistic concepts (*En Sof* and *Sefirot*) in order to explain his position.

The author views himself as confronting three enemies (p. 43f.). All three have abandoned the Torah. The first observes the commandments, as if through coercion. The second entirely rejects the tradition of the Sages. The third, who possesses a satanic aspect, denies the existence of the First Cause, the Cause of Causes, as he seeks to entrap the naive in his net.

#### 4.9. R. Shlomo Yehudah Leon

Ms. 'Ets Hayyim 47B4 contains a small work comprising twenty-one pages, *Halakhah le-Mosheh mi-Sinai*, "composed by the *hakham* R. Shlomo Yehudah Leon, may the memory of the righteous be blessed." This treatise deals with the Halakhic status of rabbinic measures and in this context treats the status of *halakhah le-Mosheh mi-Sinai*, the *asmakhta*, and the Talmudic dispute.

In order to harmonize apparently conflicting sources, the author seeks to establish a middle course. During the revelation at Mt. Sinai, he states, a series of objects to be used as standard measures was promulgated (olive, fig, egg, etc.), but the relation between these measures and the stuff to be measured was not established. That is, we were not informed how much of a certain stuff would be regarded as "the size of an egg," and so on. In only three cases were specific measures given: a fourth of a *lug* of oil for the *nazir*, half a *lug* of oil for the thanksgiving sacrifice, and eleven days of the menstrual cycle.

<sup>59</sup>Ms. 'Ets Hayyim 48D 44.

## 4.10. R. Abraham Haim Viterbo

R. Abraham Haim Viterbo's work *Emunat Ḥakhamim* replies to another sort of attack.<sup>60</sup> According to the book's title, it was composed as a reply to the criticisms of "Pablo Meditshi." The latter was undoubtedly Paulo Sabastino Medici, the notorious apostate of the late seventeenth century, whose sermons and activity caused no little harm to the Jewish communities of Rome and its environs.<sup>61</sup>

Even a cursory glance at Viterbo's work reveals that it is not directed against Christological ideas, with the exception of the first part (on original sin). The work is primarily concerned with combatting two types of criticism. The first is "Sadduceanism," which undermines faith in the validity of the Oral Law; the second, criticism of the commandments and the ideas contained in Scripture. The source of the latter type of criticism may be Christian, but its character is deistic.

The general "strategy" of Viterbo's work is especially noteworthy. The author reports that one of his opponent's criticisms is that he, Viterbo, is willing to adopt positions contrary to those of Maimonides, even on central issues. "In several places," Viterbo writes, "I am dissatisfied with what the Rambam has written" on matters of faith; therefore it is possible to differ with him. "Whenever there is desecration of His holy name, one need not honor the master" (19v). Viterbo presents Jewish beliefs in a fashion that is not always consistent with the views of Maimonides.

In a treatise which I have written on original sin...I have dissented from the Rambam's opinion on a number of matters. When you read this [treatise] you were astonished at me, [wondering] how I had the audacity to differ with him; for one who differs with *ḥakhamim* is called a heretic and has no place in the future world (21v).

Here Viterbo's critic comes forth with an argument in which there is a certain *reductio ad absurdum*. If one can differ with the Rambam, then one can also differ with the opinions of the Talmud!

To aid in dealing with such an attack, Viterbo makes two distinctions:

1) "Concerning this [i.e., Halakhic decisions] we have been commanded in the Torah of Moses to heed the words of the sages. You may not turn aside from that which they teach you...since among the Sages of the Mishnah were some who lived shortly after the destruction of the Temple, some of them even in the time of the Temple...."

<sup>60</sup>*Emunat Ḥakhamim* in *Ta'am Zeḳenim* by Eliezer Ashkenasi of Frankfort-am-Main (1854), fols. 19ff.

<sup>61</sup>In 1697 there appeared a work attacking this apostate, *Memoriale alla Sacra Congregazione del S. Officio per l'Università degl' Ebrei*. On this work and its author see *MGWJ* 43 (1899) 517. And see also Shlomo Simonsohn, *Toldot ha-Yehudim be-Dukhsut Mantova* (Jerusalem, 1963), Vol. 1, p. 61, n.271. Medici's book *Costumi degli Ebrei* appeared in Florence in 1736. Its publication had been prevented by the Jews of Italy for a period of forty years. See also H. Vogelstein and P. Rieger, *Geschichte der Juden in Rom* (Berlin, 1895-96), pp. 228, 275.

2) “But concerning those things which are not Halakhic or legal matters, such as interpretations [of Scripture] found in the Gemara and in *midrashim*, even though we may not simply contradict and abolish their [the Sages’] words, discarding them altogether, yet we can produce different explanations which appear to us to be in accordance with the simple interpretation of the texts” (22r).

Thus the difficulty has no basis from either point of view, “for the Rambam is not one of the Sages of the Talmud...and there is no matter of *heter* or *issur* [among those in which I have taken exception with him]” (*ibid.*).

Viterbo writes that this dispute had already been argued between Izhak Orobio de Castro and Philip van Limborch (22v).

The entire second part of *Emunat Hakhamim* is dedicated to the problem of the Oral Law. The third part seeks to clarify those fundamental principles “in which every person who can be called Israel must believe” (26r). In the introduction to this part Viterbo summarizes his opinion thus:

We must heed the teachings of the Sages; and he who rejects them, or their interpretation, does not possess the Torah of Moses at all. For he who rejects the true interpretation [of these teachings]...and produces interpretations of his own contrary to the tradition, calling the impure pure and permitting what is forbidden, or calling the pure impure and prohibiting what is permitted, and so on, by means of his own falsified interpretations, will eventually come to abandon and reject the Written Law; and he is not a Jew, and it is he whom they have called “one who interprets the Torah improperly,” meaning that he interprets in his own fashion contrary to Halakhic ruling and rabbinic decision, devising new laws and commandments or rejecting [established ones] and discarding them (25v).

#### 4.11. *Joseph Lopez*

Between the year 1709 and 1729, Joseph Lopez composed a polemic work called *El Mantenedor*<sup>62</sup> comprised of six parts which are devoted to a discussion of the following six types of believers respectively: the atheist, the Epicurean, the deist, the believer in predestination (that is, the Calvinist), the Karaite,<sup>63</sup> and the “Edomite” (Catholic).

The second volume of this nicely written and extensive work contains a dispute with a Karaite. The work, which was completed on the 10th of Kislev, 5480, opens in the appealing and popular form of an allegorical dialogue. “Falsehood” seeks to prove the falsity of Judaism, with the support of Karaite arguments. The Karaite, who feels himself being called without

<sup>62</sup>48A 13 (loose pages, unpaginated).

<sup>63</sup>Thus he writes in his introduction:

En los Quinta Parte contrastamos al Karay  
que es el que se atiende solamente al  
Verso desnudo de todos comentarios, negando  
el de los sabios y la Divina tradicion.

knowing whereto, comes to dispute with the Jew, who has already toppled four pillars of the Temple of Falsehood, which is to say, his first four opponents.

Thus the debate, presented in two acts, begins (p. 274). The Jew opens with a question: if the world was indeed created in six days, during which time the “cosmic mechanism” was brought to completion, why did God then require forty days to produce the tablets of the Law? (p. 276).<sup>64</sup> It cannot be answered that in those forty days Moses studied the 613 commandments of the Written Law, for these commandments were given over the course of forty years on various occasions. (The law concerning inheritance by women, for example, was disclosed only after the appeal of Tselofhad’s daughters.) Rather, the forty days on Mt. Sinai were required to reveal the Oral Law.

The commandment to build the Tabernacle represents for Lopez the archetypal commandment. This commandment is recorded in the written Torah only in a general way. However, during the revelation on Mt. Sinai God showed Moses a detailed model of the Tabernacle. The Torah chooses to stress the fact that the written commandments were complemented by oral explanation in the case of the Temple because of the latter’s special importance. But in principle there is no difference between the building of the Temple and other commandments, as, for example, the commandment concerning the *totafot* which we call *tefilin* (p. 249).<sup>65</sup>

Yet it may be asked, why was the Oral Law not given in writing? For it is precisely its unwritten character which has given rise to errors, such as the heresy of the Karaites. To this question the Jew replies that the contrary is true, that it is precisely in the *Written* Law that one finds many occasions for error (in the verse “Let us make Mankind,” for example). It is a fact that God created many things which may lead a person to sin, and he who wishes to err and to sin shall do so. However, the Jew continues, the foregoing represents a flimsy line of argument; humor is meant for the stage, and we must descend to the depths of the matter. The written word is always susceptible to different interpretations. From this stems the need to leave so many things to be settled by the tradition and the Oral Law (p. 286). The passage of the ‘Shema’,” for example, which so strongly emphasizes God’s unity is understood by the “Edomites” (Catholics) as hinting at the Trinity. It is precisely the Oral Law which has preserved Judaism in its purity.

The Karaite proceeds to analyze the first *mishnah* of the Tractate *Berakhot*. He demonstrates that this *mishnah* contains ambiguities and contradictions—that is, what the Jews know as *mahloḳot*. The Jew replies, stressing that the Sages do not disagree concerning the essential thrust of the law, but only concerning the details of its application. The argument subsequently revolves about the nature of the “fence” established by the Sages in order to remove man from sin.

<sup>64</sup>Ms. ‘*Ets Ḥayyim* 48A 14, pp. 265-352.

<sup>65</sup>Page 249: Que Vulgarisamos Tephilin.

A further problem arising out of the dialogue is the problem of the *aggadot*, especially those of Bar bar Hana in Tractate *Baba Batra* (p. 288). These, the Jew explains, are the riddles of the Sages to which Shlomoh alluded in Proverbs, and they are not to be understood literally. Certain matters were recorded as riddles because of external dangers; in such a form, the study of these matters could continue even in times of persecution ((pp. 295-296).

The need for the Oral Law can be illustrated by a story from everyday life. A simple peasant (*villano*), who knows nothing of the stories of Scripture, enters his master's house and sees a picture. In it he sees his master kissing his (the master's) wife beside a well. He does not know that this picture represents Jacob and Rachel in the style of the period. If we should ask him to explain the picture, he would certainly produce a theory to explain its details. The picture, he would say, comes to remind us that before her wedding the master's wife was a simple shepherdess. The picture has been hung at the command of the master, in order to remind his wife constantly of her origins, lest she become proud. Absurd explanations such as this are a result of the fact that we fail to penetrate to the symbolic level, whether we are speaking of the picture in the parable or the *aggadot* of the Sages (p. 296f.).<sup>66</sup>

The Jew subsequently confronts the Karaite with a set of eight classic questions which demonstrate that the Written Law must be supplemented with the Oral Law (p. 309f.):

1. On what basis is ritual slaughtering by gentiles prohibited? (Thus ruled Aharon the Karaite.)
2. How is one to distinguish between forbidden and permitted fats?
3. What are the signs of purity in fowl?
4. What is the meaning of the verse "Let no man go out of his place" (Exodus 16:29)?
5. What are the types of work forbidden on the Sabbath?
- 6.-7. Are the "civil laws" (*derechos siviles*) recorded in the Torah sufficient for the orderly government of society?<sup>67</sup>
8. What is the law concerning commandments which cannot be observed except by violating other commandments (for example, circumcision on the Sabbath)?

<sup>66</sup>The author refers to four levels of interpretation:

- a. *Elegante*—"My doctrine shall drop as the rain, my speech shall distill as the dew" (Deuteronomy 32:2).
- b. *Metaphorico*—"The cities are great and fortified up to heaven" (Deuteronomy 1:28).
- c. *Historico*—the historical accounts of Scripture, which should be understood according to their simple meaning.
- d. *Serimonial*—the commandments, whose interpretation is according to the Oral Law.

<sup>67</sup>If the laws concerning the "innocuous ox" (*shor tam*) were to be taken literally, the one who suffered the damage might be required to pay the one who caused the damage, for the former is required to give the latter half of the dead ox.

As the dialogue continues, the discussion turns to the issue of Ruth's conversion. Ruth joined the Jewish people despite being a Moabitess (p. 319). The problem this presents is resolved in the Oral Law, which states that the prohibition of the Torah applies only to a Moabite, not to a Moabitess. The fact of Ruth's conversion is evidence of the existence of a tradition explaining the commandments. The reform instituted by Ezra, whereby the half-shekel was replaced by the third of a shekel, represents further evidence from Scripture that the Sages have been granted authority to establish new statutes despite the prohibition of adding or diminishing from the laws of the Torah (p. 325).

This work includes discussion of a subject which is scarcely mentioned in parallel works, namely, the waving of the *'omer* "on the morrow after the Sabbath." Further on it deals with problems associated with the concept of "an eye for an eye," with forbidden foods, and with the *'eruv*.<sup>68</sup>

The author adopts an unusual position in yet another area. He defends the opinion of the Sages, against that of the Karaites, that those laws which have no application today (such as the laws of purity associated with the Temple) are nonetheless valid.

#### 4.12. R. Jacob Sasportas

Observations on Sasportas' contribution to the debate on these issues can be found throughout this study.

#### 4.13. R. Moshe Hagiz

As we shall see further on in greater detail, belief in the Sages and the status of the Oral Law are central topics in the writings of R. Moshe Hagiz. A survey of the relevant works would include the entire body of his writings.

Conspicuous among his writings in this area is his small work *Eleh ha-Mitsvot*, containing a short survey of the commandments according to the enumeration of Maimonides, with brief annotations. These annotations serve in part to explain the commandments as interpreted by the Sages.<sup>69</sup>

The centrality of this issue in Hagiz' work indicates his awareness of its pressing nature in this period. We feel this in a responsum where he maintains that one of the concrete considerations in making rabbinic decisions must be "that all the peoples of the earth should know that our judgments are the

<sup>68</sup>His interpretation of "an eye for an eye" is especially interesting. He defends the Sages' interpretation relying on the parallel between the laws concerning the injury of a freeman and the laws concerning the injury of a slave. By this parallel we learn that a slave is released due to the fact that his master owed him a monetary debt ("*mammon*," not "*mamash*").

<sup>69</sup>Thus, for example, No. 44 in the responsa collection of R. Moshe Hagiz, *Shete ha-Lehem*, deals explicitly with the interpretation of the verse, "thou shalt not add...neither shalt thou diminish from it." In his responsum R. Moshe Hagiz explains the difference between Deuteronomy 4:4 and Deuteronomy 13:1. His sources are many and varied. For our purposes we will mention only that he was particularly influenced by *Metsudat David* on *Sefer ha-Mitsvot*, the work of R. David b. Zimra. *Sefer ha-Hinukh* is also mentioned by him several times (pp. 78, 80).

judgments of the Lord; all of them are true, all of them are righteous, all of them are lucid and straightforward to the person of understanding; there is nothing crooked or perverted in them."<sup>70</sup>

Hagiz viewed his role in this debate as the main contribution of his career. We can perceive this in a passage from the twenty-third part of his book *Mishnat Ḥakhamim* ("Emunat Ḥakhamim") in which a general proposal is made:

It is my aim in this part to benefit the Jewish community and to save many souls, for I see that unfortunately they go limping on their right leg for lack of a necessary belief, the belief in the Sages, which is a fundamental principle on which everything depends. Therefore I have undertaken to build for it [this belief] a separate edifice, so that each person may take notice of it and take it to heart always....For it is a fundamental principle of the Torah and of the Commandments, necessary for the salvation of the souls of the multitude. And in my opinion all of the *derashot* and teachings which the scholars and communal leaders communicate to the multitude, and even to students, should be devoted in these times (indeed this should be regarded as an obligation incumbent upon them) to the principles of faith, that is, belief in the Sages to its full extent, in order that afterwards the divine faith heard from their lips should be fixed firmly in their hearts, and both of these should serve to lead them to proper observance of the *mitsvot*....Therefore I have decided that whenever I am able to clarify the bounds of this belief I shall not decline to do so, nor shall I be concerned by lengthiness or repetition.<sup>71</sup>

Hagiz repeatedly maintains that the first principle is "to heed and believe in the teachings of the Sages, the true Sages of Israel on which the House of Israel is established and built." The Sages possessed a body of interpretation which they received from the prophets. They have passed down the teachings of the Torah in such a fashion that there should not be "any pretext [for deviation] or doubt, great or small, since in the treasury...of their books one can find more than sufficient remedy for the ailments of the doubting or skeptical heart, whether of the individual or the many, no matter of what people or of what tongue."<sup>72</sup>

Here Hagiz mentions explicitly the prevalence of lack of faith among both Jews and gentiles. Those who doubt have lost their objectivity of judgment. Just as it is forbidden to judge one's enemy, so the Jewish sinners "who despise the ordinances and decrees of the Sages are ineligible to sit in judgment, to understand and to teach, to perceive and to see the path of truth which is in their [the Sages'] teachings." And indeed "most of the ignorant, because of their wealth," hate the Sages, and this hatred interferes with their

<sup>70</sup>*Shete ha-Lehem*, 27, fol. 26v.

<sup>71</sup>*MḤ*, the twenty-third "Ma'alah," No. 589, fol. 72v.

<sup>72</sup>*Sefat Emet* (Vilna, 1876), pp. 7-8.



judgment. And this wealth stands “as an iron screen, darkness and mist, covering the face of the sun....He has plastered the eyes of these fools so that they cannot see. May God save us and give light to their eyes and to ours, from the light of his illuminating Torah.”<sup>73</sup>

R. Hagiz was prompted to write *Sefat Emet* by the prevalence of doubts concerning the status of Erets Yisra’el. An examination of R. Hagiz’ remarks shows that it was not only the ignorant who raised this issue. Thus he addresses his literary interlocutor: “If you should say in your heart, the doubts I hold come from the *ḥakhamim* who are skilled in learning, and it is they who have put into my head the things which I ask you....” In other words, even among those known as *ḥakhamim* there may be found imposters. Worse yet, there are cases in which “the Epicurean spirit has entered him [the *ḥakham*] and his Torah becomes for him a deadly poison” In some cases the poison “is absorbed into his innards” so that he does not “thrust it outwards, becoming a serpent to other men....And he shall be pursued by Israel, who are holy, and by the gentiles.”<sup>74</sup> We are dealing with a hypocrite whom God causes at times to blunder so that we should be warned to keep away from him:

Thus, my dear brother, flee as one would flee from the serpent in Eden from such *ḥakhamim* who are not sufficiently trained [in Torah], who are *ḥakhamim* in their own eyes, who fancy they are the equals of our ancient masters, may their memory be blessed ....They scheme...to root out and to pull down, to destroy and to overthrow by presenting themselves to the multitude as if they were worthy to differ with the Sages or to interpret their words.<sup>75</sup>

Behind such *ḥakhamim* there is a group “which seduces them and treats them cordially,” and these pseudo-*ḥakhamim* “are a band of the devil and his faction, and carry out his orders.” The common people are not to be blamed. Many a simple soul has fallen under the influence of this group, whose members have opened in him “a crack tiny as the eye of a needle” of doubt, and have thus brought him “to the lowest rung of hell, where he comes to doubt and rejects even that truth which has appeared clearly to him as to all the world—that is, he comes to reject God.”<sup>76</sup>

R. Hagiz relates that he has seen “quite a few deficient in intelligence and faith, who inclining after profit have cast doubt on the teachings of our masters, may their memory be blessed.” But he maintains that behind these problems is concealed an altogether different matter. In the words of R. Yehudah, in the name of Rav (*Sanhedrin* 63), “Israel knew that there was nothing to idol worship, and they engaged in it only in order to permit public licentiousness.”

<sup>73</sup>Ibid., p. 9.

<sup>74</sup>Ibid.

<sup>75</sup>Ibid., p. 10.

<sup>76</sup>Ibid., p. 11.

## 4.14. R. Shlomo Aviad Bar-Shalom Basilea

Attention has been given to the work of this rabbi and Kabbalist chiefly because of his defense of Kabbalah. We will deal with several ideas developed in his work further on.<sup>77</sup>

## 4.15. R. Binyamin Rafael Dias Brandon

We have mentioned some remarks made by R. Binyamin Rafael Dias Brandon in 1732, concerning those who disparage the teachings of the Sages.<sup>78</sup>

R. Binyamin presents several proofs in attacking such persons.

I will bring as proof...the case of the monarchy of the House of David. Being a descendant of Ruth the Moabitess, how was he permitted to enter the assembly and to rule over Israel, when the verse fully states, "An Ammonite or a Moabite shall not [enter into the assembly of the Lord]"? And, moreover, it is impermissible to crown as king one who is not of the seed of Israel, as it is written, "one from among thy brethren shalt thou set as king over thee" [Deuteronomy 17:15]. But we have had to strain our ears to hear the teachings and tradition [of the Sages] who have established—Moabite, not Moabitess.

In conclusion, R. Binyamin brings a further case, that of the betrothed woman:

Let us be grateful to our masters, for without them we would never observe a single commandment correctly....Therefore we must justify the law, a law of truth which they have rightly deduced, which has been passed down orally from one [scholar] to another....<sup>79</sup>

## 4.16. R. David Nieto

We shall conclude our survey with the works of R. David Nieto, *Ha-Kuzari ha-Sheni* and *Esh Dat*. The rabbinic tradition and its legitimacy is a focus of his thought.<sup>80</sup>

R. Nieto is aware that he must respond to the spiritual challenges of the period. He views the controversy in his generation as an additional chapter (the third) in a continuing historical attack on the Oral Law. It represents a revival of the Sadducean and Boethusian sects of the Second Temple Period and of the Karaites and the students of Anan and his son Shaul in a later period. *Hakhamim* from an earlier generation could act according to the rule, "Do not answer a fool according to his folly," but in Nieto's day this no longer holds. He therefore composed and published his *Matteh Dan*, for which the third part of the *Kuzari* served as an inspiration and model.

<sup>77</sup>R. Shlomo Basilea greatly esteemed the work of R. Moshe Hagiz. Evidence for this is his approbation for *Shete ha-Lehem ha-Ba min ha-Ḳemaḥ*, collected responsa of R. Hagiz.

<sup>78</sup>*Emek Binyamin* (Amsterdam, 1753).

<sup>79</sup>*Ibid.*, fol. 2lvff.

<sup>80</sup>See on the author of this work Petuchowski, *The Theology of Haham David Nieto*.

R. David Nieto was certainly familiar with some of the works we have surveyed above. He refers with praise to Aboab's *Nomologia*. But Aboab's work was to him incomplete. R. Nieto sees his role as that of strengthening the weak side of rabbinic apologetics. He proves that the Written Law cannot be understood by itself, but must be supported by an additional source.

R. Nieto's *haver* states the problem: "Not one of our contemporary *hakhamim* can prove the principle on which everything depends, namely that the interpretation of the Sages constitutes the Oral Law which Moses received on Mt. Sinai."<sup>81</sup> Thus R. Nieto's particular emphasis on parallels to the teachings of the Sages which are to be found in ancient non-Talmudic literature, parallels of the sort which have been uncovered by modern scholarship.<sup>82</sup> In this lies the special character of R. Nieto's approach, which made him popular among Eastern European scholars: the combination of historical proofs and dialectical and logical analysis.<sup>83</sup>

In his second dialogue, R. Nieto develops the theoretical idea on which, in his opinion, the ordinances of the Sages rely: the idea that Oral Law preceded Scripture. The revelation received by Adam, Noah and the Patriarchs was entirely oral.

#### 4.17. *Addendum: R. Leone da Modena*

Thus far we have surveyed both the evidence available concerning the attack on the Oral Law and the apologetic literature written in defense of the Oral Law. As we suggested above, R. Leone da Modena occupies a place among those who contributed to both of these categories.

We have uncovered no new sources which might contribute to a new understanding of da Modena's work, which has already been studied extensively since R. Yehudah Rapaport published *Ḳol Sakhal* and *Sha'agat Aryeh*. Nevertheless, it seems to me that, in the light of our discussion,<sup>84</sup> we can analyze the problem from a new angle.

The distinction we have made above between two categories of "Protestantism" can, in my opinion, contribute something to the understanding of R. Leone da Modena's thought. I shall not enter here into the historical and literary problems associated with *Ḳol Sakhal*, problems for which we have no satisfactory solution. The only possible way to arrive at a solution for these problems would be by means of a comparison of *Ḳol Sakhal* and da Modena's other writings. The linguistic parallels have already been sufficiently analyzed. But it is another matter to deal with parallels in content. On this I would like to make some observations, making use of certain categories defined above.

<sup>81</sup>*Maṭṭeh Dan*, fol. 4v.

<sup>82</sup>Cf. the use of the works of Josephus and Philo, *Esh Dat*, fol. 20.

<sup>83</sup>See especially the proof for the prohibition of carrying on the Sabbath (1, 4f., fol. 5r).

<sup>84</sup>See above (2,1).

In my opinion, the parallels to be found in the writings of R. Modena hint not at “Karaite” ideas (though such ideas can be found in *Ḳol Sakhal*), but at a quite contrary tendency. I would propose that, according to R. Modena, the problems of the period stem from the fact that the *ḥakhamim* fail to exercise their full potential authority. Wide authority has been granted to the *ḥakhamim* to rule in a manner appropriate to the particular environment in which a case arises, and this is crucial according to R. Modena. He does not express opposition to the teachings of the Sages but rather—at least to some extent—asserts that the Sages’ teachings reflect the exercise of that authority which has been granted them, and indeed the obligation incumbent upon them, as they demonstrate a flexibility in their Halakhic rulings which is missing in the rulings of later *ḥakhamim*.

This thesis must be tested on the basis of a thorough analysis of the relevant texts from R. Modena’s writings. We will support our argument with an analysis of one idea presented by da Modena which, though studied by scholars, has not, in my opinion, been understood correctly.

R. Modena develops the idea that the light of the Torah has been dimmed by Exile. His periodization of the six millennia of history suggests this idea. The first two millennia represent a period of chaos, that is, the period of ignorance in the absence of Torah. This is followed by two millennia in which men possess Torah, a period which is “the contrary of darkness, for this is the true light.”<sup>85</sup> The “two millennia of the Messiah” are described in a quite interesting fashion. This period is called thus because in it “Torah will assume its former obscurity because of our Exile, and so we await our Messiah, for then [with his coming] our eyes will be enlightened with the secrets of Torah.”<sup>86</sup>

The text, then, is interpreted paradoxically. The term “two millennia of the Messiah” is taken to refer to the period in which Torah declines, to such a degree that only with the coming of the Messiah “will our eyes be enlightened with the secrets of Torah.” Here there is no antinomianism, and no Karaism, but rather the conviction that the *ḥakhamim*, at some point towards the beginning of the fourth millennium, ceased “to enlighten” with a true interpretation of Torah.

## 5. *Ideological structure and historical background*

### 5.1. Marranos and the new Jewish communities

Dios oyo al Satan de Job  
Y al culebro en el Jardín  
Si Dios escuchó a esta gente  
Porque no me oyen a mi?

<sup>85</sup>*Midbare Yehudah*, 46r.

<sup>86</sup>*Ibid.*, 45v. See Y. Rosenzweig, *Hogeh Yehudi mi-Ḳets ha-Renasans* (Merhavia and Tel Aviv), p. 110. I cannot agree with the author’s conclusions, p. 111f. The conclusion that these *derashot* contain antinomian ideas is not at all supported by the evidence brought there.

Quiten las Inquisiciones  
 Hablen todos porque assí  
 al que me viene a enseñar  
 Lo puede yo reduzir.<sup>87</sup>

It can be hypothesized that the revival of “Karaism” had its roots in the intellectual and spiritual experience of the Marranos. In Uriel da Costa’s *Exemplar Humanae Vitae* we learn of the personal development of a figure who received a Catholic education, but failing “to find peace in the bosom of the Catholic faith” began to investigate Scripture and in the course of this investigation discovered “various matters which contradict in no small measure the New Testament.” But, after having embraced Judaism, da Costa was confronted with the discovery “that the laws and customs of the Jews bear little resemblance to the laws which Moses commanded us.”<sup>88</sup>

However, the new and continual contact with the various currents of Protestantism, against the background of the deep earlier tie to Spanish Catholicism, could easily have produced a similar attitude to the Jewish tradition. The Protestant model of authority could have been applicable to Judaism as well, and there can be no doubt that this possibility did not go unperceived by persons seeking a direction in this turbulent period. There is support for this, in my opinion, in the different responses to Protestantism to be found in non-Marrano Jewish literature.<sup>89</sup>

A description of the struggle taking place in this period would not be complete without a look at the historical context in which it developed—that of the new communities in Western Europe.

I do not wish to enter the sphere of historians and sociologists. Yet the literature of the period itself indicates several phenomena which without doubt demand our attention.

This study opened with R. Hagiz’ description of the “free” communities in Western Europe. R. David Nieto writes in a similar vein that the schism on the issue of rabbinic authority appeared simultaneously with the establishment of the new communities. “A man will transgress for a piece of bread,” R. Nieto remarks, applying the familiar verse humorously. Economic needs caused considerable dispersion of the Jewish population and led to a weakening of the ties of the individual Jew to the community and its spiritual life. At this time, there emerged a new class of wealthy Jews who lacked a sense of religious and ethical commitment. “They abandon the Rock of Mercy, the fountain of living waters, and have chased after vanity, after forfeit money and sin money.” The wealthy “have said in the wickedness of their hearts and in their wealth, may there come no Messiah to eliminate the difference between the poor and the wealthy; why do we need him?” Others have said,

<sup>87</sup>Ms. *Ets Ḥayyim* 48A 18, p. 534.

<sup>88</sup>*Exemplar Humanae Vitae*, pp. 50-51.

<sup>89</sup>On this issue see H. H. Ben Sasson, “Ha-Yehudim mul ha-Reformatsyah,” *Divre ha-Akadeemyah ha-Le’umit ha-Yisra’elit le-Mada’im* 4 no. 5, 41-44.

“We would welcome the Messiah for the sake of the poor, for then both they and we should have peace, as we should certainly not have to give them of our wealth,” and R. Hagiz adds, “Neither hath the Lord chosen these.”<sup>90</sup> Some of the wealthy were even inclined to withdraw from the existing congregation in order to establish a new one for themselves.<sup>91</sup>

In passages such as these we find clear evidence of centrifugal tendencies in the new Jewish communities, among individuals and groups alike.

R. Hagiz’ contemporaries have adopted current ideas, “and they resemble the alien [i.e., non-Jew] saying, ‘The righteous man is not wise’; and this they have learned from those remote from us.”<sup>92</sup> R. Hagiz maintains that the statement, “the righteous man is not wise” holds for the non-Jews, whose view are “a vanity and a work of delusion, [being] fashioned by men.”

According to R. Hagiz, then, an influence has been exerted by the Christian spiritual climate, in which intellectual speculations tend to be associated with an attack on religion. Such a view expressed within the Jewish orbit reflects a new era, in which the teachings of the Torah may be regarded as “old things already covered with rust.”<sup>93</sup> “In this evil time,” it is not the Talmudic scholar who is esteemed, but the person who is successful in this world.<sup>94</sup> The changing attitude to the study of Torah, more than anything else, reflects the changes taking place in this period.<sup>95</sup>

The decline of Torah study as a popular value leads to a situation in which the obligation of Torah study is fulfilled out of mere habit. For those who observe the commandments merely out of a sense of tradition, “the chief thing is lacking, for they do not know for Whom they observe them,” and they do not know “Who gave the Torah, or what a benediction is, or to Whom we say benedictions, or how to say a benediction...or the obligation which is incumbent upon every Jew to sacrifice himself for the sake of the unity of His name, may He be blessed.”<sup>96</sup>

A further danger is posed by ignorant persons who purport to be Talmudic scholars<sup>97</sup> and rabbis. These persons bring great harm upon the community as a whole.

<sup>90</sup>*Sefat Emet*, p. 68.

<sup>91</sup>*Ohel Ya'akov*, collected responsa of R. Jacob Sasportas, No. 16.

<sup>92</sup>*MH* 4.

<sup>93</sup>*MH* 9. In this lies the meaning of the verse, “despise not thy mother when she is old” (Proverbs 23:22).

<sup>94</sup>*MH* 8.

<sup>95</sup>R. Moshe Hagiz suggests a reform of the educational system, designing it to prepare the Jew for life in a modern society, as a merchant or artisan, not as a Talmudic scholar for whom Torah is his only occupation. Behind his effort at educational reform can be seen a changing world-view. *MH* 60r. In his struggle for educational reform he also relied on the Maharal of Prague (*ibid.*, 30-33).

<sup>96</sup>*MH* 5.

<sup>97</sup>*MH* 54.

R. Hagiz remarks that behind what may appear to be intellectual issues lies, in fact, the evil inclination: “For the evil inclination finds many points of entry and knows many ways to lead light-headed persons, *ḥakhamim* in their own eyes, until it leads them to slip and fall into the net, and their neck is broken.”<sup>98</sup>

There have occurred yet deeper social changes. Another important phenomenon whose echo we hear in all the works of this period is the slackening of discipline in relations between the sexes. According to R. Hagiz this has had distressing results. “The best of all ways—‘All glorious is the king’s daughter within the palace’ [Psalms 45:14]”; but this is not the way of his generation. The relation between the sexes is like “a hole beckoning the burglar, who searches for something he has lost and steals whatever he finds along the way. Lamentably, there are women who lead young Jews to do evil before the Lord, may He be blessed, for their eyes see and their hearts desire, and matters reach the point of idol worship, adultery, and bloodshed.”

R. Hagiz defends traditional custom in this area. Even if the groom does not see his bride until the wedding, “[such] young men desire that which their parents obtain for them and that which Heaven has set before them, and the Lord, may He be blessed, gives them [the brides] favor in the eyes of their husbands, and they find rest, each in the house of her husband, and never is a case of divorce heard of in which the simple sense of the text, ‘if it come to pass that she find no favor in his eyes’ [Deuteronomy 24:1], is realized.”<sup>99</sup>

<sup>98</sup>Ibid.

<sup>99</sup>Commandment 552, and see also 543 (fol. 44vff.) on the effort to maintain modesty in dress despite the new fashions. R. Hagiz tells us of several marranos who pretend to be righteous but who have a “box of reptiles” (unsavory deeds) behind them.

When someone is found to have stolen money from his companion and to have taken his fellow’s wife and gone abroad, and the husband who has been wronged concerning both his money and his wife dies from anxiety, afterwards when he [the wrong-doer] comes before the [*dayyanim*] or stands at the *bima* and says ‘I have sinned’ and accepts upon himself repentance, it is as if he is of the *ḥasidim rishonim*, and he is called a *ba’al teshuvah*, though he has committed idol worship, adultery, and murder, as well as theft, having stolen from the poor husband. And in our negligence, there being no one to demand [from him] and say ‘Restore!’ it is as if the thing is immaterial to Israel, who are [supposed to be] ‘surety for one another’ (*Eleh ha-Mitsvot* 560, p. 106).

These remarks are not without a basis in reality. The full account has been preserved in responsum no. 31 of *Shete ha-Lehem*.

There came an evil-doer, the well-known so-and-so...and made off with the wife of the *ḥazzan* in the city where he resided, taking her from her husband along with everything in his house, and went off to the cities of Spain, in the land of apostasy, and was [thereby] the cause of injury to the husband, whose soul became anxious; and then, when a few years had passed from the time the adulterer and the adulteress had come to Spain, and the money had been

### 5.2. *Parnassim and Rabbis*

We have discussed several different sorts of attack on the rabbinic tradition. We have suggested that there was a social dimension to this attack. An examination of this dimension may throw some light on the sociological implications of the controversy. For in my opinion it is possible to link this conflict with efforts of the *parnassim* to free themselves, if only partially, from the judicial authority of the *hakhamim*.

Concerning the situation in Italy we have evidence from a responsum of R. David Oppenheimer: "Since the truth is apparent to all, there is no need to bring proof that in the Venetian community there is no *bet din* or established court of *talmide hakhamim*, [for] everyone goes to the courts [of the gentiles] and litigates there; and if the two sides to the dispute wish to bring their case before a Jewish court, it is up to them; they may honor the court's decision if it pleases them to do so, and if not—it is as if it [the decision] had never been made. And because of our sins, the poverty, indigence and faintheartedness which have come upon Torah scholars because of the wealthy and their dominance, as well as their [the scholars'] reliance on them [the wealthy] for a living—all this has caused them to turn away from the law [*mishpat*]." <sup>100</sup>

Thus far, the social situation. Against the background of this situation we witness another development which I would like to bring to the reader's attention.

exhausted, they fled out of fear of investigation and came to the London community. The husband came there [to London] and divorced his wife, and went to live with his brothers, and lived on charity; and as a result of the anxiety of his soul, having lost his wife and money, he died of severe diseases. At the hour of his death he said, by way of confession, that he forgave everyone who had vexed and provoked him, with the exception of the adulterer and the adulteress his wife....

Is it possible to forgive such sins? "The adulterer...was able to persuade one of the rabbis to issue a statement...to the effect that he begged forgiveness for his sins...today, the 2nd of Av, the year 5485." One of the brothers of the deceased husband was summoned and protested at this hypocritical repentance. The inquiry for which R. Hagiz wrote this responsum was received by a number of Jewish communities. See *Shete ha-Lehem*, No. 31, 35v-41v. The literature of the period reflects a continuing battle of the *hakhamim* against contacts with gentile women, even in cases when the Jew is still a marrano. "[A Jew's] Jewish wife—she is of his pure kind" (*Eleh ha-Mitsyot* 532, p. 85). And see the responsum of R. Jacob Sasportas, *Ohel Yaakov* No. 3, fol. 2v. It is possible to forgive a marrano for being "an Edomite [Christian] if in his heart he is not so." "But...he who has defiled himself with the sign of the holy covenant [*ot brit kodesh*], by having relations with an alien woman...he must perform great repentance, and he should be dealt with very severely."

<sup>100</sup>See Jacob Koppel Duschinsky, "Toldot ha-Ga'on R. David Oppenheimer," *Ha-Tsofeh le-Hakhamat Yisra'el* 6 161. And see *ibid.*, p. 162, n.79: "One of the mighty and well-known heads of the community, to whom the four *hakhamim* and the rabbis of the community are subordinate."



In *Ḳol Sakhal* we find the laws of *Hoshen Mishpat* referred to twice. In the first instance, da Modena quotes the objections of Abner of Burgos.<sup>101</sup> The second is in the context of a discussion of the status of civil law (*dine mamonot*). Here the author observes that the Sages produced numerous laws and sub-laws, sometimes to such an extent as to bring about “an overturning of the [original] law.” Such a plethora of laws is unnecessary.

For any court or *dayyan* with brains in his head can rule on these matters according to his own judgment and according to the statutes of his locale...for all *dine mamonot* are based on logical deduction [*sevara*], and all faiths are alike in this, and...all those rabbinic rulings and responsa which are not based on logical deduction and reasoning are worthless, a mere swindle, for you will not find in the Torah any law contrary to honest human judgment, “for the ways of the Lord are right, and the just do walk in them.”<sup>102</sup>

Here we have a criticism in principle of civil law as developed by the Sages. But as we shall show further on, certain social motives gave rise to similar criticisms.

R. Shmuel Aboab describes in a responsum (No. 152)<sup>103</sup> an inheritance dispute which produced a theoretical question. The dispute broke out between certain persons who wished to have authorized a doubtful unwritten last will of a dying person, and others who desired the application of the ordinary Jewish laws of inheritance. In the course of this dispute, the first party claimed that *dine mamonot* as observed at that time did not have their source in the Torah, but were a mere matter of custom. In his responsum. R. Aboab emphasizes the fact that “our laws to this day are according to the Torah of Moses and the rabbinic tradition,” an assertion that can be proved indirectly from “the privileges and authority granted to us by rulers to judge according to our laws...to rule according to the law of Moses, that is, מוזאיקא “ליג.” Furthermore, in the claims of the first party there is an internal contradiction between the demand to return to the original law of the Torah and the recognition of the law of the unwritten last will, which is a rabbinic ordinance. However, the issue is a still more profound and difficult one. If we should follow the convictions of this party, all the laws of the Torah would ultimately be discarded. R. Aboab cites R. Shlomo ben Adret:<sup>104</sup> “What need have we for sacred books [i.e., the Talmud] which Ravina and R. Ashi have composed for us; they will teach their children the gentile laws, and will build patchwork altars in the house of study<sup>105</sup> of the gentiles, God forbid.”<sup>106</sup>

<sup>101</sup> *Behinat ha-Ḳabbalah*, p. 51.

<sup>102</sup> *Ibid.*, p. 61.

<sup>103</sup> *Devar Shmu'el* (Venice, 5480), fol. 52v.

<sup>104</sup> Based on *Bet Yosef*, *Tur*, *Hoshen Mishpat*, No. 9.

<sup>105</sup> *Batei midras*, instead of *batei midrash*, with ironical intention.

<sup>106</sup> Among the various observations of R. Shmuel Aboab, one is especially worthy of notice: it relates to a certain formula found several times in the statutes of Italian

Thus the need to fight in order to maintain a judicial system operating according to the Torah. "How many warnings have been given not to deviate from them [laws of Torah] right or left, and not to appoint lay judges [*hedyotot*] who rule solely on the basis of their own reasoning."

The specific issue should thus, according to R. Aboab, be seen in a wider context—that of the struggle to maintain the Oral Law. He thus emphasizes in this responsum the need to strengthen belief in the teachings of the Sages, "against those today who doubt and cast off belief in the Oral Law, and who have said that our civil laws are mere matters of custom and do not belong to the fundamental laws [of the Torah]."<sup>107</sup>

It seems to me we must place in the same context a controversy over communal jurisdiction which developed in Livorno in this same period. The Jewish community of Livorno enjoyed wide autonomy in a number of areas, especially in jurisdiction. In its statutes of 1681 it was stipulated that Jewish *dayyanim* were to be appointed in accordance with the local law for foreign merchants.

The original decision of the Livorno community entirely prohibited litigation according to rabbinic law, even in a case when both parties would be ready to accept this. R. Jacob Sasportas stood opposed to this statute and waged a sharp campaign against it, a campaign in which he was supported by rabbis of other communities.<sup>108</sup>

communities. Thus, for example, we read in the statutes of Livorno: "Quais Senhores do Maamad, como senhores competentes, [juscaraõ] por Din ou Carob la din ou como lhes parecer de justiça" (according to the *din*, or approximating the *din*, or however seems to them fit). See Toaff, *Statuti, RMI* (1968), Suppl., p. 16. And see A. Milano, p. 144f.; cf. p. 146, n.11, concerning the version in the statutes of the Pisa community. It would seem that this formula is intended to grant the *dayyanim* a free hand, permitting them to deviate from Halakhah. But R. Shmuel Aboab understands it in a contrary fashion. The parties in a conflict must avoid strict application of the law and must seek instead to arrive at a compromise, in order to prevent the judge from erring in a strict rabbinic ruling.

<sup>107</sup>Concerning the intellectual principles on which this position is based, see further on. In R. Shmuel Aboab's view, the decreasing recourse to Jewish law brought about a decline in the study of Torah. In places where Jewish courts functioned properly, "many new and clear *halakhot* are to be found all the time, as the collections of responsa which have been published in these places testify, and we have heard from reliable persons that because of lack of funds and printing limitations, there are more unprinted works [of this kind] than there are printed ones" (*Sefer ha-Zikhronot*, fol. 53r). And see fol. 52v for R. Aboab's interesting survey of judicial procedures in Italy.

<sup>108</sup>Concerning this episode, see Y. Tishby, "Iggerot R. Jacob Sasportas negged Parnassei Livorno mi-Shenat 5441," *Kovets 'Al Yad* 4 (14), Meḳitse Nirdamim (Jerusalem, 1946) 145-159 (henceforth, Tishby (1946)); Shabbetai Toaff, "Mahloket R. Jacob Sasportas ve-Parnassei Livorno," *Sefunot* 9 (Jerusalem, 1965) 167-191 (henceforth, Toaff (1965)); Menachem Alon, *Ha-Mishpat ha-'Ivri* 1 (*hakhamim*, 1978; henceforth, Alon (1978)) 26f. (and see *ibid.*, p. 27, n.93, for a schematic presentation of the

At first glance it might appear that this issue reflects the survival of a development which had its roots in Spain, one which had been endorsed by R. Shlomo b. Adret,<sup>109</sup> and which had crystallized in the Valladolid statutes of 1432. But an examination of the issue will show that this is not so.

In Spain, there emerged in the small towns a judicial system employing lay judges, a system which functioned in lieu of the accepted rabbinic judicial system. But in the period we are discussing, what emerged was a *competing* system, which threatened to replace Jewish law with an alien system of law.

At any rate, this is how R. Jacob Sasportas understood the situation. The latter describes the claims of his opponents on this issue thus: "With a false claim they have come forward saying that, since they have come to recognize that the teachings of the *hakhamim* are a form of harassment, they have conspired to establish this statute." R. Sasportas asserts that the reality differs from that which they depict. The true intention of the "reformers" is "to eliminate and cast off and dismiss anything [any customary courtesy] of which it is said, this is *kavod ha-hakhamim*, and to deny them [the *hakhamim*] any authority, and to debase them utterly...and as a result of this the kingdom of Heaven will be denied them. 'Woe unto their soul! For they have wrought evil unto themselves' [Isaiah 3:4]."<sup>110</sup>

division of communal powers); Alfredo S. Toaff, "La giurisdizione autonoma degli ebrei di Livorno e le controversia con R. Ja'acob Sasportas (1680)," *RMI* 31 (1965) 273-285; Renzo Toaff, "Statuti e leggi della 'Nazione Ebraica' di Livorno," *RMI* 34 (1968), Suppl. 1-51; 38 (1972), Suppl. 1-68; A. Milano, "L'Amministrazione della Giustizia Presso gli Ebrei di Livorno nel Sei-Settecento," *Scritti in Memoria di Leone Carpi* (Jerusalem, 1967) 133-164. And see A. Freimann's note, *Kovets 'Al Yad* 14, 144, in which he quotes R. Pinhas Hai Anav, head of the Ferrara yeshiva, from his responsa collection *Giv'at Pinhas*, Part 3, No. 13. We learn here of the procedure in Livorno: the appointed judges "judge with pure and clear judgment all those who come before them to litigate, but if one of the parties prosecutes and states that he wishes to litigate according to the Torah, they heed him." According to A. Freimann, this passage alludes to the case which led to the defeat of R. Sasportas and his supporters. Shabbetai Toaff has questioned Freimann's supposition, yet regards it as not altogether unfounded.

<sup>109</sup>See the responsa of R. Shlomo b. Abraham Adret, Part 2, 290, and Alon, p. 22f. And see R. Moshe Isserles' annotation, *Shulhan 'Arukh, Hoshen Mishpat*, No. 8, paragraph 1. The latter is based on the ruling of R. Shlomo b. Adret, but is clearly refers to a case in which no *hakhamim* are available and is aimed to insure "that they should not go before gentile courts." In the responsa collection *Bet Haddash*, No. 58, we find an explicit reference to "*hediotot* who judge."

Concerning the struggle between the wealthy and the rabbis in Italy see S. Asaf, *Batte ha-Din ve-Sidreham ahare Hatimat ha-Talmud* (Jerusalem, 1924), p. 90, and *ibid.*, p. 13. And see the collected writings of R. Leone da Modena, Blau edition, pp. 171 and 166. Concerning the relation between the *parnassim* and Halakhic authorities, see Jacob Katz, *Tradition and Crisis* (Glencoe, 1961), pp. 94-95.

<sup>110</sup>Tishby (1964), fol. 149. And see opposing claims in the same period in *Kaneh Hakmah* of R. Yehudah Leib Pohovitzer (Frankfurt/Oder, 5441); *Derush ha-*

R. Sasportas regarded his battle as one being conducted “for the sake of the Torah and its scholars,” while the signed statement of the Livorno *parnassim* was “virtual heresy.”<sup>111</sup> It is impossible to accept the decisions of lay judges; “How can one act as shepherd, who has never reached the level of shepherd of the Lord’s flocks?”

R. Sasportas viewed the community’s provision for lay judges as a decision which in no way enjoyed the support of the rank and file and which was in any case Halakhically invalid. “They have not been accepted to judge...for Israel are not to be suspected of accepting upon them judges who rule arbitrarily [after *Baba Metsia*].”<sup>112</sup> The decision in Livorno was not a result of popular consent, but rather of the control exercised by

the mighty and certain wealthy persons who have seized power against their [the people’s] will; by means of the authority granted them by the government, they have instilled fear in the community, not for the sake of Heaven, and have coerced them with their high-handed behavior ...For who may contend with one who is mightier than he? those who observe the Torah and the law, whose crown they [the mighty] have cast to the ground? or the *hakhamim* upon whom they trample? or the rabbis whom they scorn?<sup>113</sup>

R. Sasportas mentions a communal dispute in which one of the figures involved was R. Sabbatai Tiano “whom they turned over to the municipal police, and he was taken into custody.” It may be that certain details of this dispute have not been clarified sufficiently. But we do know that in the Livorno community, where Marranos and their descendants played a decisive role, an important area of law—that connected with marine commerce—was removed from the jurisdiction of Jewish courts. An attempt was even made (though it failed as a result of R. Sasportas’ opposition) to make resort to gentile courts in this area of litigation compulsory, that is, to prohibit the resort to Jewish law even in those cases in which one of the sides of the dispute should demand a *bona fide* decision according to rabbinic law.<sup>114</sup>

We have suggested above that the conflict was related to the ethnic composition of the Livorno community, that is, to the influence exercised in that community by Marranos returning to Judaism. R. Sasportas explicitly

*Dayyanim*, pp. 25-26; and cf. Alon (1978), pp. 28-29; “And thus he writes in the name of a certain *hakham*: ‘There is no consistency in the ruling of *ba’ ale battim*; in the same case they will sometimes find guilty, sometimes acquit, sometimes find intent to cause injury, sometimes not.’”

<sup>111</sup>Tishby (1946), p. 153.

<sup>112</sup>Ibid., p. 154.

<sup>113</sup>Ibid., 155.

<sup>114</sup>And see further on the remarks of R. Shmuel Aboab, who maintains that application of Talmudic law cannot be rejected in matters between two persons even though both parties should agree to this, just as the prohibition of taking interest cannot be ignored even when both parties agree to do so.

stresses the difference between “those who were born into Judaism” and the Marranos who are ignorant in Jewish matters.<sup>115</sup>

The Livorno controversy is subject to different interpretations. But clearly we have here a case of a community which achieved wide legal autonomy, yet administered legal matters in one particularly crucial area according to an alien system of law. In my opinion we are witness here to a severe crisis threatening the continued application of the Oral Law in the judicial sphere. The new community, thriving and successful, did not turn to the sources of Jewish law in order to govern its commercial affairs. Here again, an omen of a new era, with its problems.

#### 6. *Traditional Rabbinic Thought*

La ley es perfecta y clara sin quitar, sin añadir

El que procura enmendarla es un follon Malandrin.<sup>116</sup>

What was the position adopted in the rabbinic literature we have surveyed? In my opinion it is possible to classify the contents of this literature into three main categories:

- a. General apologetics arguing the necessity of the Oral Law and the reliability of the tradition on which it is founded. We find this chiefly in educational and polemical literature which was aimed at maintaining communal morale in the face of “Karaites,” deist and Christian attacks on Judaism.
- b. Technical discussions of the character of Talmudic law and of the contradictions arising from confrontation with the principles of philosophy and general humanistic ethics.
- c. Reflections of these problems in Halakhic literature. The controversy has important implications even within the sphere of Halakhic thought, in regard to the “*maḥloket*” (rabbinic dispute) and novellae (*ḥidushim*).

##### 6.1. *Philosophical and Popular Apologetics*

We have chosen as representative of the first group Izhak Orobio de Castro. In his writings, the defense of the rabbinic tradition achieved its most complete expression, at least from a theoretical point of view. In his *Epistola Invectiva*, Izhak Orobio distinguishes three categories of adversaries:

- 1) Atheists appearing in the guise of deists, who maintain they deny only revelation.
- 2) Those who reject the Oral Law (*Ley Mental*), while defending the Written Law given by God to Moses at Mt. Sinai.
- 3) Those who reject only the Sages’ authority to add restrictions (*vallados*) to the Torah, and who regard these restrictions as a violation of God’s will.<sup>117</sup>

<sup>115</sup>Toaff (1965), p. 184.

<sup>116</sup>Ms. ‘*Ets Ḥayyim* 48A 18, p. 535.

<sup>117</sup>I have used Ms. ‘*Ets Ḥayyim* 48B 12. The text published by Révah is incomplete. See I. S. Révah, “Spinoza et Juan de Prado,” *Revue des Études Juives* (Paris, 1959; henceforth, Révah).

Those who belong to the third group are actually believers and observe the commandments. Thus the tragic character of our attitude to them. Their understanding has been dimmed, and there is a danger that they will proceed from this position to a more extreme one—to denial of the Oral Law and ultimately to rejection of the Written Law. Such a progression could be seen in the lives of many who had taken this miserable journey.<sup>118</sup>

Relying on Albo, Orobio maintains that it is impossible to record in written form the infinite details of all that is to emerge in the course of time.<sup>119</sup> Thus the need to add the oral stratum<sup>120</sup> to that of the written Torah. If it were not so, there would be a need (a) to introduce the contents of the Oral Law into the words of Scripture or (b) to bring every Jew to the point where he would understand additional meanings from Scripture. The first requires the creation of a new language, in which every word would possess multiple meanings. This would be inconsistent with the general foundations of language, as well as with common sense. Such a language would serve to mislead, not to explain. The second implies the need for a continuous miracle. Such a miracle, promised by the prophet Jeremiah in the end of days, is not consistent with the debasement the Jews must suffer by divine decree in the period of Exile.

Since these two alternatives were not possible, Divine Providence established that the Sages should be the interpreters of Scripture. The priests, the judges and the Sanhedrin served this function in the Second Temple period. In the period of Exile, the teachings of the latter were recorded so that an understanding of Scripture would be established for future generations, not merely according to human reason, but on the basis of the Sages' interpretation. The Sages, who lived closer to the time of revelation, would be the source of the oral tradition.

We have seen in our general survey that the literature of the period elaborated in great detail certain cases which serve to support the contention (a) that Scripture cannot be understood without the interpretations of the Oral Law, and (b) that the Written Law contains allusions to the fact that the teachings of the Sages are the correct ones. But in Orobio's work we find a theoretical analysis of the problem. The need for the Oral Law, and as we shall see further on for the ordinances of the Sages, is a need inherent in the use of any written text or book of laws.

On the basis of what has been presented thus far, we can conclude that Orobio rejected two possibilities which have been raised even in Jewish sources. The first—that there exist different layers of meaning in Scripture—was without doubt fundamental to Kabbalistic thinking. It would be easy

<sup>118</sup>Ms. 'Ets Hayyim 48B 12, p. 42.

<sup>119</sup>Orobio, *Epistola*, pp. 39-41. Part of this chapter has been published by Révah, p. 125. The pagination is according to Ms. 48B 12.

<sup>120</sup>Orobio also uses the expression "*Ley Bocal*." See *Epistola*, Ms. 'Ets Hayyim 48B 12, p. 34, *Ley Oral o Mental* (*ibid.*, p. 35), and cf. above, R. Imanuel Aboab's term *Ley Mental*.

to demonstrate that various *hakhamim* of this period chose this line of thought in order to anchor the Oral Law in the Written. The second possibility is the "Protestant" position, according to which the believer receives inspiration from the text; divine assistance permits him to find the correct solution to practical enigmas which have no explicit solution in Scripture. This position was liable to lead to total anarchy, unless a miracle should occur and the entire people should receive identical inspiration.

This was indeed to be the situation in the End of Days. But in our era, such a public and continuous miracle could not occur. Ours is a world without manifest miracles, since the shame of Exile has been decreed upon us. In such a world, the Sages serve as the link between revelation and everyday practice. The Oral Law is the instrument by which Divine Providence preserves His laws (p. 86).<sup>121</sup> Concerning these laws David beseeches (Psalms 19:14): "Keep back Thy servant also from presumptuous sins." That is, David asks to be saved from the sin of pride, a source of rebellion against the teachings of the Sages.

In this passage, we have evidence of an actual dispute which broke out between Orobio and persons who openly objected to his explanations. Orobio rebuts these objections and demonstrates that the establishment of "fences" is a rational, necessary and universal phenomenon (pp. 43-46).<sup>122</sup>

However, it can be argued that such a line of argument can explain the "fences" established by the Sages only partially. We thus need to show that not all the ordinances of the Sages belong to the category of "fences."<sup>123</sup> There are some which stand by their own merit—such as sacred ordinances and praiseworthy customs.<sup>124</sup> But the most important proof for the Sages' authority is to be found in God's words to Zechariah (8:19) referring explicitly to a rabbinic ordinance—the establishment of fasts after the Destruction of the Temple (p. 47).<sup>125</sup> Here is prophetic evidence for the fact that the Sages' rulings are affirmed by God and are supported by divine authority.

Arguments such as these are rational. However, man has been granted freedom to determine for himself the contents of his faith, and a person cannot be persuaded who refuses to let himself be persuaded. The gates of repentance are not locked, but a person must open them for himself.

A case in point is a certain criticism of *aggadah* whose source is Christian. Paul, criticizing Judaism, taught that the letter kills and the spirit redeems. But here lies the paradox. This is precisely the way we (the Jews) relate to *aggadah*. Why should we suspect the Sages of having taken the *aggadah*

<sup>121</sup>Leyes Divinas.

<sup>122</sup>No es creible que toda la coleccion de estos Doctores, conspirase en misma malicia para seducir y engañar su Nación, ni esta Nación es facil de engañar como lo califica la experiencia en la universal dispersion de sus individuos.

<sup>123</sup>Sus Ministros.

<sup>124</sup>Santas instituciones y loables costumbres.

<sup>125</sup>R. David Nieto reiterates this idea in his work *Ha-Kuzari ha-Sheni*.

literally, when certain stubborn critics maintain that one must understand *all* of Torah thus?

Criticism of the Sages tends to take root in persons who make childish analogies and who believe that, because they can reply to several trivial questions posed by monks in their monasteries (What is matter? What form? What is a cause? What is movement?), they know all truths, and in their pride they reject the wisdom of the Sages.<sup>126</sup>

### 6.2. *The Technical Argument*

We shall open our survey with the arguments of R. Shaul Mortera in his book against Sixto of Siena. Most of the work is dedicated to a defense of the teachings of the Sages, particularly in the area of *aggadah*.

R. Mortera follows, in general lines, the tradition of the medieval rationalistic thinkers. He who attacks the Sages also attacks Scripture. Both Scripture and the Sages must be understood other than according to the simple sense. The outstanding case supporting this position is of course the Song of Songs, which is entirely allegorical. The disputes of Abaye and Rava—the literal interpretation, according to R. Mortera—are a minor thing. *Ma'aseh ha-Merkavah*, that is, the allegorical interpretation, is the “major thing”—the central aspect of Torah.<sup>127</sup>

Thus far, a few words on R. Mortera's attitude to *aggadah*. But we are more interested in the difficulties related to Halakhah.<sup>128</sup> On this matter, the book under discussion contains a novel view which aroused an interesting controversy.

One of the attacks made by the apostate of Siena has to do with a subject mentioned frequently in the literature produced by the controversy over the Oral Law: the law of false witnesses, which appears to contradict all legal logic. Thus the author of *Kol Sakhal* quotes Abner of Burgos “concerning false witnesses, And ye shall do unto him as he had purposed to do, and not as he has done; if they have not killed, they are put to death; if they have killed, they are not put to death.”<sup>129</sup>

Further on we will touch on the classical solutions which have been given for this paradox. The solution of R. Mortera is original and new. The latter maintains that the Halakhah gives us only partial information. According to his interpretation, we should understand the law concerning false witnesses thus: “If they have not killed, they are put to death (as false witnesses); if they have killed, they are not put to death (with the form of death punishment

<sup>126</sup>Ibid., p. 38 = Révah, p. 124.

<sup>127</sup>R. Shaul Mortera, *Declaracion*, p. 10: “llamando a lo literal, cosa pequena y a lo alegorico cosa grande.”

<sup>128</sup>For example, false witnesses, a subject discussed further on (Part ), Ch. 4)—if all say “liable”—he is exempt; (Ch. 5) the problem of lost property the owner of which has lost hope of finding (1); if he intended to kill a non-Jew but killed a Jew (Part 5, Ch. 2, Question 2).

<sup>129</sup>*Kol Sakhal*, p. 52.



received by the victim of his false testimony, but rather by slaying, according to the law for the murderer)."<sup>130</sup> R. Mortera interprets in a similar way the words of the Rambam, "If the accused was put to death [on the evidence given against him] and the evidence is refuted [the false witnesses] are not put to death *min ha-din*" (*Hilkhot Edut* 20,2). "*Ha-din*" is to be understood in the Maimonidean text as an inference from minor to major—that is, one may not impose punishment on the basis of this sort of logical inference. R. Mortera interprets his words as meaning "that *min ha-din* they are not put to death, but they are put to death according to the law of the murderer."<sup>131</sup> He attempts to prove his interpretation by comparing this text with others. He brings as support the *mishnah* in *Baba Kama*

There are cases where there is liability for offenses committed by one's ox though there would be no liability should these offenses be committed by oneself. There are, again, cases where there is no liability for offenses committed by one's ox though there would be liability were these offenses committed by oneself. For instance, if an ox has brought indignity [upon a human being] there is no liability, whereas if the owner causes the indignity there would be liability... Where an ox has caused fire to be set to a barn on the Sabbath there would be no [civil] liability, as he would be subject to a capital charge.

From this we learn, according to R. Mortera, the Talmudic method, which establishes freedom from liability in connection with the specific matter at hand without mentioning that, on the basis of other principles, the person is liable.<sup>132</sup> Thus we learn that those who are not subject to the death penalty prescribed for false witnesses are subject to the law of the murderer.<sup>133</sup>

R. Mortera's opinion is exceptional, and it drew a sharp response from R. Jacob Sasportas. The latter describes the background to the issue thus:

You have said that Christian scholars...encountering difficulty in penetrating the matter of the law of false witnesses, and perceiving the strangeness of a law expounded in the Oral Law (which is based on the Written Law)...have sought to undermine and destroy the edifice of our Sages, may their memory be blessed, (Psalms 137:7) "Raze it, raze it, even to the foundation thereof."<sup>134</sup>

<sup>130</sup>In the words of R. Jacob Sasportas, further on.

<sup>131</sup>In the words of R. Shaul Mortera: "Que si la sentencia fue executada, no eran muertos, es la intencion, q' no lo eran por la Ley y castigo que alli se trata, no librandole de la otra pena en que incurian, y este termino es uzado en el Talmud, silicet, darse algun sujeto por livre, no lo siendo en absoluto sino particular de aquella pena, que en aquel lugar particular se trata" (Part 4, Ch. 4, p. 157).

<sup>132</sup>...donde este livre q' se dize no es absoluto sino limitado a la materia de q' se trata.

<sup>133</sup>No seran matados por testigos falsos...pero seranlo por matadores, como avemos declarado.

<sup>134</sup>*Ohel Ya'akov*, No. 17.

R. Sasportas grants R. Mortera's sincerity and authority, but disagrees with his view: "I wonder greatly whether this responsum of yours coincides with the truth, and whether you derive it according to the law."

From R. Sasportas' responsum we learn of another issue on which R. Mortera expressed an opinion similar to that on false witnesses.<sup>135</sup> This issue has to do with the law forbidding the passing of one's seed through the fire to Molekh. According to accepted Halakhah, he who caused all his seed to pass through is exempt from punishment, whereas he who caused to pass through some of his children is liable to stoning. In R. Mortera's opinion "exempt" should be understood as meaning "exempt from stoning but liable for murder, and not [as meaning] *altogether* exempt."<sup>136</sup> The general line of thought adopted in R. Mortera's responsum is identical to that which he adopted concerning false witnesses; R. Sasportas differs with him on this issue as well.

R. Sasportas does, however, agree partially with another conclusion suggested by R. Mortera: though false witnesses may be exempt from judicial execution, they may be put to death by the law of the king, "for even if they are not liable judicially, if a king of Israel wished to put them to death by the king's law, or a court as a temporary order," they may do so. The court may even have the guilty person struck "with a great blow, bringing him close to death...to frighten and intimidate the evil-doers so that the thing [i.e., the law exempting them] shall not be to them in their hearts as an obstacle and stumbling-block."

R. Sasportas' responsum is faithful to the classical Halakhic tradition. R. Mortera's responsum, in contrast, is strikingly apologetic. His position represents an interesting effort to defend the Sages—as well as Maimonides—at the cost of rejecting an interpretation which has been accepted throughout the ages. He thus introduces an alternative with many implications. Does "belief in the Sages" mean loyalty to the Talmud and the Oral Law, or does it mean loyalty to the unbroken chain of rabbinic scholars

<sup>135</sup>I have not yet succeeded in locating the source in R. Mortera's writings.

<sup>136</sup>See the extensive discussion of R. Jacob Sasportas, fol. 24f. R. Sasportas' remarks on this issue are particularly sharp, since the sin of causing to pass through to Molekh is understood here not in the accepted manner, but as the actual burning to death of children. R. Moshe Hagiz also discusses the problem in *Eleh ha-Mitsvot*. He writes, "there are those who say actual burning and there are those who say merely passing through the fire" (p. 118). It is interesting that he too must explain the meaning of the prohibition.

One sinner has asked me whether this [exemption concerning one who passes all his children] is not setting a stumbling-block [before the blind], for to save himself from death he will pass the rest of his children [through to Molekh]. I replied that when Scripture says 'of his seed,' the intention is that, if when he brought his seed he brought some and left some...even though afterwards he brought the rest, he is not thereby exempt...and when I returned home I discovered, thank God, that I had arrived at the opinion of the Tosafot (p. 119).

linking all generations from the Talmudic period to our time? The response of R. Sasportas (and apparently also of R. Moshe Hagiz, as we shall see) was unconditionally in favor of the second possibility.

R. Mortera's novel approach strikes R. Sasportas as too radical; it appears to him that R. Mortera is overstepping the bounds of his authority. His position would only be possible if there were some support from the ancient authorities, or if the point at issue was one of those "laws which are brought into being (*mithadshim*) all the time" as circumstances dictate. But because neither of these is the case, the novelty of R. Mortera's interpretation implicitly casts an aspersion on the chain of tradition.

For our tradition has been virtually covered over with thorns and thistles, and our holy [Torah] has been dishonored, it being said that they [the Sages] did not penetrate to the true meaning of the *mishnah* and that they failed to arrive at the correct Halakhah, that they removed the pearl and were left with the broken pottery beneath it,<sup>137</sup> a thing which no one would think of doing.<sup>138</sup>

R. Sasportas sees in Mortera's approach a threat to the authority of the Oral Law. R. Mortera's reply is, in his view, in the category of something impossible to accept—that from the time of Ravina and R. Ashi until now, all the *ge'onim* and rabbinic authorities up to R. Joseph Karo and his successors have been mistaken...and having seen that all our masters are of one mind and agree on a single issue, whether exempting or holding liable, we cannot accept a difference of opinion or lend support to this deviation from their [the Sages'] teachings, even in matters which are applicable only in the time of the Messiah.<sup>139</sup>

R. Sasportas distinguishes between a type of faith which is rooted in tradition and a type of faith which proceeds from investigation and reflection. It may be that we entertain doubts in our mind about the teachings of the Sages, but these occasional doubts arise only as a result of the insufficiency of our knowledge. R. Sasportas requires total acceptance of the entire body of the Halakhic tradition, including—as R. Hagiz would emphasize later—that of his own period.

A similar position can be found in the writings of R. Shmuel Aboab. The latter points out the difference between the *rishonim* and the *aḥaronim*. The authority of the Talmud rested on its acceptance by the entire Jewish people, a situation which no longer obtained in respect to authorities of later times for geographical and political reasons. "Every *bet din* established after the [period of the] Talmud in whatever land...was such that its authority did not extend to all Israel, because of the distance between communities and difficulties of travel."<sup>140</sup> One of the principles on which acceptance of the Talmud has

<sup>137</sup>כספא. In the printed text, erroneously, כספא.

<sup>138</sup>*Ohel Ya'akov*.

<sup>139</sup>23, vol. 1r.

<sup>140</sup>*Sefer ha-Zikhronot*, fol. 6v.

always been based is this, that “since the day it was completed, no one has been permitted to differ with it.”<sup>141</sup>

R. Aboab stresses that, despite the different status of the *aḥaronim*, the courts of every generation possess Halakhic authority. “It is a *gezerat melekh* that one must heed the judge, whoever he may be, who serves in any given generation....Jephtach in his generation is as Samuel in his generation; each according to his merits will be considered a remnant of the sparks of the splendor [*hod*] that Moses, our master, delivered to Joshua his servant when he laid his hands upon him.”<sup>142</sup>

The first *bet din gadol*, “first in time and last in *teshuvot* and excellence” is the court of seventy elders of Moses, “and the King of Glory who bestows of his honor and wisdom to those who fear him, granted power and authority to the *dayyan* to do according to his own judgment” in every generation.<sup>143</sup>

R. Moshe Hagiz also entered the fray against those who wished to introduce new conceptions which contradicted those of the ancient authorities:

“A man has joy in the answer of his mouth” (Proverbs 15:23), therefore it is clear that, when a person produces a novel idea, whether in the dialectics of Halakhah or in judgment or in a *derashah*, it appears to him that that novel idea is a good thing and he is pleased by it as one who finds great spoil...and he prides himself not only vis-a-vis his students and companions—his heart swells to the point that he says that all the *rishonim* erred in this thing and failed to arrive at the truth....If so the shoot of his pride...will transform his joy to sighing...for he has not understood or believed the teachings of the Sages, of whom it has been said, “their finger nail was worth more than the belly of the *aḥaronim*.”<sup>144</sup>

As he emphasizes elsewhere, one of the commandments which holds for all times is that requiring us “to heed any authorized *bet din*.”<sup>145</sup> And to teach that one does not sit in the *yeshivah shel maṭah* unless he sits in the *yeshivah shel ma’alah*...for God honors the elders....For Israel has been compared to a bird, just as this bird cannot fly without wings so Israel can do nothing without their elders.<sup>146</sup>

Remaining faithful to the time-honored interpretation of the law of false witnesses, R. Jacob Sasportas resolves the paradox by reliance on “mystical” ideas.

Several reasons have been given for this matter. R. Joseph Karo, in his interpretation of the Rambam on the passage mentioned earlier,<sup>147</sup>

<sup>141</sup>Ibid.

<sup>142</sup>Ibid., preface, Munkács edition, 1905 (the preface is unpaginated).

<sup>143</sup>Ibid., fol. 70v.

<sup>144</sup>MḤ 42a.

<sup>145</sup>See *Shete ha-Lehem* (Wandsbek, 1733), fol. 58v.

<sup>146</sup>MḤ 511-512, 64r.

<sup>147</sup>*Hilkhot 'Edut*, Ch. 20.

wrote that, because their [the false witnesses'] sin is too great to bear, it is not fitting to impose on them judicial execution, which would atone for them...and cited as a second reason the opinion of Menahem of Recanati, may his memory be blessed, that, since "God standeth in the congregation of God" [Psalms 82:1—i.e., God gives constant guidance to the *bet din*], were it not that this one was [in fact] liable for the death penalty, God would not have consented that a single soul of Israel [should unjustly] perish....And a [further] reason has been given, [that the law is such] because of what would [otherwise] be an insult to the Sanhedrin, [that is,] in order that they [the Sanhedrin] should not be perceived as having erred; for God respects the honor of those who fear him, and therefore "if the accused was put to death [on the evidence given against him] and the evidence is refuted, [the false witnesses] are not put to death."

Discussions of this issue appear in a number of works on the period. R. Moshe Hagiz refers to it in his *Eleh ha-Mitsyot*:

The reason [for the law of false witnesses] is apparent to human reason: the honor of the *dayyanim* must be respected, in order that the people not rise up against them saying they do not know how to judge. [It is apparent also] on the basis of the truth that "God standeth in the congregation of God"...it is God's charge that they have carried out.<sup>148</sup>

The first reason R. Hagiz gives is rational. However, even R. Hagiz finally relies on a mystical reason, which as we shall see is characteristic of his general method.

Since it is a fundamental principle with us that "God standeth in the congregation of God," we must view it as God's will that he [the false witness] be acquitted by the *bet din*....And if you should say that he is liable—God has many means to put him to death by the form of death to which he is liable, and if it were not that He had a clear reason to save him temporarily, he would not have been acquitted by the court.<sup>149</sup>

The Halakhic-mystical theme already exists in medieval Jewish thought. This is not the place to elaborate on its origins. Suffice it to say that this was a commonplace theme in the literature of the period under discussion. R. Shaul Mortera maintains in several passages that the Sages received divine inspiration.<sup>150</sup> R. Sasportas gives these elements special emphasis, as part of his defense of the irrational elements in Halakhah. This theme is expressed strikingly by R. Shmuel Aboab, in stressing the religious significance of the *mishpatim*:

"He declares his Word to Jacob, his statutes and judgments to Israel; He has not dealt so with any other nation, and as for his ordinances they

<sup>148</sup>Commandment 524, 40v.

<sup>149</sup>*Eleh ha-Mitsyot*, pp. 87-88.

<sup>150</sup>"Siendo inspirados de aquel sopro divino que los acompaño siempre." In his polemic against Sixtus of Siena, Ms 'Ets Ḥayyim 48C 5, p. 9.

have not known them, Halleluyah!” (Psalms 147:19). That is, [He has withheld] not only his Word and his statutes, but even his judgments, that they should not know them, for human reason is not capable of grasping the precise measure and limits of [these] things [*mishpaṭim*], this [capacity] being given only to God of the Universe, the Lord, Creator of the ends of the earth; therefore He alone knows and understands each thing coherently.<sup>151</sup>

From this we learn that Israel cannot disregard Jewish law in matters between persons, even if both of the parties should agree to do so, just as it is impossible to disregard the law of interest even voluntarily. Thus it is forbidden to have recourse to Jewish judges who do not judge according to Jewish law—communal leaders, for example; all the more so is it forbidden to have recourse to gentile courts.<sup>152</sup>

This survey must include mention of a central notion in R. Hagiz’ approach (and, as we shall see, this is also the approach of other *hakhamim* in this period), namely, that one cannot grasp the characteristics of Halakhah except through ideas of Kabbalah: “For according to the simple meaning you will not find your way in the *bet midrash*...for ‘the counsel of the Lord is with them that fear him’ [Psalms 25:14].”<sup>153</sup>

R. Hagiz stresses that, while the gentiles have accepted the Written Law, they have failed to perceive its secrets. Just as there are three levels in the study of Torah (*ha-lomed*, *ha-shoneh*, and the apprentice of *talmide hakhamim*), so there are three levels of interpretation inherent in the Torah: the Written Law, the Oral Law, and the “secrets of the Law.” The “secrets of the Law” are associated with the apprenticeship under *talmide hakhamim*, since Torah at this level can be transmitted only orally, “as if emptying from one vessel to another.” Yet even Halakhah cannot be understood merely from the study of written texts, but requires direct contact with *talmide hakhamim*.<sup>154</sup>

To grasp this notion let us take a case and analyze it—the laws of levirate marriage as presented by R. Hagiz. In his *Eleh ha-Mitsyot*, R. Hagiz points out

<sup>151</sup>*Sefer ha-Zikhronot*, fol. 53r.

<sup>152</sup>R. Shmuel Aboab states, “The word of the Lord is wonderful...it shall be for us a faithful testimony to the power of the *bet din*,” that is, of the power of a ruling of a *bet din* to alter nature. He relies on commentators of the *Mishneh Torah*, *Hilkhot Ishut*, end of Ch. 2, based on the Palestinian Talmud, and R. Yehudah Minz in his responsa. *Sefer ha-Zikhronot*, fol 5v.

<sup>153</sup>*Eleh ha-Mitsyot*, Commandment 160, p. 166.

<sup>154</sup>In this the danger facing those who study Kabbalah from “an evil apostate, like those [who belong to] a certain heretical sect today who[se members] study Kabbalah from a disciple of that same Sabbetai Zvi who became a heretic and converted and afterwards sought to inform them of the secrets of the Divine Essence...God forbid that one should study a single thing from him, for the spirit of heresy permeates him, as well as anyone who comes within four *amot* of him.” The reference is apparently to Nehemiah Hiyyun.

the difficulty of understanding these laws. The Talmud teaches (*Yebamot* 24): "Said Raba: Although throughout the Torah no text loses its simple meaning, here the *gezerah shavah* has come and entirely deprived the text of its simple meaning." "And it shall be, that the first-born' implies that the commandment of the levirate marriage devolves upon the eldest of the brothers...." It appears that we have here a total rejection of the simple meaning. But, according to R. Hagiz, such an inference would be incorrect; we do not have here a rejection of the simple meaning, but an expansion of it. "In my opinion, if you will examine closely, you will find the greatness of our holy Torah, for even here [the rabbinic interpretation] is not contrary to the simple meaning, and this simple meaning is not written in vain." The solution to the apparent contradiction is found in Kabbalah; it is here that we find a hint that the son born to the deceased brother's wife shall be named after the deceased brother. "Set your eyes on Divine Providence, that if things should develop in the true *gilgul*, according to the will of God who commanded us to observe the command of levirate marriage...the son will be named...after the brother." There can be no doubt that the doctrine of *gilgul* as the basis for understanding the law of levirate marriage is suggested by the differentiation between layers of meaning, the *derash* and the *peshat*. "All your children shall be taught of the Lord, and great shall be the peace of your children—Read here not *banayikh* [your children] but *bonayikh* [your builders]'—These are the Sages who build their teachings which they deduce on the scales of their judgment."<sup>155</sup>

The veracity of the Oral Law can be confirmed, according to R. Hagiz, from another point of view as well.<sup>156</sup> The specifics of the commandments include the solution to problems which will develop in the future, "and the remedy has always come before the blow." Viewing the historical situation of the Jews of Spain and Portugal, "we can grasp the great merit of the oral Law, which has always sought to bring near [problematic persons], not to make [them] remote."

R. Hagiz' demonstration is simple. From the Torah one cannot learn the meaning of the term *mamzer*. The derivation of the term remains obscure if we rely on the Written Law. If we should establish the definition according to the most simplistic criterion, so that anyone born as a result of forbidden sexual relations punishable by death would be a *mamzer*, we might mistakenly include in this category a child conceived in *niddah*, and

<sup>155</sup>Particularly interesting is his observation of Commandment 580 ("not to return to a divorced woman after she has [re-]married"): "If she has prostituted herself with another while she is divorced, she may return to her [ex-]husband." The reason for this given by R. Hagiz is to eliminate any doubts about the validity of the *get*, lest the first should say, "Had I known that it was so, I would not have divorced her.' Her divorce then becomes a divorce on condition...the *get* becomes retroactively invalid."

<sup>156</sup>*Eleh ha-Mitsyot*, Commandment 560, p. 105.

there would be no Jewish survival, the scattered sheep [would not be] gathered from the mountains of darkness. For...He has had mercy on the children born there, who are children [conceived in] *niddah*, which is one of the forbidden sexual relations for which the punishment is *karet*. And according to such a definition, God forbid, they would be forbidden to enter the assembly. But the Lord being merciful on his people Israel He has written and promised us in His Torah, "I will not cast them away, nor will I abhor them, to destroy them utterly"... Therefore He has explained to us through the true tradition that the *mamzer* mentioned in the Torah is one who comes from any of the forbidden sexual relations, except that of *niddah*...and on the basis of this [teaching] they shall be allowed to enter the assembly as God wills; He will gather them until not a single exile remains.<sup>157</sup>

R. Hagiz sought to show that a correspondence existed between the interpretations of the Sages and the simple sense of Scripture. Such a correspondence could be demonstrated by accepted means, but also by extending the principles of interpretation.

The Torah constitutes an integral whole. Yet each part of it is a complete entity.<sup>158</sup> The way to arrive at the truth is by examining the Torah, for in it is to be found the program for the world: "For to the extent that a person investigates by studying our holy Torah, he will see that the works of God are marvelous."<sup>159</sup> In contrast to the classical rationalistic position formulated, for example, in *Hilkhot Yesode ha-Torah* of Maimonides, the search for God is not conducted through an examination of nature, but through the examination of Torah.

We shall illustrate briefly the attempts of R. Hagiz to demonstrate the correspondence between the *derashot* of the Sages and the simple meaning of the text. The case we have chosen has to do with the laws of the Sabbath. The interpretation of the verse "for she is holy to you" (Exodus 31:14) given by R. Yonathan b. Joseph in Tractate *Yoma*—"She [the Sabbath] is delivered into your hands, you are not delivered into her hands"—represents a focus of criticism, as R. Hagiz bears witness. R. Hagiz associates the words of R. Yonathan with an idea of the Sages according to which the Sabbath is "Israel's mate." Therefore the Sabbath is referred to as "she," and she is thus delivered into the hands of Israel, her spouse.

Another case in point is the interpretation of the Sages which distinguishes between "a memorial of blowing of horns" (Leviticus 23:24) and "a day of blowing the horn" (Numbers 29:2). The Sages explain that the words "a memorial of blowing of horns" are used because Rosh Hashanah, in the first

<sup>157</sup>And see *ibid.*, the discussion of marranos who are in no hurry to return to the full practice of Judaism.

<sup>158</sup>*MH* 7-8

<sup>159</sup>*MH* 4.



year after the Exodus, fell on the Sabbath,<sup>160</sup> unlike Rosh Hashanah the following year (Numbers 29) which fell on a week day, therefore—"a day of blowing the horn."

The laws of the *shofar* for Rosh Hashana are consistent with principles of logic, according to R. Hagiz, for it makes sense that "the voice [of the *shofar*] be banned because of the strict regime of the Sabbath...for [violation of] which the punishment is death."

The final proof for the law concerning the blowing of the *shofar* on the Sabbath is Kabbalistic. The *shofar* is not blown on the Sabbath because on the Sabbath "all is peace, there is no *saṭan* and no *pega ra*" (the initial letters of the words "*saṭan* and *pega ra*" [spelling] "*shofar*").<sup>161</sup>

We may thus arrive at the general conclusion that according to R. Hagiz Halakhah cannot be understood except by the aid of Kabbalah. The Sabbath cannot be observed without knowledge of the secret of *ibbur*. Nor can certain fundamental principles be understood, such as the fixing of the time at which the Sabbath begins at different hours in the different geographical places where Jews live.

And He, may He be blessed, observes the Sabbath with each and every congregation of Israel at the time and hour at which it is fitting to receive the Sabbath, according to the revolution of the sun and its level in that region and climate.

These time differences are not a factor solely of the different location of the communities, but also of different topographical conditions, such as those in Tiberias in contrast to those in Sepphoris.

The most extreme case is found in the law which stipulates that concerning "a single person in the wilderness who has forgotten [the day on which] the Sabbath [falls], the law stipulates that he counts six days and then observes the Sabbath."

R. Hagiz makes the following remarks about a person who expressed doubts about the oral tradition (546):

You may be satisfied with [the case of] a question posed to me by one of those who holds doubts about the tradition. Behold, he said, if there had been no Sin of the Golden Calf, and Moses had not broken the Tablets of the Law, how would we be able to learn those laws deduced by the Sages on the basis of differences between [parallel] passages? This difficulty, and all those of its kind, do not exist except for those who deny God, who are like dumb dogs and do not know how to reply. But we the Jews rely on the trustworthy tradition which has been handed down to us, "and the crooked shall be made straight."

If we are to accept criticism of the oral tradition, we would have to admit to having many Torahs,

<sup>160</sup>R. Hagiz relies on *Perḳe de Rabbi Eliezer*, according to which Moses rose up on high on the 29th of Av.

<sup>161</sup>R. Hagiz relies here on R. David b. Zimra (Commandment 112).

And it is not the will of the Creator that each person should have his own Torah. Rather there is one Torah and one law for all. And we must not deviate from the tradition which is true and accepted by us, since the Sages of truth have discussed all the difficulties which heretics and Epicureans might pose. And recognizing that the tradition represents the truth passed down to them, they have established teachings fast as driven nails, in order that it never be forgotten from our lips or those of the seed of Israel.

R. David Nieto maintains that the commandments can be explained in relation to the hidden nature of the world. There exist spiritual holiness and spiritual impurity; that is, there are religious categories which correspond to categories of reality. The Kabbalah is the true, secret science of reality. By way of conclusion it may be said that Kabbalah became to a large extent the ideology of traditional circles in their battle against "Protestant," antinomian trends.

### 6.3. *Tradition and Forgotten Teachings*

The prevalent view of the *hakhamim* of the seventeenth and eighteenth centuries drew from the basic positions of Maimonides concerning the chain of tradition which had never been broken. As we have seen, the *hakhamim* repeatedly stressed that reliable historical proofs exist for this continuity of tradition.

But along with this theoretical position, it is possible, in my opinion, to point to another line of thought, that while secondary is no less important. We have found in R. Hagiz' writings the notion that, while certain things have been forgotten, the Sages have come and restored them. Here we even find it stressed that the Sages are "pillars of the Torah in instruction; 'the Lord was with the judge' [Judges 2:18] in order that he not stumble in his instruction."<sup>162</sup>

The classical case is that of the ordinance of Usha. According to the Palestinian Talmud (the first chapter of Tractate *Pe'ah*), this ordinance came to restore a forgotten Halakhah: "Such had been the Halakhah they possessed, but they forgot it, and came and made an ordinance, and it [this ordinance] coincided with the original position."

Similarly, R. Abraham Haim Viterbo writes: "The laws and Halakhot whose source is in the Mishnah and Gemara had already been brought from Mt. Sinai by Moses, without any dialectical debate; but afterwards, in the time of Exile and sufferings, they were forgotten, and they [the Sages] restored them by means of their debates."<sup>163</sup>

<sup>162</sup>*Sefat Emet*, p. 15.

<sup>163</sup>*Emunat Hakhamim*, fol. 23r. Viterbo entirely rejects the possibility that both sides of the dispute are correct. And cf. the interesting observation of R. Menaḥem Azariah da Fano: "For this is what Moses said in his prayer, which they forgot after his death, but King David the righteous and sweet singer of Israel, 'Make us glad according to the days wherein thou has afflicted us'" (*Ma'amar Haḳor ha-Din*, Part 1, Ch. 1, *Imrot Tehorot me-Ohelot*, 570, fol. 1r).

This theory of forgotten Halakhah and its restoration has its roots in the two Talmuds but finds expression here, in the seventeenth century, in a different cultural context. The renewed interest in it is connected, in my opinion, to the intellectual perplexities surrounding the idea of tradition in this period.

These perplexities are reflected in a discussion in the responsa of R. Moshe Shimshon Bachrach, author of *Ḥut ha-Shani*, and his son R. Yair Bachrach, author of *Ḥavvot Ya'ir*. The discussion of these two *ḥakhamim* echoes, in my view, the struggle over the issue of the Oral Law taking place throughout Western Europe. R. Moshe Shimshon Bachrach<sup>164</sup> sees in the remarks of the Tosafot on Tractate *Eruvin* 21b an explanation for the special status of the Oral Law. According to his analysis, there exist three possibilities:

- 1) That all of the Halakhah be recorded explicitly, as part of the Written Law;
- 2) That all of the Halakhah be transmitted by tradition, that is, as the *halakhah le-Mosheh mi-Sinai*, about which there is no disagreement;
- 3) That at least part of the Halakhah be given by exegetical methods.

The Gemara in Tractate *Eruvin* rejects the first possibility: "And as for why they were not written explicitly, so that there should be no disputes, the gemara has already explained, 'of making many books there is no end'." Only the two later possibilities, then, remain.

According to R. Moshe Shimshon Bachrach, it can be said that Divine Providence chose the third possibility, since the second would expose Halakhah to the danger of being forgotten—a real danger, evidence of which has been preserved in the sources.<sup>165</sup> "The tradition is oral, and if it be forgotten it cannot be restored by dialectical debate; it can be restored only by prophecy...."

But the third possibility is open to the problem of multiple interpretations, "for it [the Torah] is expounded in forty-nine impure ways and forty-nine pure ways...this one brings proof from Scripture and that one brings proof from Scripture, each one expounds according to his powers of reasoning." Thus the need for majority rule: "And God gives his consent to this, that in every generation rulings are made according to the decision of *ḥakhamim*...whether or not they have arrived at the truth. All will be acceptable to God, for thus His wisdom decreed, that the thing should be decided by the majority of *ḥakhamim*."

<sup>164</sup>*Ḥut ha-Shani*, no. 53, fol. 60v, replying to an inquiry of his son.

<sup>165</sup>R. Moshe Shimshon Bachrach relies on the words of R. Yom Tov b. Abraham Asbili quoting ibn Habib's observation in *En Ya'akov*, *Ḥagigah*, Ch. 1. R. Zvi Hirsch Hayyut reiterates this idea to explain why Torah was not given in an unambiguous form, "for if the *ḥakham* had not been given permission to teach a thing on his own authority, what would we do if certain matters were forgotten?" And see responsa collection *Ḥavvot Ya'ir*, no. 192 (*Imre Binah*, No. 8, the collected works of R. Zvi Hirsch Hayyut, pp. 946-947).

By this majority decision we arrive at true Halakhah, employing the thirteen rules for expounding the Law. In this process, we are sometimes witness to historical decline, “for the *aḥaronim* do not arrive at the truth as did the *rishonim*,” for “the wisdom of His Sages has been lost.” Nevertheless, “their decision [that of the *aḥaronim*] represents the truth for its time—by a decree of the Almighty, may He be blessed.”

The Oral Law, by this interpretation, is an edifice continually under construction by the *hakhamim*. This edifice contains within it a nucleus of teachings whose authority lies in the tradition: the *halakhah le-Mosheh mi-Sinai*. Or looking at it from another point of view, the *derashot* of the Sages permit certain changes, but concerning the principle issues there is no disagreement. The decline of the generation, forgetfulness, the loss of the Sages’ wisdom—these are the historical factors which burst through and disturb the independent development of the Oral Law. Thus the need for the establishment of formal authority. This authority (“a decree of His wisdom”) “is granted to the *hakhamim* of each generation by the Almighty, may He be blessed.” R. Moshe Shimshon does not elaborate on the nature of this divine decree.

R. Moshe Shimshon now interprets the words of the Tosafot in light of the problem posed by Rabbenu Nissim Gerondi in his *derashot*: “If some prohibit and some permit, certainly one side does not agree with the Halakhah.” If we do not possess an unambiguous exposition of Halakhah either in the Torah or in the tradition, and rulings are made through the application of formal principles (including that of majority rule), a problem is raised:

Lest, God forbid, one should vainly suppose that it does not matter very much to God whether one prohibits or permits with sincerity or not, or whether one declares [a thing] impure or pure honestly or not, these being light matters in His eyes—God forbid, for this is not the case.

Here we find, as in the remarks of Rabbenu Nissim Gerondi, the assertion that such an approach by no means implies Halakhic relativism.

R. Yair Haim Bachrach, in one of his responsa, pointed out the difficulty inherent in the concept “*halakhah le-Mosheh mi-Sinai*.”<sup>166</sup> He maintains, contrary to Maimonides, that even in cases to which this expression is applied, there may be a question of doubt due to disputes and forgetfulness. He views the matter of forgotten Halakhah as being of decisive importance, and regards it as a condition resulting from suffering and Exile: “From the time of [the disciples of] Shamai and Hillel who were not sufficiently trained, sufferings and expulsions have increased, therefore understanding has diminished, and disputes have increased because of forgetfulness. Nevertheless, the entire

<sup>166</sup>Responsa collection *Havvot Ya'ir* 192 (Lemberg, 1894), fol. 99 col. 1. His father R. Moshe Shimshon wrote that this does not apply to *halakhah le-Mosheh mi-Sinai* which could not be restored even if forgotten. And see his treatise on *halakhah le-Mosheh mi-Sinai*, published by R. Yehiel Michael Gutmann, *Ha-Tsofeh le-Hakhamat Yisra'el*, I, pp. 70-72, 104-112; II, 39-45.

body of tradition will not, God forbid, be forgotten, for it is written [Deuteronomy 31:21], 'for it shall not be forgotten'.<sup>167</sup>

I have no doubt that behind R. Bachrach's particular interest in this phenomenon lies his father's view, according to which continuous constructive Halakhic activity constitutes a remedy for the damage resulting from forgetfulness.

Most of the literature we have surveyed stresses the nature of the rabbinic tradition as a continuous tradition having its source in the divine revelation at Mt. Sinai. But among *ḥakhamim* especially close to the Halakhic tradition, there are those who regard the role of the *ḥakhamim* not merely as a passive one, as an instrument for preserving revelation, but as an active one, as the agents of continuous construction and reconstruction of the Torah. We will not enter here into the ramified implications of this idea. I would like to stress the fact that, against the background of this general apologetic position based on Maimonides, another alternative emerges within the rabbinic world—one which accepts the legitimacy of forgotten Halakhah.

We hear expressions in the works of R. Hagiz. God has granted authority to the Sages: "For I have found in *Sefer ha-Ḳanah* that the word 'you' [i.e., the Sages] implies 'even contrary to the truth,' and the meaning is that everything which the Sages have done, and everything they have been granted authority to do, represents the truth; and God who is called Truth consents to what they do. Examine this and understand it and guard it in your heart."<sup>168</sup>

This appears a strange thing—but it is not so really. The souls of all Israel were present at Mt. Sinai. Each Jew received there his future lot. So, too, the *ḥakhamim* received their future rulings. "As our Sages have said, every new ruling which the *ḥakhamim* of all generations were to bring forth in every period—all of this they received at Mt. Sinai like the prophecy of the prophets.<sup>169</sup> If so, do not be astonished by this, that everything on which the *ḥakhamim* of Israel agree represents the truth."<sup>170</sup>

Clearly, it is a condition for the *shekhinah* being present in the teachings of *ḥakhamim* that these teachings be pure. "For *they* are truth and their words are truth...For by virtue of the Torah, which is *esh dat*, a divine spirit from...God descends on all who devote themselves to Torah for its own sake, and in purity, for all this power which the Lord gave to the heads of the thousands of Israel He gave of Himself, in order that the perfect Torah which he has given us should be sustained."<sup>171</sup>

<sup>167</sup>Ibid., 103r.

<sup>168</sup>*MH* No. 533, 66v.

<sup>169</sup>Ibid., Nos. 534-535.

<sup>170</sup>This is interpreted in No. 565: "It is not written 'to Malakhi' but 'in the hand of Malakhi' to inform you that the prophecy was in his possession from Mt. Sinai" (fol. 70r).

<sup>171</sup>535-536, 66v.

The purity of the *hakhamim* is a condition, but it is also testimony to the fact that the *shekhinah* speaks from their throats.<sup>172</sup>

### 7. *Emunat Hakhamim*

La virtud consiste en medio

Y se deve definir

entre negar le Heregia

Y supersticion Pueril.<sup>173</sup>

The problem of the authority of the *hakhamim* was reflected in the concept *emunat hakhamim*, a concept particularly characteristic of this period.

R. Moshe Hagiz opens his discussion with a clarification of the general concept of faith, a concept which includes *emunat hakhamim*. *Emunat hakhamim* is an ambiguous concept. On the one hand, it can be understood from the point of view of content, that is, as faith in that which the Sages believe in. On the other hand, we have here a formal concept: faith in the authority of the Sages. R. Hagiz thus interprets the verse, "And they believed in the Lord, and in His servant Moses" (Exodus 14:31) in this way: "And they believed in the Lord"—faith in the first sense—"and in His servant Moses"—in the second sense, "to teach you that one who believes in the shepherd of Israel believes in He who spoke and the world became" (506).

This idea appears again in the context of the revelation on Mt. Sinai. From God's words to Moses, "Lo, I come unto thee in a thick cloud, that the people may hear when I speak with thee, and may also believe thee forever" (Exodus 19:9), we learn that we are dealing with faith not only in Moses, but "also in the prophets who come after you and the *hakhamim* of generations to come who will take the place of the prophets." One must accept "a faith without interruption."

Faith in the first sense is, to some degree, trivial, in view of the miracles performed at the time of the Exodus and during the forty years in the Wilderness. This faith was the same as that of the Egyptians and Canaanites when they heard of these miracles.

What is unique to the Israelites is precisely that they were able to remove themselves from this sort of faith and learned to accept faith of the second sort, so that in our own search for God we must learn "to follow in the footsteps of the faith of our fathers and forefathers, in order that we shall merit that same honor and praise and reward which they merited, and so that this heritage should be that of their descendants forever."

<sup>172</sup>R. Hagiz asserts the legitimacy of varying opinions, stating that "all were given by one shepherd" (*MH* 565, fol. 70r). Disputes and forgetfulness pose theoretical problems, in contrast to the position which naively accepts tradition in the form in which it has been passed down. And cf. contrary ideas demonstrating the legitimacy of Talmudic disputes which appeared in precisely the same period. H. H. Ben Sasson, *Hagut ye-Hanhagah* (Jerusalem, 1959), p. 26f.

<sup>173</sup>Ms. 'Ets *Hayyim* 48A 18, p. 527.

It is clear that a clarification of the concept *emunat ḥakhamim* must lead us to a general clarification of the concept of faith. To understand this concept we must examine its meaning in the classical rationalistic tradition. According to this view, knowledge is at a higher level than faith. This position, however, is entirely erroneous. It is only apparently correct; but, if we analyze it, we will quickly perceive the error in it. The importance of apodictic knowledge does not lie in the scientific method of its acquisition, but in the fact that man internalizes it. The classic case brought by R. Hagiz is that of the scholar who tests his student to find out whether the general principles of Halakhic interpretation have become deeply fixed in his mind.

By this he will be tested: If the scholar or anyone else should try to lead him astray by means of supposed difficulties and contradictions concerning the true *peshat*, the student will stand fast to the true *peshat* which has become deeply fixed in him. But if the student's acceptance of his master's teaching was in the manner of *torat nashim melumadah*, his arguments will easily be stopped up, he will be unable to make counter-arguments...and will fail to stand [the test].

A person's opinion, when he relies on the authority of his master, can easily be exchanged for another opinion. But this will not happen if he knows the principles of Halakhah, for in such a case it will be impossible to lead him from the right path. However, this rule does not hold in the strictly religious sphere. Here, the principal thing is inner conviction, the subjective dimension of faith. Thus it happens that the contemptuous reference to *torat nashim melumadah* surprisingly takes on a positive character. Inner conviction, the subjective choice of the contents of faith, cannot be acquired by knowledge or study, but only by what is referred to as "the faith of your mother."

For this is the way of the Torah of a woman—[thus] she raises her children in the faith of Israel. In the early light of morning she wakes the child in his crib, cleanses his hands, and with one hand readies for him a hot or dry slice of bread, while with her right hand she takes his right hand and says, Close your eyes, and place your hands on them, and repeat after me what I say to you, and afterwards you will eat this bread in my hand. [She] then says to him: Say after me word by word, with your eyes closed—God forbid that you should open them. And she says "shema'," and he repeats after her, "shema'," "Yisra'el"—"Yisra'el," until he has said every single verse of the Written and Oral Law.

The mother teaching her children belief in God's unity follows the ancient custom of covering the eyes while saying the verse. What is the meaning of this custom? Even a simple thing such as this, R. Moshe Hagiz stresses, is perfect Torah. The closed eyes come to testify that we do not require philosophic knowledge acquired by "argument and investigation," but rather we cleave to that complete and perfect faith which we have accepted upon us. It may seem that a person who *knows* a thing internalizes it fully, but this is not so. On the contrary, it is precisely the blind believer who accepts faith upon himself so fully that he cannot be led astray, even if convincing arguments are presented

to him. It is the irreversibility of faith characteristic of the naive believer which is the most important component of faith. In the words of Solomon, "If sinners entice thee, consent thou not" (Proverbs 1:10).

If they should present you with inducements [to turn] against your faith, the answer you should give them is simply, "consent thou not"—I don't want it. For if you start giving arguments *why* you don't want—arguments produce new arguments, and there is no end to the thing, and [your] argument is liable to be overwhelmed by the strength of the counter-argument. He who does not present any argument except the argument of faith which has no rational basis—he simply desires it and his heart tells him that the truth is with him—a person like this cannot be led to swerve from his faith by antagonists.

This holds true not only for basic faith—the substantial faith to which we have referred above—but also for belief in the Sages. Yet it may be necessary to demonstrate that belief in the Sages does indeed belong to the category of faith in the general sense.

It should be said here that the blind nature of faith as described by R. Hagiz does not exclude the possibility of proofs which may contribute to our ability to accept faith. These proofs are based both on Scriptural history and on the history of the Jews in Exile. "Great is the shepherd who places a broken, stray, love-sick lamb among wolves" (496). The Jews do not require such proofs, for "the faith of Israel is fixed and rooted in the Jew's heart" (497). Even in the period of the Judges, when the people appeared to have abandoned its faith, in fact that faith did not budge from the depths of their hearts. In this lies the explanation for the fact that the people always returned to their faith. In this also lies the basis for the true interpretation of the verse, "Let the Lord, I pray Thee, go in the midst of us; for it is a stiff-necked people" (Exodus 34:9). The Sages explain "stiff-necked" thus: "It is difficult for them to turn aside from Thee; therefore they are worthy that Thou shouldst go in the midst of us."<sup>174</sup>

Thus although the eyes are closed, they remain open to the reality round about, which brings us to recognize the bitter truth that "insofar as a person becomes more discerning than his fellow, he will recognize more and more God's great unattainability for him." In contrast, the fool and the ignorant man, neither of whom has studied philosophy, "will think they are close to God, that only a single pace stands between Him and them." This may be paradoxical, but it is true. Here too naive faith reflects the truth that "God is distant and He is close by" (500). He is close by to hear the prayer of those of simple faith, while he is remote from the philosophers who believe He is far from them.

<sup>174</sup>R. Levi b. Gershon, in the name of his grandfather R. Levi ha-Kohen: "For Moses said that because it is difficult (*kasheh*) for this people to turn its back (*oref*) on that which is deeply fixed in it, if You will forgive our iniquities and sins until such time as they [the Israelites] are firm in their faith, You will leave it to them as an inheritance forever, for they are stiff-necked and will not turn aside from that true faith."



Such naive faith may seem to be characteristic of the common people of all faiths, but this is only apparently so. Concerning other faiths the remark of a certain philosopher holds: "The faiths exist only by strength of the imagination." This does not apply to the Jewish people, "for it is a gift from God and a spirit that comes from Him, and the divine breath which He breathed into their nostrils teaches each one (?) to argue and reply to all who come to argue against him" (500).

In numerous stories, some of which have been preserved in *Shevet Yehudah*, we hear of debates between Christian theologians and simple Jews who were able to bring decisive proofs for the truth of their faith, replying to all the difficulties presented to them and demonstrating that their faith was so strong that they could not be made to turn aside from it. Even in the simple Jew, that faith is latent.

The verse which served as a basis for R. Hagiz' discussion of faith—"And they believed in the Lord, and in His servant Moses"—is in the end interpreted in another way: "And they believed in the Lord"—this is the Written Law. 'And in His servant Moses'—this is the Oral Law." Faith, then, is associated with the prophets, but even more so with the Sages, who are placed above the prophets.

We have described the position of R. Moshe Hagiz. It can be called distinctly fideistic. The position adopted by R. Aviad Sar-Shalom Basilea in *Emunat Ḥakhamim* is quite similar.

It would be interesting to compare these positions with that of Orobio de Castro. Orobio, like Mortera and others of their circle, could by no means accept an entirely fideistic position, since a position of this sort was adopted by Christianity, with which they were engaged in a fierce debate. If faith cannot withstand the criticism of reason, then Christianity offers a dangerous possibility. Orobio, in his *Epistola Invectiva*, adopted a middle course which constituted a continuation of Jewish medieval rationalism. The truths of Revelation are beyond reason, but do not stand in contradiction to reason.

If we should attempt to summarize the ideological map which now lies before us, we would find that the Jewish intellectual of the seventeenth century was faced with three alternatives. Judaism was engaged in a struggle with philosophical and deistic rationalism, on the one hand, and with Christian fideism, on the other. For the traditional Jewish thinker of a later period, the Christian theological "option" no longer represented a challenge. Thus there emerged a fideistic position, confronting an increasing inclination to rationalism.

The term *emunat ḥakhamim* appears repeatedly in the literature of the period and assumes a new, almost technical meaning. As distinct from the Christian faith and the Sabbatean "faith," another concept is established—faith in the Sages, in the Oral Law and in the rabbinic tradition down through the ages.