



SYNAGOGUE AND STATE

THE EVOLUTION OF THE RELATIONSHIP BETWEEN THE JEWISH PEOPLE, HALACHA, AND THE STATE

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Introduction

Jewish law, known as *Halacha*, is the cornerstone of the Jewish faith. It serves as the comprehensive legal system, moral standard, and code of conduct for the Jewish people. Halacha regulates the lives of practicing Jews, informs their social and communal interactions, and provides context for the Jewish perspective. The story of the Jewish nation, its tumultuous history and lived experience, can neither be fully understood nor appreciated without a firm grasp of the role of Halacha in Jewish society.

Since receiving the Torah on Mt. Sinai and the establishment of Halacha as the legal system of the Jewish people, the Jews have encountered, been subjugated by, and peacefully coexisted with numerous political and legal systems, cultures, and societies. Through the ever-changing currents of history, Halacha has been the constant for the often-transient Jewish people and a source of guidance they could consult to navigate the complex variety of interactions with the broader world. For the Jewish faith, Halacha has always been, and remains, the most important element in defining its relationships—both individual and communal—with the outside world. And for the outside world, Halacha has often served as a gateway for broader society to engage with the Jewish community.

The goal of this paper is to provide insight into the relationships between Halacha, the Jewish people, and the various forms of state and state legal systems they have crossed paths with throughout the millennia. I begin by examining the way in which Halacha is both the core of Jewish religious practice as well as the civil legal system of the Jewish people, and the interconnectedness of law and religion in the Jewish community. I highlight the influence of this relationship between faith and law during the temple era, when Halacha was the law of the land, as well as the post-exile and contemporary communal structures, where the role of Halacha is determined by individual choice and communal engagement. Additionally, I explore how Halacha has evolved over time to reflect the shift of circumstances of the Jewish people from a national commonwealth with an established legal structure, to a people in exile fragmented by millennia of turmoil and persecution.

I discuss how Halacha conceives of and distinguishes between various forms of secular government and legal systems that regulate non-Jewish societies. Following that, I summarize the Jewish imperative to obey the law of the land—known as *Dinah d'Malchusa*—how this is a halachic obligation as well as a civic one, and how the nature and character of a state and its laws determine the level of mandated halachic obedience.

Finally, I look at the perspectives of the non-Jewish regimes that have encountered Halacha and the different levels of integration it has had in broader legal systems throughout the generations. I explore some of the conflicts that can strain the relationship between Halacha and secular law, as well

as methods—both those built-in to Halacha and measures of accommodation adopted by secular society—that have been implemented to manage them. I conclude with some thoughts on the current relationship between Western society and Halacha and the ongoing dialogue between them.

Ultimately, the relationship between Halacha and societal law is the longest-running case study of a religious minority—one that is often persecuted and oppressed—struggling to maintain its identity while simultaneously trying to engage in and contribute to the broader society. Through it all, Halacha has acted as both the protector of the Jewish faith and the bridge between the Jewish community and the societies that it has

encountered. While this story is far from over, I hope this paper can provide some insight into how Jewish law perceives secular law, the secular state, and its relationship to both.

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Halacha—A Religious Legal System

Before we can understand how Halacha understands secular law, we must first examine the structure of Halacha itself and the role it plays in Jewish life. Halacha is as ancient as the Jewish people and has, by and large, maintained its structure since it was first developed. Originally, Halacha was divided into two parts; the written code, which is contained in the five books of Moses (the Pentateuch), and the oral accompaniment, which was to be passed down through the generations from teacher to student. However, following the destruction of the Second Temple, the rabbinical sages feared that the oral tradition would be forgotten and decided to redact it for future generations in the form of a codified text known as the *Mishnah*. Over the subsequent millennia, various rabbinical authorities expanded on the Mishnah in works such as the *Talmud*, *Mishnah Torah*, the *Tur* and Rabbi Yosef Cairo's code of Jewish law known as the *Shulchan Aruch* to clarify the laws, eliminate textual obscurities, and preserve the integrity of the halachic tradition. This body of literature, along with numerous other works and commentaries, allows us to not only understand the individual practices required by Halacha but also the underlying perspectives that shape them.¹

At its core, Halacha is a legal code that is intended to guide every aspect of Jewish life. From individual religious practices to complex business disputes, Halacha has thoroughly mapped the various situations in both personal and communal life where direction would be required and provided

guidelines for how to navigate them. Halacha is far more than just a religious manual or a legal system; it is a comprehensive rendering of the Jewish perspective on the totality of life's experiences.²

Halacha does not distinguish between church and state. On the contrary, the religious aspect of Judaism plays a dominant role in all areas of communal life, including political structures and civil proceedings. Examples of this include the necessity for witnesses and judges in a Jewish court to be free of sin,³ the requirement for Jewish kings to write and carry a Torah scroll (Deut. 17:18–20), and the civil status of “a person in good standing” (*chezkas kashrus*) being closely tied to their religious conduct.⁴ This fusion of religious practice and day-to-day life has resulted in a social dynamic where civil proceedings are religious in nature and the culture of religious observance has immense social significance. Thus Halacha cannot be limited to any specific area of practice—be it religious, legal, or social. Rather, it is *the* determiner of all areas of Jewish life, both communal and individual; and throughout the generations, Jewish communities have drawn deeply from this principle to both structure their internal workings and define their relationships with other communities.⁵

Halacha and the Jewish People Through Time

In biblical Israel, Halacha served as the state legal system for the two Jewish commonwealths. Since the destruction of the Second Temple and subsequent exile, it has become a code of religious law for practicing Jews and Jewish communities. During the temple era, when Halacha was the law of the land, Jewish courts, known as *Botei Din*, would rule on religious matters, civil disputes, and everything in between. The religious aspects of Halacha were prominent in public life, and the clerical element of the people—rabbinical judges and the priestly class—enjoyed a large degree of political power. With the backing of the state coupled with widespread buy-in from the nation, the observance of Halacha in the temple era was an entrenched social institution that was central to all state functions.⁶

With the destruction of the Second Temple and the transition into exile, the role of Halacha in Jewish life was forced to change from state law into religious law. Prior to the exile, participation in the halachic sphere was not voluntary insofar as it was mandated by the state. However, once the state was destroyed, the level of halachic observance was determined by each person's individual commitment to the Jewish faith and practices.

Appreciating that the dynamics of Jewish life were about to change for the foreseeable future, the rabbis understood that Halacha would have to adapt to survive. Furthermore, they also recognized that the Jews would become subjects of foreign governments and legal systems that were not based in Halacha.⁷ This reality necessitated the rabbis to take a hard look at the future and consider two critical questions:

1. How would the Jewish people maintain their loyalty to the Jewish faith and halachic lifestyles while living in foreign lands?
2. What level of halachic obligation do Jewish people have to obey secular law—especially when residing in a polity that is unfriendly toward Jews?

The first question was addressed through the institution of a series of policies and practices that were designed to guarantee the survival of the Jewish religion and identity. Practices such as daily communal prayer,⁸ the establishment of a fixed lunar calendar,⁹ and designation of rabbinical courts for communal disputes¹⁰ ensured that the Jewish people would remain committed to the faith of their ancestors and maintain a sense of community through the coming centuries of exile.

Additionally, the rabbis altered the tone of halachic discourse to reflect the reality that the Jewish people were no longer in absolute control of their own communities. Regional politics, Jewish interactions with non-Jews, and the reliance on community leadership as opposed to national leadership became key considerations when determining important decisions in Halacha.¹¹ Over time, the structure of Halacha changed from being geared toward a state-run legal system to a code of religious law that accounted for the changed circumstances of the Jewish people—a people with their own laws yet beholden to outside governance that affected their ability to maintain their own legal system.

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Regarding the second question, the rabbis compiled a section of Halacha that addressed state law/secular law, which is known as *Dinah d'Malchusa*. This collection of laws addressed the halachic conception of foreign states, the categories of laws they create, and the level of halachic obligation that Jewish people have to state legal systems. This category of Halacha would prove invaluable for the exiled Jewish nation that was struggling to balance its responsibilities to its faith with its civic obligations to new places of residence.¹²

***Dinah d'Malchusa*—The Law of the Land**

It is the opinion of most halachic authorities that the laws of *Dinah d'Malchusa* are sourced in biblical principles and are not a rabbinical mandate.¹³ However, as *Dinah d'Malchusa* only became a relevant halachic topic when the Jewish people were sent into exile and prolonged residency in foreign lands, its halachic treatment begins in the Talmud, which was compiled long after the destruction of the

Second Temple. That said, despite its late introduction to the halachic canon, the sages made sure to demonstrably connect it to existing halachic practices and rulings to ensure its legitimacy and acceptance.¹⁴

The talmudic sages determined that foreign legal systems are halachically binding and that state law applies to all the inhabitants of the state—Jews included. This principle, known by its Hebrew title *Dinah d'Malchusa Dinah* (literally translated as “the law of the regime is law”) is attributed to the talmudic-era sage Shmuel and is quoted in multiple places in the Talmud. The significance of *Dinah d'Malchusa* is that it halachically obligates Jewish people residing or spending time in non-halachic polities to abide by the law of the land beyond the local legal obligation to do so. That said, *Dinah d'Malchusa* is not a given, and its scope is determined by the character of a state government and the kinds of laws it enacts.¹⁵

The Halachic View of Law and State

Halacha believes that law is a fundamental tenet of society and that an effective legal system is a critical requirement for any functioning civilization. The Torah instructs the Jewish people to establish judges and police officers in all of their “gates” to educate the people regarding the law and to enforce it (Deut. 16:18). Beyond the Jewish obligation to establish courts, one of the seven Noachide laws is dedicated to non-Jewish societies creating and maintaining functioning legal systems.¹⁶ This imperative for a law-abiding society is the cornerstone of the halachic perspective regarding Jewish legal obligation when residing in non-Jewish societies.

The Mishnah states that Jews should “pray for the security of the regime, for without it, man would swallow his fellow alive.”¹⁷ The Bartenura, one of the foremost commentators of the Mishnah, notes that this observation applies not only to Jewish states but to non-Jewish governments as well.¹⁸ He refers the student to a passage in the Talmud that relates an anarchistic society to that of the sea.¹⁹ In the sea, the bigger fish swallow the smaller fish without fear of repercussions. The same is true for a lawless society where people can do as they please.

It is interesting to note that the Bartenura does not draw a distinction between governments that are friendly to Jewish communities and those that are hostile. In fact, throughout history, many of the societies where Jews resided were discriminatory and oppressive. As a case in point, for much of his life, the Bartenura himself lived in Jerusalem, where Jews were required to pay a special Jewish tax to the local Islamic regime.²⁰ Yet despite this legislative persecution, he quietly cautions that a regime of law and order—even one that discriminates against Jews—is preferable to anarchy.

That said, Halacha does not consider all state governments to be equal, and draws distinctions between regimes that hold the “will of the people” and tyrannical governments that do not. The *Shulchan Aruch*—the codification of Halacha by Rabbi Yosef Cairo—quotes Maimonides, who states that *Dinah d’Malchusa* only applies in a regime where the king’s image is minted on the coins, as this means that the governed consent to the ruler and thus are not a state of slaves. However, if the king’s image is not on the official currency, then it is clear the king does not have the consent of the governed and is akin to an armed bandit and considered to be a thief in all regards.²¹ Maimonides’s assertion that the government must have the consent of the governed is the dominant opinion of Halacha and is an integral requirement for the application of *Dinah d’Malchusa*.²²

Historically, Halacha’s discussion of state governments typically examined monarchies.²³ The aforementioned distinction between different kinds of monarchies reads very similarly to Louis Althusser’s interpretation of Montesquieu’s differentiation between consensual monarchies that rely on the goodwill of the people and noble classes, contrasted by despotic regimes held together artificially by the will of a despot.²⁴ This relationship between the ruler and the people determines the application of *Dinah d’Malchusa* and the halachic obligation for Jews to obey the law of the land. However, the question of *Dinah d’Malchusa* applying to democracy is not discussed in the *Shulchan Aruch* and is a more contemporary issue that has arisen together with the emergence of democracy as a geopolitical mainstay.

Despite its lack of mention in the core halachic literature, the overwhelming consensus of contemporary rabbinic authorities is that *Dinah d’Malchusa* applies to democratic states as well as monarchies. The late Rabbi Ovadia Yosef, one of the leading halachic decisors of the twentieth century and former Sephardic Chief Rabbi of Israel, offers two halachic arguments to support the position that *Dinah d’Malchusa* includes democratically elected governments and legal systems.²⁵

The first is a critical examination of a talmudic discussion in the Tractate Bava Kamah.²⁶ The Mishnah in *Bava Kamah* states that a person cannot exchange coins from the boxes of customs collectors or the purses of tax collectors because the money they acquire is considered stolen. The narrator responds by quoting Shmuel’s assertion that the law of the land is law and that the money that the tax collectors levy should not be considered halachically stolen. The Talmud responds by qualifying the Mishnah, and explains that it refers to a tax collector who does not have a limit on the kinds of taxes they collect or that the tax collector is a strongman and is not empowered by a legitimate king. The Talmud continues and cites other similar cases where a Mishnah seems to indicate that assets collected by a tax collector are not legitimate acquisitions. Each time, the Talmud answers by qualifying the tax collector as an illegitimate collections officer that does not adhere to the rule of law.

Rabbi Yosef suggests that in this case the absence of evidence is indeed evidence of absence. He argues that had *Dinah d'Malchusa* not applied to democracies, the talmudic sages would have reconciled the apparent talmudic contradictions by asserting that the tax collector was operating on behalf of a democracy.²⁷ Instead, the Talmud chose to disqualify the office of this particular tax collector as a way to explain the issue when a seemingly simpler option was available. Rabbi Yosef writes that this constitutes implicit proof that the talmudic sages believed that *Dinah d'Malchusa* applies to democracy.

His second proof, also from the tractate *Bava Kamah*, is drawn for an examination of the institution of *Dina d'Malchusa* itself.²⁸ The Talmud quotes Shmuel's assertion that the law of the land is the law. Rava offers a proof to this by arguing that if that were not the case, then the property seized for state infrastructure would be considered stolen goods and would be halachically forbidden for Jews to derive benefit from them. For example, if the government seized private lumber to build a bridge and Halacha considered that act to be theft, Jews would be forbidden from using that bridge as it was constructed from stolen materials. Rabbi Yosef argues that the same logic should apply to democratic states and, as we do not find a halachic designation of theft on state infrastructure constructed through taxation of the people (or eminent domain or other such seizure), it is safe to assume that they too are considered legally obtained.

Furthermore, there is a compelling case to argue that the criteria for *Dinah d'Malchusa* fit more naturally to democratic governments than to traditional monarchies. If we recall the halachic criteria for a king to have the people's consent for *Dinah d'Malchusa* to apply, it should follow that if the people rule themselves through elected representation then the halachic obligation to obey the law should be even stronger. Regardless, whether the government is similar to the monarchies of old or the modern nation-states, as long as the government is a legitimate political power that holds the goodwill of the people, as far as *Dinah d'Malchusa* is concerned, its laws command a halachic obligation of respect and obedience.²⁹

Scope and Breadth

Just as *Dinah d'Malchusa* differentiates between different kinds of governments, so too does it draw distinctions between various categories of laws.³⁰ There are many differences of opinion among the halachic authorities regarding the extent to which state law is halachically enforceable, and to which kinds of law it applies. While a full treatment of *Dinah d'Malchusa* is beyond the scope of this paper, a general outline will provide insight into the character of *Dinah d'Malchusa* and how it informs the obligations of the Jewish community.

The generally accepted understanding of *Dinah d'Malchusa* is that it applies to laws that concern the state and state governance, as opposed to ad hoc discretionary decisions made by a regent. Laws that affect the physical land of the state, the criminal code, and currency are all included in the halachic umbrella that is *Dinah d'Malchusa*. Conversely, individual, one-time decisions made by a regent, such as punitive punishment for individual citizens, are not part of *Dinah d'Malchusa* and carry no halachic obligation for Jews to obey them.³¹

There is some dispute amongst the *Poskim* (rabbinic decisors) with regard to the application of this principle as it pertains to commerce and business. Some believe that all transfers of property—both land and movable—are subject to state laws and processes, while some hold that only processes involving land are part of the regime and are covered by *Dinah d'Malchusa*.³² There is a similar dispute regarding state seizure and whether a decree from the regent is enough to acquire property for the state or whether the state must make a legal act of acquisition in order to turn land into state property.³³

Halacha also draws a distinction between the state government and the court systems. When it comes to the law, Halacha holds that decisions made by the courts are not considered *Dinah d'Malchusa*. While Jews are obligated to utilize the state-run court systems for dispute resolution between Jews and non-Jews, when it comes to the Jewish community, the Beth Din rabbinical court system is still the halachic method of conflict resolution.³⁴

However, in Western societies where the court systems play an integral role in the interpretation of state law, there may be a strong argument to say that court decisions that affect the laws of the state should be considered part of state law and included in *Dinah d'Malchusa*. In places where the court decisions are limited to individual cases and not incorporated into the greater body of state law, as was the case in many places where Jews resided throughout history, the implementation of these decisions by Halacha would lead to the eventual nullification of the halachic code through ad hoc court decisions. Instead of using Halacha to adjudicate disputes, the Jewish community would have to consult state judges for every dispute, thus making Halacha irrelevant. Halacha obviously rejects this idea and does not actively contribute to its own demise.³⁵ However, in countries where the judiciary is a mechanism of the state legislative process and functionally interprets laws of the state that are within the parameters of *Dinah d'Malchusa*, it is logical to assume that those decisions are considered equal to laws issued by a government and carry the same halachic obligation of obedience.

Taxation is another area of dispute among the *Poskim*. The generally accepted view is that taxes that have set limits, and methods of collection are included in *Dinah d'Malchusa*.³⁶ However, taxes that are not fixed but rather determined by the whim of a regent or individual tax collectors are not considered legitimate state actions and are not covered by *Dinah d'Malchusa*.³⁷ This determination of legitimacy

extends to individual tax collectors—especially Jewish tax collectors—that collect taxes on behalf of the state. In the case of legitimate taxes, the tax collector is considered to be acting in the legal interests of the state, and the property he or she collects is not deemed to be stolen goods. Conversely, in a case of discretionary collection where the tax collector arbitrarily decides what to take and how much to take, the property collected is considered stolen and the tax collector a thief. If the tax collector is Jewish, then they would lose their *Chezkas Kashrus* (status of good standing) and would lose certain community privileges.³⁸ In democracies where taxation is part of the social contract and understood to be for the common good, the halachic imperative to pay taxes is clear and not in question.

Conflicts Between Halacha and State Law

Both historically and contemporarily, conflicts between Halacha and state law have presented the Jewish community with a difficult set of challenges in navigating conflicting imperatives and obligations. The deep commitment to Halacha, balanced by civic and halachic commitments to state law, has resulted in a variety of challenging scenarios for the Jewish community. Over time, the

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halachic community has learned to recognize these situations and has developed policies for confronting them.

The first kind of conflict is a direct challenge to Judaism and Jewish identity. There have been numerous instances when a state has issued decrees that directly target Jewish practices and/or the Jewish people. Certain Roman

governments issued bans against a wide array of Jewish observances and rituals that would have made it impossible to practice the Jewish faith.³⁹ Similarly, during the period of the Spanish Inquisition, simply professing the Jewish faith was enough of a crime to merit capital punishment or exile.⁴⁰

When Judaism or core Jewish practices—such as the ability to observe the Sabbath, worship the Jewish God, or study the Torah—are threatened, Halacha requires the Jewish people to reject those laws and aggressively work to preserve the faith.⁴¹ Members of the faith who give their lives to protect Judaism (*moser nafsham al kiddush Hashem*) are remembered as martyrs and occupy a unique place of reverence in Jewish history.⁴² From the Maccabees to the Holocaust, the Jewish faith reveres those who defied oppressive regimes and paid the ultimate price to protect Judaism.

A second kind of conflict is one where the state institutes laws that clash with Halacha but do not threaten the Jewish faith directly. For example, Jewish ritual slaughter (*Shechita*) has been banned

numerous times throughout history—both as a way of persecution and as a result of governmental regulation that was never intended to conflict with religious practice. Without *Shechita*, Jews cannot eat meat and poultry products—even if the animals would otherwise be considered kosher.⁴³

A ban on *Shechita* presents an interesting problem for the Jewish community. On the one hand, without the ability to slaughter animals, the Jews cannot produce meat and poultry products locally. Beyond the obvious blow to the already restricted kosher diet, the optimal observance of certain Jewish holidays is done with a meat-based feast (or several feasts). Without access to meat products, the quality of life for the Jewish community would be substantively affected.⁴⁴ On the other hand, due to the halachic obligations of *Dinah d'Malchusa* and a general interest in preserving the rule of law, disregarding the prohibition against *Shechita* and continuing ritual slaughter in violation of state law may not be the halachically recommended approach.

In practice, the Jewish community has been largely successful in lobbying the regulatory bodies responsible for overseeing the meat and poultry industries and has consistently managed to strike a balance that allows for the continued production of kosher meats. Regardless, continuing to maintain a productive meat-processing facility that violates state law is almost impossible in the modern era of regular inspections, thus making this problem mostly academic. That said, a conflict created through incidental regulation that affects halachic practices is a delicate matter that must be evaluated on a case-by-case basis.

The third category of conflict is where state laws and customs create an environment where observing Halacha results in disadvantageous circumstances for halachically observant Jews without infringing on halachic practice. For example, the early twentieth-century labour conditions, before the days of religious accommodation, made it exceptionally difficult for Jews to maintain employment. As there was an expectation that every employee would work on Saturdays, the Jewish Sabbath, for a Jewish person to refuse to work on that day would result in immediate dismissal. In cases such as these, although there was no explicit conflict between Halacha and state law, the lack of protection for religious observance unintentionally resulted in a conflict between halachic observance and the desire to participate in the broader society.⁴⁵

In these situations, Halacha expects its adherents to dutifully remain loyal to its precepts regardless of the difficulty involved. While it does recognize the hardships associated with a committed religious lifestyle, the Jewish faith considers the observance of Halacha to be the primary directive in a Jewish person's life—regardless of the circumstances.⁴⁶ However, it does not prevent the Jewish people from working within the system to foster understanding and accommodation. In fact, throughout history, the ability for Jews to work within legal systems to obtain recognition for halachic practices and

accommodation for religious lifestyle has resulted in many positive developments not only for the Jewish community but for broader religious observance as well.⁴⁷

Secular Law, Halacha, and the Jewish Community

Since the destruction of the Second Temple, the Jewish people have experienced a variety of legal systems and forms of government. The general well-being of the Jewish community depended greatly on the attitudes of the governments and societies within which they resided. Part of the dynamics between the Jewish communities and the state was the religious element where a pagan, Christian, Muslim, or secular majority would decide what kind of relationship it would have with the Jewish minority and its halachic legal system. While a full accounting of the Jewish experience throughout the ages is well beyond the scope of this paper, highlighting certain periods of societal interactions and communal relationships will provide some insight into the evolution of Halacha within the broader legal landscape.

The relationship between the state legal system and Halacha was often informed by the state's perspective on its Jewish inhabitants, as well as the method of governance used by the state. In some instances, such as the Ottoman Empire and some periods in the Roman Empire,⁴⁸ the Jewish community enjoyed a large degree of autonomy and was empowered to independently administer many of its own affairs. In these arrangements, the rabbinical courts (*Botei Din*) were imbued with legal authority to adjudicate the affairs of the Jewish community and acted with state authority when arbitrating disputes.⁴⁹

This form of secular recognition represents the highest form of legal recognition that Halacha has received from a non-Jewish power.⁵⁰ The ability for Jews to use Halacha as a legal system while living in a non-halachic society is not only an acknowledgment of Halacha as a valid legal system recognized by state law but also a declaration of the state that the Jewish community is a functioning legal society that is able to operate autonomously (or semi-autonomously).

However, the motives behind these relationships were not solely driven by altruism and social empowerment. Historically, these sorts of arrangements only functioned in situations where the Jewish community was one minority among many, as was the case with the Ottoman Empire, or a subjugated nation, as was the case in Rome.⁵¹ The autonomy granted to the Jewish community was just as much a form of delegating state control as it was a gesture of empowerment. In exchange for limited autonomy, the Jewish community and other minorities governed themselves in a way that allowed the state or empire to focus on broader governance and territorial sovereignty. In this, the relationship between the state and the Jewish community benefited both parties, as it allowed

the Jews to observe Halacha while the state was able to mitigate the amount of effort and expense required to govern them.

On the opposite extreme, there have been more than a few regimes that were overtly hostile towards their Jewish minorities. During periods of the Roman Empire when the Jewish faith was seen as a threat to Roman hegemony, the Roman state attempted to eradicate the Jewish faith by outlawing certain core halachic practices such as circumcision, rabbinic ordination, observance of the Sabbath, and the Jewish lunar calendar.⁵² Under these governmental conditions, the observance of Halacha wasn't just difficult—it was dangerous.

The Roman Empire was not the only state power that sought to destroy the Jewish people. Throughout the Middle Ages, many European regimes instituted policies that were designed to persecute the Jewish population or convert them to Christianity. The numerous expulsions, blood libels, and inquisitions contributed to a harsh set of living conditions that made the mere concept of being Jewish a perilous endeavour. When the state power was attempting to abolish or expel the Jewish faithful, the state's knowledge of Halacha was used as a weapon to identify Jewish practice and punish its observers.⁵³

In between these two extremes lies the bulk of the Jewish experience in the millennia following the exile from Israel and the loss of statehood. Under the bulk of most Christian and Muslim regimes, the Jews occupied a minority role that was both begrudgingly tolerated and actively persecuted. Under Islamic rule, Jews and Christians were designated with dhimmi status that both protected their rights to practice their respective faiths but also relegated them to an inferior social status that usually included persecutory measures such as the dhimmi tax, clothing restrictions, limited property and legal rights, as well as various social exclusions. Similarly, under Christian rule, the Jewish communities were often the subject of social and economic exclusion, extra taxation, and general persecution while at the same time occupying the role of a tolerated, if not welcomed, minority that had a recognized societal standing.⁵⁴

Under these conditions, the role of Halacha acted as an internal mechanism for the Jewish community to administer its affairs without having to involve the generally unfriendly state legal system. In these circumstances, the state did not include Halacha as part of its legal process but did not forbid it as a method of communal adjudication and religious observance. In dealing with the broader society, the Jewish community was held to the law of the land—as was everyone else—and had to avail themselves of a legal code that systemically discriminated against it. Within their own community, however, the Jews were typically free to rely on Halacha as a communal legal system.

The Enlightenment brought many changes to the European Jewish experience, its role in society, and the reliance of Halacha in community life. As religious centralism was replaced by secularism and

nationalism, the Jews found that for the first time they could engage with the broader society without the religious barriers that previously guaranteed their second-class status.⁵⁵ This caused many in the community to shed their Jewish religious beliefs and adopt the identities of citizens of the state.⁵⁶ This led to a split within the Jewish community between those who strictly maintained Jewish culture and communal norms and those who wanted to rid themselves of an identity that had prevented them from achieving elevated levels of social excellence or acceptance within broader society.⁵⁷

This split affected the centrality of Halacha within the Jewish community.⁵⁸ In the past, most of the Jewish social structure was limited to the Jewish community. This, coupled with the hostility of the state legal systems, rendered Halacha as the only reliable method for fair legal proceedings and culturally sensitive communal policy. However, with the opportunities provided by the post-Enlightenment social values, Jews were now able to avail themselves of the secular legal system and culture without fear of discrimination or prejudice. Conversely, from the state's perspective, the establishment of a national consciousness representative of the people had no room for religious law as part of its identity and was not about to incorporate a religious code of law such as Halacha into the legal identity of a secular state.

As Western society continued to evolve, the context for Halacha transitioned from an analogous legal system geared toward governing a religious minority to a freedom-of-religion issue. With religious freedoms cast as a defining element of the progressive nation-state ideology, halachic practice and its place in Jewish society became a small part of a larger discussion surrounding religious freedoms and their importance in progressive and liberal society.⁵⁹ In the eyes of the state, the character of Halacha had firmly changed from an alternative legal and semi-legal apparatus to a human rights issue.

This perception of Halacha as a freedom-of-religion issue continues to define the relationship between the state and Halacha in the modern era. As modern state law is intended to be a single standard for the entire state, there is no longer a need for analogous legal systems for community governance. However, as religious freedom is an integral part of a liberal society, the protection of the practice of Halacha is something the state takes seriously.

In some Western societies, the state has introduced provisions for legally protecting the practice of Halacha (and other forms of religious observance) within the broader secular society. The institution of religious accommodation has allowed members of faith groups to observe religious practices that would otherwise conflict with other obligations or opportunities.⁶⁰ In the Jewish context, this allows practicing Jews to take time off work for the Jewish Sabbath and holidays without fear of being penalized, the freedom to wear religious symbols (such as a yarmulke) in public, and build religious structures on their porches despite the building's existing bylaws.⁶¹

Additionally, the ability for rabbinical courts (*Botei Din*) to serve as legally enforceable arbitration panels, as it does in both Canada and the United States, has allowed the Jewish community to practice halachic dispute resolution and adjudication in a way that can be guaranteed by the broader secular legal system.⁶² And while the *Botei Din* no longer serve as the de facto arbitration process for the bulk of the Jewish community, the ability for those who want to use that system is guaranteed by their inclusion in the arbitration process.

Beyond the built-in provisions for the practice of Halacha in secular society, the current state apparatus has identified a role for itself in the practical observance of religion. For example, a recurring issue in the Jewish community that has seen both judicial and legislative

The perception of Halacha as a freedom-of-religion issue continues to define the relationship between the state and Halacha in the modern era.

intervention is the issue of Jewish divorce and the Jewish writ of divorce (the *Gett*) being withheld by a husband, thus preventing a Jewish woman from remarrying within the faith. In both Canada and the United States, the legislature has enacted “removal of barriers” legislation to prevent couples obtaining a civil divorce without first removing other obstacles to the parties pursuing other relationships after the civil termination of the marriage. In this, the state examined the halachic practice that governed Jewish relationships and passed laws that were supportive of and sensitive to Halacha, while also allowing the state to pursue its own goal of marriage equality.⁶³

Through both empowerment and intervention, the Western state has clearly defined its relationship with Halacha. The state considers Halacha—and the rest of the Jewish faith—a fundamental freedom and an integral part of Western society. However, the state does not consider Halacha to be an equal partner in governance nor a system of autonomy for the Jewish population. As a result, the state will tirelessly protect Halacha, as it does all religious practices, unless it becomes incompatible with the norms, values, and structures of state governance.

Conclusion

The relationship between Halacha and state law is as old as the Jewish faith itself. For thousands of years, the Jewish community has used Halacha as a mechanism for defining its relationship with the broader community of nations and its various legal systems. The detailed and nuanced halachic treatment of state government and legal systems coupled with a deep reverence for the rule of law has provided a comprehensive guide for interacting with the non-Jewish world.

Correspondingly, since the destruction of the Second Temple, state governments have similarly recognized the role of Halacha in the Jewish faith and the influence it has on its members. Accordingly, for two thousand years, when dealing with the Jewish people, the state has had to account for the halachic perspective and include that in its process for legislating the Jewish community. Whether the state wanted to co-opt Halacha as a form of semi-autonomous sublegal system or preferred to wipe it out completely, the state would always have to consult Halacha when considering the Jewish community.

This relationship is ongoing and continues to evolve. We in the developed world are fortunate to live among those who not only tolerate religious minorities but also value their place in the mosaic of society. This has allowed the Jewish community to flourish and substantively contribute to the broader community. However, the book is not yet closed on determining the place of religious life within a mostly secular state, and we continue to bear witness to a highly evolved legal and civic system doing its utmost to balance its commitments to uphold the numerous and sometimes conflicting rights of its different peoples—all of whom look to the state to guarantee their protected statuses. And while we cannot know what the future has in store, we can expect the rapport between secular law and Halacha to continue to evolve and play an active role in defining the relationship between the Jewish community and broader society. ^

ENDNOTES

- 1 Maimonides, *Introduction to the Mishnah (Sefer Hamaor)*, 1145–68. See also Hayim H. Donin, *To Be a Jew: A Guide to Jewish Observance in Contemporary Life* (New York: Basic Books, 2019); Joseph Telushkin, *Jewish Literacy: The Most Important Things to Know About the Jewish Religion, Its People, and Its History* (New York: William Morrow, 2008); Shlomo Yosef Zevin, “Halacha,” in *Talmudic Encyclopedia*. Jerusalem: Talmudic Encyclopedia Institute, 1990, vol. 9.
- 2 Maimonides, *Introduction to the Mishnah (Sefer Hamaor)*, 1145–68. See also Aruch, Halacha.
- 3 *Tur* and *Shulchan Aruch*, Choshen Mishpat, chaps. 8 and 34. See also Maimonides, *Mishnah Torah*, Judges—Courts, chap. 2, and Laws of Witnesses, chap. 9.
- 4 An individual’s good-standing status can affect many aspects of their social life such as their ability to swear an oath, participate in certain communal proceedings and rituals, and give testimony in a Jewish court. See Zevin, “Halacha”; Chezkas Kashrus, vol. 14. See also Maimonides, *Mishnah Torah*, Laws of Sanctifying the New Moon, chap. 2; Lechem Mishnah on the *Mishnah Torah*, Judges—Courts, chap. 2, and Laws of Witnesses, chap. 9.
- 5 See note 1.
- 6 Telushkin, *Jewish Literacy*. See also Yaffa Ganz and Berel Wein, *Sand and Stars: The Jewish Journey Through Time* (New York: Shaar Press, 1994); *Tur*, Choshen Mishpat 1:1; Maimonides, *Mishnah Torah*, Judges—Laws of Courts, chap. 1.
- 7 Telushkin, *Jewish Literacy*. See also Ganz and Wein, *Sand and Stars*; Chaim Schloss, *2000 Years of Jewish History: From the Destruction of the Second Bais Hamikdash until the Twentieth Century* (Jerusalem: Feldheim, 2004).
- 8 “History of Jewish Prayer.” My Jewish Learning, www.myjewishlearning.com/article/history-of-jewish-prayer/. See also Donin, *To Be a Jew*.
- 9 During the times of the temple, the new month would begin when witnesses testified in a rabbinical court in Jerusalem that they had seen the new moon. When the Romans destroyed the temple, they issued a series of decrees that were intended to undermine the structure of the Jewish religion. One such decree outlawed the practice of establishing a new month based on lunar testimony. This forced the rabbis to create a fixed calendar, so the Jews would know when the holidays would be held as well as when to the new year would be. See Maimonides, *Mishnah Torah*, Times—Sanctification of the New Moon, chap. 5. See also Telushkin, *Jewish Literacy*.
- 10 *Tur* and *Shulchan Aruch*, Choshen Mishpat, chaps. 1–27.
- 11 Yitzchak Issac Hertzog et al., *Halakhah pesukah: mishpat Ha-Torah Li-meqorotay Ba-Talmud u-foskim ‘al Seder Ha-Shulhan-‘arukh, Hoshen Ha-mishpat* (Jerusalem: The Harry Fishel Institute, 1962), 11–30.
- 12 Zevin, “Halacha”; *Dinah D’Malchusa*, vol. 7. See also Talmud: Gittin 10:b, Nedarim 28:a. *Tur* and *Shulchan Aruch*, Choshen Mishpat, chap. 369.
- 13 In Jewish law there are two general categories of mitzvot (commandments); biblical commandments that are derived directly from a biblical verse or interpretation of a biblical directive, and rabbinical commandments that are essentially decrees issued by rabbinical authorities. Although the ability for the rabbis to issue these directives is sourced in the Torah, they do not have the status of biblical mitzvot and are generally considered to be of lesser standing.
- 14 Zevin, “Halacha”; *Dinah D’Malchusa*, vol. 7. See also Beis Shmuel, Even ha’Ezer 28:3; Avnei Miluyim; Chasam Sofer, Responsa—Yore Deia, chap. 314; Dvar Avraham, Responsa—Even ha’Ezer, chap. 28.
- 15 Zevin, “Halacha.” See also Talmud: Gittin 10:b, Nedarim 28:a, Bava Basra 54:b. See also Maimonides, *Mishnah Torah*, Laws of

Theft 5:11; *Tur* and *Shulchan Aruch*, Choshen Mishpat chap. 369.

16 The seven Noahide Laws are seven laws that *Halacha* extends to non-Jews as well as Jews. They include: do not worship idols, do not curse God, establish courts of justice, do not murder, do not commit adultery, do not steal, do not eat the flesh of a living animal. See Telushkin, *Jewish Literacy*; “Jewish Concepts,” Jewish Virtual Library, www.jewishvirtuallibrary.org/the-seven-noachide-laws.

17 Pirkei Avot 3:2. See also *Tur*, Choshen Mishpat, 1:1.

18 Bartenura, on Pirkei Avot 3:2.

19 Avodah Zara 4:a.

20 Louis Ginzberg, “Bertinoro, Obadiah (Yareh) B. Abraham.” *Jewish Encyclopedia*, www.jewishencyclopedia.com/articles/3171-bertinoro-obadiah-yareh-b-abraham.

21 Maimonides, *Mishnah Torah*, Theft 5:18. See also *Tur* and *Shulchan Aruch*, Choshen Mishpat 369:2.

22 Zevin, “Halacha.” *Dinah D’Malchusa*, vol. 7.

23 Chaim Jachter, “Dina D’Malchuta Dina,” Kol Torah, 2009, www.koltorah.org/halachah/dina-dmalchuta-dina-by-rabbi-chaim-jachter.

24 Louis Althusser, *Politics and History: Montesquieu, Rousseau, Hegel and Marx* (London: Verso, 1982).

25 Jachter, “Dina D’Malchuta Dina.” See also Ovadia Yosef, Teshuvot Yechave Da’at 5:64.

26 Bava Kama 113:a.

27 Rabbi Yosef also cites sources that demonstrate that the talmudic rabbis were aware of the principles of democracy, and states—such as Rome—where it was the method of state governance. See Tosfos, Avodah Zara 10:b.

28 Bava Kama 113:b.

29 Jachter, “Dina D’Malchuta Dina.”

30 Zevin, “Halacha.” *Dinah D’Malchusa*, volume 7.

31 Zevin, “Halacha.” See also Chidushei ha’Ramban; Bava Basra 55:a; *Magid Mishnah*, Theft 5:13; Ba’al ha’Terumos 46:8:5.

32 Zevin, “Halacha.” See also *Magid Mishnah*, Lender and Borrower 27:1; Chidushei ha’Ramban; Bava Basra 55:a; Ran. Gittin 10:a; Sifsei Kohen. Choshen Mishpat 73:39.

33 Zevin, “Halacha.” See also Rabeinu Yona (Shita Mikubetzes), Bava Basra 54:b and 55:a; Rashbam, Gittin 10:b; Dvar Avraham (responsa), Chelek 1 chap. 1.

34 Zevin, “Halacha.” See also Sifsei Kohen, Choshen Mishpat, 73:39 and at 73:36; Raived on the Ramban as referenced in the Baal HaTerumos, *Non-Jewish Customs*, chap. 49.

35 Zevin, “Halacha.”

36 Zevin, “Halacha.” See also *Tur* and *Shulchan Aruch*, Choshen Mishpat, 369:6; Maimonides, *Mishnah Torah*, Theft and Lost Objects 5:12 and Kings 4:1.

37 Zevin, “Halacha.”

38 *Tur* and *Shulchan Aruch*, Choshen Mishpat, 369:6. See also Rosh. Bava Kama 10:10; Ran. Nedarim 28:a.

- 39 Ganz and Wein, *Sand and Stars*. See also Schloss, *2000 Years*.
- 40 Ganz and Wein, *Sand and Stars*. See also Telushkin, *Jewish Literacy*.
- 41 Maimonides, *Mishnah Torah*, Foundations of Torah 5:3. See also Kesef Mishneh and *Magid Mishnah*, Lender and Borrower 27:1.
- 42 Berachos 61:b.
- 43 Moshe T. Schuchman, "A Cut Above: Shechita in the Crosshairs, Again." *Star-K*, December 5, 2012, www.star-k.org/articles/kashrus-kurrents/548/a-cut-above-shechita-in-the-crosshairs-again/. See also Paolo S. Pozzi and Trevor Waner, "Shechita (Kosher Slaughtering) and European legislation," *Veterinaria italiana* 53, no. 1 (2017): 5–19.
- 44 Schuchman, "A Cut Above."
- 45 Benjamin Kline Hunnicutt, "The Jewish Sabbath Movement in the Early Twentieth Century," *American Jewish History* 69, no. 2 (1979): 196–225, www.jstor.org/stable/23881832.
- 46 Ronald L. Eisenberg, "Shabbat's Work Prohibition," *My Jewish Learning*, www.myjewishlearning.com/article/shabbats-work-prohibition/.
- 47 Hunnicutt, "Jewish Sabbath Movement."
- 48 "Exilarch." Jewish Virtual Library, www.jewishvirtuallibrary.org/exilarch. See also Geoffrey Herman, *A Prince Without a Kingdom: The Exilarch in the Sasanian Era*, Text and Studies in Ancient Judaism 150 (Tübingen Mohr Siebeck, 2012); Norman Bentwich, "The Rightfulness of the Jews in the Roman Empire," *Jewish Quarterly Review* 6, no. 2 (1915): 325–36, www.jstor.org/stable/1451370.
- 49 Izhak Engard, *Religious Law in the Israel Legal System* (Jerusalem: Hebrew University of Jerusalem, Faculty of Law, Harry Sacher Institute for Legislative Research and Comparative Law, 1975). See also Bruce Masters, *Christians and Jews in the Ottoman Arab world: The Roots of Sectarianism* (Cambridge: Cambridge University Press, 2004); Benjamin Braude and Bernard Lewis, eds., *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society*, vol. 2 (New York: Holmes & Meier, 1982).
- 50 That is, aside from the semi-mythical Khazar kingdom depicted in the Kuzari, where the entire state converted to Judaism, and the Himyarite Kingdom in Yemen under Ab Karib As'ad, where the state chose to convert to Judaism as well. See Martin Gilbert, *In Ishmael's House: A History of Jews in Muslim Lands* (New Haven: Yale University Press, 2011). See also Selig Schachnowitz, *The Jewish Kingdom of Kuzar: The Rise and Fall of the Legendary Country of Converts* (Jerusalem: Feldheim, 2007).
- 51 See notes 48 and 49 above.
- 52 Ganz and Wein, *Sand and Stars*. See also Schloss, *2000 Years*.
- 53 Ganz and Wein, *Sand and Stars*. See also Gilbert, *In Ishmael's House*; Gerard S. Sloyan, "Christian Persecution of Jews Over the Centuries," United States Holocaust Memorial Museum, www.ushmm.org/research/the-center-for-advanced-holocaust-studies/programs-ethics-religion-the-holocaust/articles-and-resources/christian-persecution-of-jews-over-the-centuries/; Joseph Pérez, *The Spanish Inquisition: A History* (New Haven: Yale University Press, 2005).
- 54 Gilbert, *In Ishmael's House*. See also Sloyan, "Christian Persecution of Jews."
- 55 Shmuel Ettinger, "Jewish Emancipation and Enlightenment," *My Jewish Learning*, www.myjewishlearning.com/article/jewish-emancipation-and-enlightenment/. See also Jonathan Israel, "How Did the Enlightenment Shape the Jews?" (Stroum Center for Jewish Studies, University of Washington), jewishstudies.washington.edu/jewish-history-and-thought/did-enlightenment-shape-jews-jonathan-israel/; Ira Katznelson and Pierre Birnbaum, *Paths of Emancipation: Jews, States, and Citizenship* (Princeton: Princeton University Press, 2016).

56 Shira Schoenberg, “Modern Jewish History: The Haskalah,” Jewish Virtual Library, www.jewishvirtuallibrary.org/the-haskalah. See also “Haskala,” *Encyclopædia Britannica*, www.britannica.com/topic/Haskala.

57 Ironically, the notion that secularism would cure society from anti-Semitism was proved to be profoundly false by waves of pogroms, the Holocaust, Soviet persecution, and the host of other post-Enlightenment, anti-Jewish occurrences. See Bernard Lewis, “The New Anti-Semitism,” *The American Scholar*, December 1, 2005, <https://theamericanscholar.org/the-new-anti-semitism>. See also Ron Schleifer and Gila Ansell Brauner, “Enlightenment Emancipation and Racial Antisemitism,” The Jewish Agency for Israel, June 17, 2015, www.jewishagency.org/antisemitism/content/24065.

58 See note 56 above.

59 Derek H. Davis, “The Evolution of Religious Freedom as a Universal Human Right: Examining the Role of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,” *Brigham Young University Law Review* 2 (2002): 217. See also Juan Pablo Domínguez, “Introduction: Religious toleration in the Age of Enlightenment,” *History of European Ideas* 43, no. 4 (2017): 273–87.

60 Nancy L. Rosenblum, ed., *Obligations of Citizenship and Demands of Faith: Religious Accommodation in Pluralist Democracies* (Princeton: Princeton University Press, 2000).

61 *Syndicat Northcrest v. Amselem*, 2004 SCC 47, [2004] 2 SCR 551.

62 Yechiel Colman, “Ensuring Enforceability of Beis Din’s Judgments,” *Jewish Law*, May 3, 1998, www.jlaw.com/Articles/Beisdin1.html. See also Michael Brody, “Making Religious Arbitration Work in America: The Jewish Experience,” *Washington Post*, June 26, 2017, www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/26/making-religious-arbitration-work-in-america-the-jewish-experience/. See also Ginnine Fried, “The Collision of Church and State: A Primer to Beth Din Arbitration and the New York Secular Courts,” *Fordham Urban Law Journal* 31, no. 2 (2003): 633.

63 Irving Breitowitz, “The Plight of the Agunah: A Study in Halacha, Contract, and the First Amendment,” *Maryland Law Review* 51, no. 2 (1992): 312. See also Michael J. Brody, “The 1992 New York Get Law,” *Tradition: A Journal of Orthodox Jewish Thought* 29, no. 4 (1995): 5–13; Divorce Act, Sec 21.1 (R.S.C., 1985, c. 3 (2nd Supp.)); “Province of Ontario and Canada’s ‘Get Legislation’ Law.” *Aguna And Her Get*, July 2, 2014, agunahandherget.com/testing-post-seven/.

BIBLIOGRAPHY

- Bentwich, Norman. "The Rightfulness of the Jews in the Roman Empire." *Jewish Quarterly Review* 6, no. 2 (1915): 325–36. www.jstor.org/stable/1451370.
- Bielefeldt, Heiner. "Freedom of Religion or Belief—A Human Right Under Pressure." *Oxford Journal of Law and Religion* 1, no. 1 (2012): 15–35. <https://doi.org/10.1093/ojlr/rwr018>.
- Braude, Benjamin, and Bernard Lewis, eds. *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society*. Vol. 2. New York: Holmes & Meier, 1982.
- Breitowitz, Irving. "The Plight of the Agunah: A Study in Halacha, Contract, and the First Amendment." *Maryland Law Review* 51, no. 2 (1992): 312–421.
- Broyde, Michael. "Making Religious Arbitration Work in America: The Jewish Experience." *Washington Post*. June 26, 2017. <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/26/making-religious-arbitration-work-in-america-the-jewish-experience/>.
- Broyde, Michael J. "The 1992 New York Get Law." *Tradition: A Journal of Orthodox Jewish Thought* 29, no. 4 (1995): 5–13.
- Colman, Yechiel. "Ensuring Enforceability of Beis Din's Judgments." *Jewish Law*. May 3, 1998. www.jlaw.com/Articles/Beisdin1.html.
- Davis, Derek H. "The Evolution of Religious Freedom as a Universal Human Right: Examining the Role of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief." *Brigham Young University Law Review* 2 (2002): 217–36.
- Domínguez, Juan Pablo. "Introduction: Religious toleration in the Age of Enlightenment." *History of European Ideas* 43, no. 4 (2017): 273–87.
- Donin, Hayim H. *To Be A Jew: A Guide to Jewish Observance in Contemporary Life*. New York: Basic Books, 2019.
- Eisenberg, Ronald L. "Shabbat's Work Prohibition." My Jewish Learning, My Jewish Learning, www.myjewishlearning.com/article/shabbats-work-prohibition/.
- Englard, Izhak. "Religious Law in the Israel Legal System." Jerusalem: Hebrew University of Jerusalem, Faculty of Law, Harry Sacher Institute for Legislative Research and Comparative Law, 1975.

- Ettinger, Shmuel. “Jewish Emancipation and Enlightenment.” My Jewish Learning. www.myjewishlearning.com/article/jewish-emancipation-and-enlightenment/.
- “Exilarch.” Jewish Virtual Library. www.jewishvirtuallibrary.org/exilarch.
- Fried, Ginnine. “The Collision of Church and State: A Primer to Beth Din Arbitration and the New York Secular Courts.” *Fordham Urban Law Journal* 31, no. 2 (2003): 633–55.
- Ganz, Yaffa, and Berel Wein. *Sand and Stars: the Jewish Journey Through Time*. New York: Shaar Press, 1994.
- Gilbert, Martin. *In Ishmael’s House: A History of Jews in Muslim Lands*. New Haven: Yale University Press, 2011.
- Ginzberg, Louis. “Bertinoro, Obadiah (Yareh) B. Abraham.” *Jewish Encyclopedia*. www.jewishencyclopedia.com/articles/3171-bertinoro-obadiah-yareh-b-abraham.
- “Haskala.” *Encyclopædia Britannica*. www.britannica.com/topic/Haskala.
- Herman, Geoffrey. *A Prince Without a Kingdom: The Exilarch in the Sasanian Era*. Text and Studies in Ancient Judaism 150. Tübingen: Mohr Siebeck, 2012.
- Hertzog, Yitzchak Issac, et al. *Halakhah pesukah: mishpat Ha-Torah Li-meqorotay Ba-Talmud u-foskim ‘al Seder Ha-Shulhan-‘arukh, Hoshen Ha-mishpat*. Jerusalem: The Harry Fishel Institute, 1962.
- “History of Jewish Prayer.” My Jewish Learning. www.myjewishlearning.com/article/history-of-jewish-prayer/.
- Hunnicut, Benjamin Kline. “The Jewish Sabbath Movement in the Early Twentieth Century.” *American Jewish History* 69, no. 2 (1979): 196–225. www.jstor.org/stable/23881832.
- Israel, Jonathan. “How Did the Enlightenment Shape the Jews?” Stroum Center for Jewish Studies, University of Washington. <https://jewishstudies.washington.edu/jewish-history-and-thought/did-enlightenment-shape-jews-jonathan-israel/>.
- Jachter, Chaim. “Dina D’Malchuta Dina.” Kol Torah. 2009. www.koltorah.org/halachah/dina-dmalchuta-dina-by-rabbi-chaim-jachter.
- “Jewish Concepts: The Seven Noachide Laws.” Jewish Virtual Library. www.jewishvirtuallibrary.org/the-seven-noachide-laws.
- Katznelson, Ira, and Pierre Birnbaum. *Paths of Emancipation: Jews, States, and Citizenship*. Princeton: Princeton University Press, 2016.

- Lewis, Bernard. "The New Anti-Semitism." *The American Scholar*, December 1, 2005, <https://theamericanscholar.org/the-new-anti-semitism>.
- Masters, Bruce. *Christians and Jews in the Ottoman Arab World: The Roots of Sectarianism*. Cambridge: Cambridge University Press, 2004.
- Pérez, Joseph. *The Spanish Inquisition: A History*. New Haven: Yale University Press, 2005.
- Pozzi, Paolo S., and Trevor Waner. "Shechita (Kosher Slaughtering) and European Legislation." *Veterinaria italiana* 53, no. 1 (2017): 5–19.
- "Province of Ontario and Canada's 'Get Legislation' Law." Aguna and Her Get. December 12, 2013. agunahandherget.com/testing-post-seven/.
- Rosenblum, Nancy L., ed. *Obligations of Citizenship and Demands of Faith: Religious Accommodation in Pluralist Democracies*. Princeton: Princeton University Press, 2000.
- Sandler, Shmuel. "Toward a Theory of World Jewish Politics and Jewish Foreign Policy." *Hebraic Political Studies* 2, no. 3 (2007): 326–60.
- Schachnowitz, Selig. *The Jewish Kingdom of Kuzar: The Rise and Fall of the Legendary Country of Converts*. Jerusalem: Feldheim, 2007.
- Schleifer, Ron, and Gila Ansell Brauner. "Enlightenment Emancipation and Racial Antisemitism." The Jewish Agency for Israel. June 17, 2015. www.jewishagency.org/antisemitism/content/24065.
- Schloss, Chaim. *2000 Years of Jewish History: from the Destruction of the Second Bais Hamikdash until the Twentieth Century*. Jerusalem: Feldheim, 2004.
- Schoenberg, Shira. "Modern Jewish History: The Haskalah." Jewish Virtual Library. www.jewishvirtuallibrary.org/the-haskalah.
- Schuchman, Moshe T. "A Cut Above: Shechita in the Crosshairs, Again." Star-K. December 5, 2012. www.star-k.org/articles/kashrus-kurrents/548/a-cut-above-shechita-in-the-crosshairs-again/.
- Sloyan, Gerard S. "Christian Persecution of Jews over the Centuries." United States Holocaust Memorial Museum. www.ushmm.org/research/the-center-for-advanced-holocaust-studies/programs-ethics-religion-the-holocaust/articles-and-resources/christian-persecution-of-jews-over-the-centuries.
- Telushkin, Joseph. *Jewish Literacy: The Most Important Things to Know about the Jewish Religion, Its People, and Its History*. New York: William Morrow, 2008.



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