

*Dat: From Law to Religion**The Transformation of a Formative Term in Modern Times**Abraham Melamed*

I FROM THE HEBREW BIBLE TO THE LATE MIDDLE AGES

The words we use in a given language change their meanings and contexts throughout the ages, being influenced by ever-changing social, cultural, and intellectual circumstances; some disappear, and are replaced by other words, which are better suited to transmit the meaning which the speaker and writer attempts to convey. One of the main methodological errors in reading texts from previous periods is the anachronistic assumption that the current usage is the only possible meaning of a given word. This meaning is superimposed on the reading of such texts, thus completely distorting their meaning. When reading a text from a given period, one should ask, first of all, what has been the specific meaning of a given word in the particular period when the text was written? We should also notice that some words are barely used in a given period, and become popular in other periods; this is also of importance, and has a meaning. Charting the changing meanings of key words in the history of a given culture is a useful means for the understanding of the intellectual transitions this culture went through.

Many key words in the long history of the Hebrew language, such as *ummah* (originally religious community, now nation), *goy* (originally people, now gentile), and *mofet* (in biblical Hebrew, miracle, in the middle ages, scientific proof, now model), for instance, changed their meaning throughout the ages. The history of the evolution of the meanings of the key word *dat*, throughout more than two millennia, is maybe the best, and most important, example of this phenomenon. It exemplifies, in a nutshell, the changes which the meaning of Judaism itself went through throughout the ages. This chapter will focus on this momentous change, as it evolved since early modern times, when the meaning of the term *dat* was transformed from law to religion, and Judaism became a religion.¹

¹ This chapter is based on the findings of my book, *Dat: from Law to Religion, A History of a Formative Term* (Tel Aviv: Hakibbutz Hameuchad, 2014, Hebrew). See also Abraham Melamed, "De la loi a la

The term *dat* first appears in the *Scroll of Esther*, of the late biblical period. It is a Persian word, adopted by the Jews dwelling there. The original meaning of the Persian *datan* is to give, and by inference to decree a law.² Its original meaning is law, every law, mostly human law; not particularly divine law, or Jewish law. Every people has a particular *dat*, so do the Jews.³ It is quite ironic that a Persian word which originally denotes pagan law, eventually came to designate Judaism, and it is used today more than in any other period, but now in a completely different meaning.

The Sages Judaized this term, mainly in the coinage concerning laws of matrimony: *ke-dat Moshe ve-Israel*, that is “In accordance with the laws of Moses and Israel.” They however barely used this term; it appeared about twenty times only in the voluminous *Babylonian Talmud*.⁴ To designate law in general, and divine law in particular, the Sages preferred to use biblical words such as *hukkim*, *torah*, and *mizvot*. They seemed to have managed very well without using the word *dat*. Today we cannot envision any talk about religious beliefs and practices in general, and Judaism in particular, without the ample usage of this particular term, but its meaning has dramatically changed.

While the sages barely used this term, it became popular from medieval Hebrew on, but its meaning varied. This was the result of the momentous encounter between the biblical and rabbinic traditions with the Muslim cultural environment in which the major Jewish cultural centers existed until about the early thirteenth century. Jewish scholars inherited the new meaning imbedded in the word *dat* in post-biblical Jewish literature, and connected it to the Muslim-Arabic terminology. The Muslim distinction between *din* – creed, faith, and *sharia* – religious law, was translated by some scholars into Hebrew as *dat* and *torah* or *mizvot*, respectively. The term *dat*, thus received, for the first time, a distinct theological meaning, and denoted belief, not law in particular. This development is mostly apparent in Maimonides’ usage of this term, and was congruent with his revolutionary attempt to turn Judaism into a system based on true beliefs, first of all. Other Jewish scholars of this period, however, continued with the rabbinic usage of *dat* as law, thus equating it with *sharia*. Moreover, some, such as Judah ha-Levi and Abraham ibn Daud, did not hesitate to use it in the plain meaning of law in general, including human law, devoid of any theological connotations, as it originally appears in the *Scroll of Esther*.⁵

religion: metamorphoses du concept de dath dans a tradition politique juive,” in *Entre ciel e terre, le judaisme*, ed. Sh. Trigano (Paris: Editions In press, 2009), 61–76.

² The Latin *mandare*, *datum*, and their derivations in modern European languages, *data*, come from the same source.

³ For instance, *Esther* 1: 19: “and let it be written in the laws (*datei*) of Persia and Media”; 9: 14: “An edict (*dat*) was issued in Susa.” Concerning the Jews in particular: 3: 8: “Their laws (*datei hem*) are different from those of all other people.” See also in *Ezra* 8: 36 and *Daniel* 7: 25.

⁴ I. Kosowsky, *Otzar Leshon ha-Talmud* (Jerusalem: Ministry of Education and Culture, 1961, Hebrew) vol. 9, 459.

⁵ See the detailed discussion in Melamed, *Dat*, *supra* note 1, ch. 4.

This last meaning of the term became dominant in the philosophic-theological literature produced in Hebrew by Jewish scholars active in Christian Southern Europe in the late Middle Ages. Most scholars adopted the reading of *dat* as law, even human law. They rejected the Maimonidean usage, which will surface again only in early-modern times, due to completely different influences. The term *dat* became more and more synonymous to another popular term, *nimus*, an originally Greek word (*nomos*) which was transplanted into medieval Hebrew through its Arabic usage (*namus*). *Nimus* generally means strictly human law.⁶ There are numerous examples of this usage of the term *dat* in late-medieval Hebrew literature. It climaxed with Joseph Albo's famous definition and classification of law at the beginning of his *Book of Roots* (*Sefer ha-Ikkarim*, Castile, mid-fifteenth century).⁷

Albo consistently used the term *dat* for every kind of law: from divine law, through natural law,⁸ to human law. He was apparently already influenced here by Thomas Aquinas, who adopted the Latin *lex* to the Christian definition of Divine law (*lex divina*); Albo did the same with the Hebrew *dat*.⁹ The Christian-Latin legal vocabulary started to influence the manner by which Jewish scholars read, interpreted, and used the word *dat*, a phenomenon which will increase in subsequent centuries.

Albo's new definition and classification of *dat* as law had a profound influence upon late medieval and early modern Jewish scholars. They started more and more to use this term to denote law, every kind of law, not specifically divine law or Jewish law, and often plain human law of every nation. We can find the influence of Albo's definition and classification among many Jewish scholars, up to the late Jewish Enlightenment in the nineteenth century.¹⁰

Moreover, various Jewish scholars systematically started to translate the Latin *lex*, and vernacular terms for law (such as *legge*, *loi*, *legal*) into the Hebrew *dat*; they preferred this term to other available Hebrew terms, which were often more appropriate, such as *hok*, *nimus*, and *din*. A later, fascinating example is the usage of this term in the Hebrew translation of the Declaration of Human Rights of the French Revolution, published in The Hague in 1794, after the French conquered the Netherlands and emancipated the Jews. Here the Hebrew *dat* was systematically used for the French *loi*. For instance, the famous sentence: "la loi est l'expression de la

⁶ For the history of the term *nimus*, see in detail Melamed, *Dat, ibid.*, 21–28.

⁷ Joseph Albo, *Book of Roots*, 1:7. For the English translation see *Medieval Political Philosophy: A Sourcebook*, ed. R. Lerner and M. Mahdi (New: Free Press of Glencoe, 1967), 242–43.

⁸ Albo was the first one to introduce the theory of natural law to Jewish legal thought, see in detail Abraham Melamed, "Natural Law in Medieval and Renaissance Jewish Thought," *Da'at* 17 (1986), 49–66 (Hebrew). Abraham Melamed, *Wisdom's Little Sister: Medieval Jewish Political Philosophy* (Ra'anana: Open University, 2011), 207–26 (Hebrew).

⁹ See detailed discussion, Melamed, *Dat, supra* note 1, ch. 5. See also: Abraham Melamed, "Natural, Human, Divine: The Classification of the Law among Some Fifteenth and Sixteenth Century Jewish Thinkers," in Abraham Melamed, *Wisdom's Little Sister, Studies in Medieval and Renaissance Jewish Political Thought* (Boston, 2012), 244–71. See also, *ibid.*, 180–226.

¹⁰ See detailed discussion, Melamed, *Dat, supra* note 1, ch. 6.

volunte general,” was translated into: “The law (*ha-dat*) speaks for the whole people.”¹¹

Moreover, the term *dat* started more and more to specifically denote human law (*dat enoshit*) only. Quite a few scholars of this period refused to use it in any specific Jewish-theological context. They used it only to denote human and natural law. For divine law, they preferred to use terms such as *torah* and *mizvot*, but never *dat*. This was in order to sustain and amplify the inherent distinction between human and divine law. This shows that the usage of *dat* to denote only human law became commonplace in their environment, thus their refusal to use it for divine law.¹²

The main example for this phenomenon is Isaac Abravanel (Portugal-Spain-Italy, late fifteenth century), who not only, like others, systematically used this term only as human law, he also emphatically argued that only the Mosaic Law should be called *Torah*, while human law of the various nations should be called *dat* or *nimus*, never *torah*, otherwise the inherent difference between them might be blurred, thus undermine the pure divine essence of the Mosaic Law.¹³

II THE EARLY MODERN PERIOD

Particularly when the term *dat* was used as strictly law, mostly human law, devoid of any Jewish-theological contexts, the next revolutionary transformation of the meaning and usage of this term occurred. *Dat* started to acquire the meaning in which it is universally used today, as a religion, a set of theological beliefs and rituals, where the practical commandments are considered a derivation thereof. The legal components this term contains are weakened, and in any case, it started to relate to divine law only. While late medieval Jewish scholars used this term to denote human law, as distinct from divine law (*Torah*), in the modern usage it acquired a distinct theological meaning: *dat* became religion in its modern sense; nobody uses it to denote law anymore, definitively not human law. While Maimonides was quite unique among medieval Jewish scholars in his usage of this term as a set of theological beliefs, first of all, this particular meaning became ubiquitous in modern times. It is not translated any more into *lex*, *loi*, or law, but into religion, belief, creed, or confession, another term borrowed from Christianity. The evaluation of this momentous transformation is the focus of this chapter.

This revolutionary transformation of meaning and usage was directly influenced by the earlier transformation which occurred in early modern Christian thought, following the Reformation, in the meaning of the old Latin term *religio*. This term, which originally denoted God fearing, was used through the Middle Ages to describe strictly Christian worship. Now it was transformed into religion, a set of theological

¹¹ *Ibid.*, 93–95.

¹² See detailed discussion, *ibid.*, ch. 7.

¹³ Isaac Abravanel, *Commentary on Exodus*, ed. A. Shutland (Jerusalem: Horev, 1997), 283. See detailed discussion of Abravanel’s stance, Melamed, *Dat*, *supra* note 1, 101–08.

beliefs, first of all, and was applied to every so-called religious phenomenon, Judaism included. Christian scholars started to identify Judaism as a religion, and applied Christian terms when describing Jewish beliefs and ritual.¹⁴ See for instance the following classification of world religions by a Seventeenth Century English scholar, Richard Baxter, in his *The Reasons of the Christian Religion* (London, 1667):

Four sorts of Religions I find only considerable upon earth: The meer Naturalists, called commonly Heathens and Idolaters; the Jews; the Mohametans; and the Christians. The Heathens by their Oracles, Augures and Auspices, confess necessity of some supernatural light; and the very Religion of all the rest consisteth of it.¹⁵

Judaism had become a religion, just like any other, seen and described from a Christian vantage point.

Jewish scholars, especially those who started to write in the vernacular since the seventeenth century, were influenced by this new trend. The changing terminology influenced their discussion of Jewish beliefs, rituals, and commandments. Consequently, they adopted the Protestant emphasis of religion as belief or creed, first of all. Later on, nineteenth-century Jewish scholars who wrote in Hebrew followed in their footsteps, and directly equated between the Hebrew *dat* and the vernacular “religion,” and even used a transliterated form in Hebrew letters. The identification of *dat* and “religion” was finalized.

Judaism was traditionally identified as an unbreakable combination of three components: *Halacha* (Jewish Law), theological beliefs, and ethnic identity. Following early modern processes, such as the Reformation, the Enlightenment, secularization, the emergence of the modern nation-state, and emancipation, this combination started to disconnect, and the new religious aspect became more and more dominant. Some Jewish scholars, especially those who were more absorbed into early modern European culture, adopted the new Protestant vision of religion. They applied it to the Jewish context, and attempted to disconnect the new religious component from the old legal and ethnic components of Judaism, which they deemed to be less and less relevant to their modern existence and identity, and thereby purify it. They attempted to convert Judaism into a religion based on rational monotheism and universalistic ethics. More moderate scholars, and even those who apparently rejected this process, for halachic or national reasons, were also

¹⁴ See W. C. Smith, *The Meaning and End of Religion* (New York: Harper & Row, 1964) chs. 2–3; J. Bossy, “Some Elementary Forms of Durkheim,” *Past and Present* 95 (1982), 3–18; P. Biller, “Words and the Medieval Notion of ‘Religion’,” *Journal of Ecclesiastical History* 63 (1985), 351–69; J. Z. Smith, *Relating Religions: Essays on the Study of Religion* (Chicago: University of Chicago Press, 2004), 179–96; P. Harrison, *‘Religion’ and the Religions in the English Enlightenment* (Cambridge: Cambridge University Press, 1990); G. Stroumsa, *A New Science: The Discovery of Religion in the Age of Reason* (Cambridge, Mass: Harvard University Press, 2010).

¹⁵ Quoted in D. A. Pailin, *Attitudes to Other Religions: Comparative religion in Seventeenth and Eighteenth-Century Britain* (Manchester: Manchester University Press, 1984), 154. See more examples for the identification of Judaism as a religion by contemporary scholars, *ibid.*, 156, 182, 184, 196: “The whole Jewish creed.”

influenced by this transformation in due time, in various ways, albeit unconsciously; nobody could escape its powerful influence.

This process first started with Jewish scholars who dwelt in big urban centers, and were more integrated into the surrounding Christian-European culture, such as Simone Luzzatto in Venice, Manasseh ben Israel and Spinoza in Amsterdam, and Moses Mendelsohn in Berlin, and culminated with German-Jewish scholars of the nineteenth century.¹⁶ The fact that some of these scholars, such as Manasseh ben Israel and Spinoza, came from a Maranno background, intensified this process. Marrano Jews rejected Christianity, but their religious mentality originated from it, thus their tendency to identify religion, Judaism included, with belief, not law. All the more so, since they were forced by circumstances to hide their Judaic tendencies, they turned the inner subjective religious experience into a central component of their mentality. The emphasis on both theological beliefs and the inner subjective religious experience thus became the cornerstones of this new identification of Judaism as a religion. They took this mentality with them when they returned to Judaism. They were the first ones who redefined their Jewish identity, and they did it with Christian tools.¹⁷

In his *Discorso supra il state degli Ebrei in Venezia* (Venice, 1638), Luzzatto was the first Jew, known to me, who directly identified Judaism as religion (*religione* in Italian), just like any other:

Although the Jews were different in their religion (*religione*) from any other people, they were not allowed to declare war on a neighboring people for religious purposes. . . . Religion is the strongest partnership which binds human society together. . . . This is why the Jews consider all those foreign to their religion (*loro religione*) to share in a common humanity, as long as they follow the rules of natural morality (*naturale moralita*) and have a certain understanding of the cause of causes.¹⁸

Luzzatto was the first Jew who used the phrase: “The Jewish religion” (*religione hebrea*).¹⁹ He relates to the old Latin meaning of *religio*, as God fearing and Divine worship, but charged it with the new Christian meaning which evolved in Europe during his period, and superimposed it on his understanding of Judaism; *religio* was transformed into the Italian *religione*, and *religione* was now applied to Judaism.

¹⁶ See L. Batnizky, *How Judaism Became a Religion: An Introduction to Modern Jewish Thought* (Princeton, NJ: Princeton University Press, 2011), Introduction. Batnizky argues that this process originated with German-Jewish scholars since Mendelssohn. There is no doubt that this process culminated with them, but it started much earlier, already during the seventeenth century, as will be shown in the following.

¹⁷ See L. Strauss, *Spinoza's Critique of Religion*, trans. E. M. Sinclair (New York: Schocken Books, 1965), 53; Y. Kaplan, “The Sephardic Diaspora in Western Europe in Early Modern Times,” in *Zionism and the Return to History: A Reevaluation*, eds. Sh. N. Eisenstaedt and M. Lisak (Jerusalem, 1999, in Hebrew), 195–210, esp. 200–01. See especially the illuminating paper by Y. Yovel, “The Jews in History: The Marrano in Early Modern Times,” in *ibid.*, 211–48.

¹⁸ See Simone Luzzatto, *Scritti politici e filosofici*, ed. G. Veltri (Milan: Bompiani, 2013), 58: “Benche gli Ebrei erano differenti de religione dagli altri popoli, not gli era lectio mover Guerra a lor vicino per semplice cause di quella” (my translation).

¹⁹ See for instance *ibid.*, 59, 60, 62, 63.

The context of Luzzatto's discussion is clearly universalistic, not particular-Jewish. The term *religione* is used here for every faith, Judaism included. He argues that Judaism is the one and only true religion (*la vera religione*),²⁰ since more than any other religion it is based not only on the particular commandments (*riti*), which obligate Jews only, but also on universal moral laws (*legge*), which obligate all humanity (*li precetti della naturale moralita*), that is, natural law. The example he brings is that Jews are forbidden to wage war on other people not because of their particular commandments, but because of the moral universal laws which are imbedded in the Mosaic legal system (*legge Mosaica*). Judaism is described by him as the only religion which takes care of the well-being of the entirety of humanity.²¹

Luzzatto emphasizes that the Jews were commanded to teach the gentiles only the basic moral and monotheistic percepts, and forgo delivering them any knowledge of the particular divine revelation of their nation, and definitely nothing concerning their particular commandments.²² The emphasis clearly shifts to a universal moral-theological worldview, which is typical of the modern understanding of religion. He empathetically uses for God the old Aristotelian term *una causa superiore* (cause of causes), a universal God, not the particular Jewish deity.

Moreover, he insists on the willingness of the Jews to fully obey the laws of the countries in which they dwell. This principle, of *Dina de-malchuta dina* (the law of the state is a [biding] law), is a well-ingrained ancient rabbinic dictum, and Luzzatto emphasizes it here in order to quell the suspicion of the Venetian authorities concerning the loyalty of its Jewish inhabitants to the republic. Still, it clearly shows that he embraces here the evolving concept of the modern state, that demands from its inhabitant's full public obedience to its laws, while religious commandments and beliefs became more and more a private matter of the believer, based upon internal persuasion. The judicial power of coercion gradually moved from the religious authorities to the secular state. This is another facet of the evolving modern definition of religion which Luzzatto adopted and applied to the Jewish context.

All the more so, Luzzatto adopted the revolutionary Machiavellian view which considered religious belief and ritual a useful means for the sustenance of an ordered political community. Religion was delegated from its lofty state of a spiritual end to a utilitarian means, in contradistinction with the traditional medieval view which considered temporal political life as subordinate to spiritual ends. This influence is apparent in Luzzatto's forceful refutation of Tacitus's vicious defamation of the Jews in the Fifteenth consideration of the *Discorso*.²³ Tacitus argued that the Jewish

²⁰ *Ibid.*, 76, 77.

²¹ *Discorso*, Fifteenth consideration, in Veltri, *Scritti politici*, note 18, 58–65.

²² *Ibid.*

²³ See on the whole issue, A. Melamed, "Simone Luzzatto on Tacitus: *Apologetica and Ragione di Stato*," in I. Twersky, ed., *Studies in Medieval Jewish History and Literature*, vol. 2 (Cambridge, MA: Harvard University Press, 1984), 143–70, reprinted in Melamed, *Wisdom's Little Sister*, *supra* note 9, 305–34; C. Hammill, *The Mosaic Constitution: Political Theology and Imagination from Machiavelli to Milton* (Chicago: University of Chicago Press, 2012), 69–70.

religion caused the Jews to behave in an immoral and politically destructive manner, which brought upon the demise of their independent existence. Luzzatto refuted his accusations by arguing that the opposite is true; Judaism is the only true religion (*vera religione*) particularly because it is a rational religion, based on human initiative, and not on superstitions, which are contrary to natural laws and reason, and lead humans to lazy and passive existence, just as Machiavelli so boldly insisted, referring to the medieval Catholic experience. These are the ingredients he identified in the false religions; the Jewish *vera religione*, on the other hand, ensures the well-being of the people and the efficient functioning of the state. While Machiavelli complained that Catholicism created passive humans, detached from political reality, Luzzatto argues that the Mosaic law creates active and industrious people, who benefit the body politic.²⁴

Luzzatto thus followed the Machiavellian revolution which rejected the medieval Catholic view that the state should be subordinated to religious authorities and purposes, and argued the contrary, that religion has to serve temporal political ends. Thus, Luzzatto first internalized the new Christian meaning of religion as faith. Still he continued to describe the Mosaic law as a religion of the law, but this time in its new Machiavellian transformation, as a utilitarian political means. From both vantage points, he embedded the Italian *religione*, as applied to Judaism, with a new modern meaning.²⁵

What Luzzatto did in Italian, Manasseh ben Israel and Spinoza did in Amsterdam later in the century, both in Latin, Spanish, and English, and later on, in the late eighteenth century, Moses Mendelssohn in Berlin, writing in German. Luzzatto's influence upon Manasseh ben Israel is well known,²⁶ and he probably influenced him also here. There is a difference between the meaning in which the word *dat* appears in Manasseh ben Israel's Hebrew writings and the meaning in which the word "religion" appears in his non-Hebrew writings. In his Hebrew *Nishmat Hayyim*, he clearly distinguishes between the terms *torah* and *dat*. Like Abravanel, and many others previously, *torah* is specifically identified with Jewish law, while *dat* means human law, thus not associated with Judaism specifically.²⁷

In his non-Hebrew writings, however, the word "religion" starts to appear in its new meaning. Manasseh ben Israel's *Esperanza de Israel (The Hope of Israel)*, was

²⁴ *Scriti politici*, *supra* note 18, 58–83.

²⁵ Not coincidentally, Luzzatto was also the first Jew to define the Jewish people as a nation (*nazione*), in the modern meaning of the term, also here directly influenced by Machiavelli. The whole *Discorso* begins with a proud reference to "The Hebrew Nation" ("*La nazione hebrea*," *Scriti politici*, *supra* note 18, 6). In this early stage, he defined Judaism both as a religion and a nation, later on these two definitions would go their separate ways, see in the following. See a detailed discussion in Melamed, *Dat*, *supra* note 1, 130–31.

²⁶ See B. Ravid, "How Profitable the Nation of the Jews Are': The Humble Addresses of Menasseh ben Israel and the *Discorso* of Simone Luzzatto," in *Mystics, Philosophers and Politicians: Essays in Jewish Intellectual History on Honor of Alexander Altmann*, ed. J. Reinharz et. al (Durham, NC: Duke University Press, 1982), 159–80.

²⁷ Manasseh ben Israel, *Nishmat Hayyim* (Jerusalem: Yarid Hasfarim, 1995), 8.

originally published in Spanish (Amsterdam, 1650), and almost immediately appeared also in Latin and English editions. It discusses the then popular issue of the whereabouts of the lost ten tribes of Israel, and attempts to find them somewhere in America.²⁸ He based this hypothesis on the testimony of a Portuguese Jew who claimed to have encountered them (apparently some native-American tribes in whose traditions he fancied to find some resemblance to Jewish rituals), when visiting South America. This person is described as: “Portugues de nacion, Iudio de religion”;²⁹ Portuguese by his nationality, a Jew by his religion. At such an early stage in the development of the modern nation-state, his national identity and his religious identity are already separated.³⁰ In another place, Manasseh ben Israel relates to a testimony on a meeting between a Jesuit and a Jew in China. The Jew confused between Judaism and Christianity, considering them to be the same religions (*su misma religion*);³¹ while a certain Spanish nobleman who converted into Judaism is described by Manasseh ben Israel as he “who adopted our religion” (*nuestra religion*).³²

The same phenomenon can be found in Manasseh ben Israel’s English writings. His *Vindiciae Judaearum* (London, 1656) was published in an effort to persuade the English authorities to permit the resettlement of the Jews in England. Judaism is repeatedly described here as a “religion,” just as Christianity and other religions.³³ The same goes for his famous letter to Cromwell, the *Humble Addresses*, where Manasseh ben Israel proudly calls Judaism “Our Religion,” but, with the same pride, also: “The Nation of the Jews.”³⁴ He makes a clear distinction between the religion of the Jews and their laws,³⁵ and uses the expression “Judaical laws” when referring to the permission the Jews received to live according to their laws from the various governments in the countries in which they dwell.³⁶ The new distinction between religion and law was thus very clear in his mind.

Spinoza, Manasseh ben Israel’s contemporary, and fellow resident of Amsterdam, continued this process. In his revolutionary *Theologico-Political Treatise* (*Tractatus Theologico Politicus*), written in Latin, he consistently distinguished between *religio*

²⁸ On the whole issue see A. Melamed, “The Discovery of America in Sixteenth and Seventeenth Century Jewish Thought,” in *Following Columbus: America 1492–1992* ed. M. Eliav-Feldon (Jerusalem: Zalman Shazar Center, 1997, in Hebrew), 443–64; A. Melamed, *The Image of the Black in Jewish Culture: A History of the Other* (London; New York: Routledge Curzon, 2003), 209–12.

²⁹ Manasseh ben Israel, *Esperanza de Israel* (Madrid: Hiperión, 1881), 41.

³⁰ Marrano Jews traditionally identified themselves as *nacion*, see Yovel, “The Jews in History,” *supra* note 17, 229–33. Here a Jew is already described as Portuguese by nationality, in the modern sense of the term.

³¹ Manasseh ben Israel, *Esperanza*, *supra* note 29, 49.

³² *Ibid.*, 98.

³³ Manasseh ben Israel, *Vindiciae Judaearum* (London: Printed by R.D., 1656), on Judaism, 7, 30, 34; on Christianity, 21.

³⁴ Manasseh ben Israel, *To his Highness the Lord Protector of the Commonwealth of England, Scotland and Ireland, The Humble Addresses* (Melbourne: Reprinted by H.T. Dwight, 1868), 4–5.

³⁵ *Ibid.*, 19.

³⁶ *Ibid.*, 4.

and *lex*; *religio* denotes beliefs, customs, and rites,³⁷ while *lex, legis*, denotes law, divine, natural, or human.³⁸ Only when he relates to the specific laws of the Biblical Hebrews (*Tractatus*, ch. 17), Spinoza connects between the two, but he makes it clear that in his view these laws are not applicable any more after the Hebrew state ceased to exist.

The last in this series of early modern Jewish scholars who adopted the new term religion and applied it to Judaism, is Moses Mendelssohn, already on the eve of the Jewish Enlightenment. In his *Jerusalem or on Religious Power and Judaism (Jerusalem oder uber religiose macht und Judentum)* (Berlin, 1783) he brought this process to fruition. At the very beginning of this treatise Mendelssohn boldly declares:

State and religion – civil and ecclesiastical constitution – secular and churchly authority – how to oppose these pillars of social life to one another so that they are in balance and do not, instead, become burdens on social life, . . . this is one of the most difficult tasks of politics.³⁹

Mendelssohn uses the same German term (*verfassung*) for both civil and religious legislation, but it is clear that in his view they denote two entirely kinds of laws, thus cannot be in a state of competition, but should exist parallelly in peace:

Here we already see an essential difference (*ein wesentlicher unterdhied*) between state and religion. The state gives orders and coerces, religion teaches and persuades. The state prescribes laws (*gesetze*), religion commandments (*gebote*). The state has physical power and uses it when necessary; the power of religion is love and beneficence.⁴⁰

These are not just two sub-kinds of the law, but two completely different legal entities. For him the term *gesetze* (law) covers every kind of law, the law of reason (*gesetze der vernunft*), the law of nature (*gesetze der nature*), and human law. Religious commandments (*gebote*) are something else altogether; they are no law. Unlike state laws, they have no compulsory status; they should be followed only by voluntary choice. The emphasis that religion is a matter of love and beneficence, and not of binding laws, is of course Protestant in essence, and is now superimposed of his concept of Judaism. In the Medieval Jewish communal organization, the power to excommunicate (*herem*) was essential in order to force members to follow Jewish law and obey its official interpreters; the case of Spinoza is one late famous

³⁷ Benedict Spinoza, *Works: Theological Political Treatise; Political Treatise*, trans. R. H. M. Elwes (New York: Dover Publications, 1951), the introduction, and many other instances along the text.

³⁸ In many places, see for instance *Tractatus*, ch. 3, in Spinoza, *Works, ibid*. See the definition of law at the beginning of ch. 4. The same goes also for his *Political Treatise*, Spinoza, *Works, ibid*.

³⁹ Moses Mendelssohn, *Jerusalem*, trans. A. Arkush, (Hanover and London: University Press of New England, 1983), 33. On the whole issue see recently M. Gottlieb, *Faith and Freedom: Moses Mendelssohn's Theological-Political Thought* (Oxford: Oxford University Press, 2011).

⁴⁰ Mendelssohn, note 39, 45. See also towards the end of the whole treatise, were Mendelssohn implores the Jews: "Adapt yourselves to the morals and constitution of the land to which you have been removed, but hold fast to the religion of your fathers too." *Ibid.*, 133.

example, which did not work anymore. Now, when Mendelssohn rejects this coercive power as not relevant anymore, the traditional identification between law and religion in Judaism is eliminated.

Mendelssohn had to confront the Christian allegation that Judaism is an essentially political religion (*religiöser Regierung*), based on the duty to follow its bidding laws, where religious authorities have the power to enforce obedience (*macht und recht der religion*).⁴¹ Thus, they concluded, it competes with state laws, a situation the state cannot allow. Mendelssohn did agree that Judaism is essentially different from Christianity, being based on practical commandments and not on binding beliefs. However, he contended, following the commandments is essentially different from obeying state laws, since the former is based on voluntary choice and the power of loving persuasion, while the latter is based on coercion. Like Spinoza, he argues that the political nature of Judaism and the power of legal coercion were abolished long ago, in the early biblical period. When monarchy was established, the power of coercion was transferred from the religious authorities to the king, and they retained only the right to persuade by love and kindness. The traditional connection between Judaism and legal coercion is thus severed by Mendelssohn, enabling the Jew to become a true citizen in the modern state, where only one system of the law is binding. Judaism was transformed into a religion of universal monotheistic beliefs and ethical values, where obeying the commandment became a completely voluntary matter.

The distinction these early modern Jewish scholars made between law and religion, and the weakening of the connection between them, follows the Spinozian tendency to separate religion and the state. The Christian distinction between the spiritual and temporal authorities was secularized, and transmuted into the modern separation between religion and the state. Theological beliefs and rituals were now left to the realm of religion, while the laws, which regulate social life, fell under the authority of the state. Whatever religion represents became the matter of the religious community, while whatever the law represents became the matter of the state. While membership in a religious community and obedience to its rules became voluntary, the obedience to state law was now binding. Judaism, now a religion, like any other, was gradually dismantled from its abiding legal component, and became a matter of private voluntary beliefs and rituals.

III THE JEWISH ENLIGHTENMENT

The identification of Judaism as “religion,” and consequently the radical change in the meaning of the Hebrew word *dat*, will fully ripen with scholars of the Jewish

⁴¹ See for example Kant’s famous assertion that Judaism is not really a religion, but a political organization, in his *Religion within the Limits of Reason Alone* Allen W. Wood and George di Giovanni, *Religion within the Boundaries of Mere Reason* (Cambridge: Cambridge University Press, 1998), with an Introduction by Robert Merrihew Adams. See recent discussion in S. Meld Shell, “Kant and the Jewish Question,” *Hebraic Political Studies* 2 (2007), 101–36.

Enlightenment who wrote in Hebrew, all the more so those who wrote in other European languages, mainly German. This change is expressed on two levels: first, the final identification of the term *dat* as religion, in its new Protestant meaning; second, and following it, the usage of this Hebrew term became widespread, in dimensions unheard of hitherto, and gradually replaced traditional popular terms, such as *Torah*. These scholars not only purified Judaism from its strict halachic component, but also tended to reject its ethnic (now turned national) definition. They now tended to define it as a purely rational monotheistic religion, based on universal ethics. This tendency was later enhanced by Romantic Protestant influences which described religion as an amorphous feeling of awe and veneration of the sublime. All in order to enhance their own integration as equal citizens in the new nation-state, as German, French, or English citizens of the Jewish faith.

This can be clearly demonstrated by a series of new definitions of Judaism made by early nineteenth-century Jewish scholars. The very fact that they found it useful to make such new definitions, is clear proof of the need they found to redefine Judaism, under the pressure of their new circumstances. Most premodern Jewish scholars never bothered to define Judaism: its meaning was self-understood as far as they were concerned; now nothing was self-understood anymore. Let's look at a few typical examples. Gotthold Salomon, a German-Jewish scholar with reform tendencies, who was already influenced by the new romanticism, defined the Jewish religion in 1801 as follows:

Religion means to us the holy owe and reverence with which the infinite fills us
It means for us the conviction and that way of thinking with which the human being expresses his own relation . . . to the fullness of creation.⁴²

In the opening statement of the new Jewish-German periodical *Sulamith* (1806), we read the following:

Religion is the most essential intellectual and moral need of the cultured person. The purpose of *Sulamith* is to describe this religion in the most exalted manner. *Sulamith* strives to rouse the nation (*nazion*) to respect religion. This means those truths which alone are worthy to be called religion. It aspires to revive the urgent need for the religious feelings and concepts, but, at the very same time, it strives to pay attention to the truth – that the concepts and commandments which are included in the Jewish religion are not harmful in any way to the individual or to society at large.⁴³

One of the radical Jewish *Maskilim*, Yehudah Leib Ben Ze'ev, published in 1811 a bilingual (Hebrew and German transliterated in Hebrew letters) Jewish catechism for youngsters. In the opening statement, he defined the term *dat* as follows: "What is

⁴² Quoted in M. A. Meyer, *The Origins of the Modern Jew* (Detroit: Wayne State University Press, 1967), 130–31.

⁴³ Joseph Wolf, "Inhalt," *Sulamith*, vol. 1 (Leipzig, 1806), 9. The English translation appears in *The Jews in the Modern World*, eds. P. Mendes Flohr et. al., (New York: Oxford University Press, 2011), 85.

divine religion (*dat elohi, religion*)? It is the teaching of beliefs (*emunah, gloibens*) and the practical laws (*mishpat, gezetzen*), which God gave humans, according to which they should act during their lifetime in order to achieve eternal bliss.”⁴⁴ In another Jewish catechism, *A Manual of Judaism* (London, 1835), this time in English, Joshua van Oven defined Judaism as follows: “Religion is an inward feeling of awe and veneration, induced by the knowledge of the existence of an omnipotent and eternal God, the creator, preserver, and regulator of the universal, whom we strongly feel bound to worship and adore.”⁴⁵ All these definitions, something between pietist Protestantism and Enlightened Deism, are completely universal. The direct influence of the Protestant-originated German philosophy of the time – from Kant to Hegel – is strongly felt here. This influence caused the so-called “Protestantisation” of Judaism, from a religion of law into a religion of personal awe and veneration of an amorphous God. These tendencies strongly influenced the formation of Reform Judaism. With the Americanization of Judaism later in the Nineteenth century, it was even more emphasized. This process culminated with the Reform *Pittsburgh Platform* (1885), which proclaimed Judaism to be a pure universal religion, devoid of any ethnic component, and almost eradicated any legal-halachic component from it. Judaism is defined as “a progressive religion ever striving to be in accord with the postulates of reason.”⁴⁶ Judaism was transformed into one of the legitimate American creeds.

Moreover, from now on, and practically until today, we can find an abundance of newly created hyphenated terms, which add a descriptive word to the vernacular “religion” or the Hebrew *dat*, in order to make clear the specific meaning that a given scholar ascribes to it, such as *Menschenreligion* (Human religion), *Religion des vernunft* (Religion of reason), *Religion der that* (Religion of actions), or *Religion des geistes* (Spiritual religion) in German, or *dat ivrit* (Hebrew religion), *dat ha-ruah* (spiritual religion) in Hebrew, and many more. The plain word *dat* was not sufficient anymore to express the new specific meaning now ascribed to religion or *dat*. Traditional terms such as *dat Israel* (the law – or religion – of Israel) or *dat ha-Torah* (the law – or religion – of the *Torah*), which served so well many generations of Jews, were not sufficient anymore to capture the many nuances the Jewish identity acquired in modern times. Franz Rosenzweig succinctly called this phenomenon: “Hyphenated Jews,” a typical phenomenon of the so-called modern hyphenated identity: “This is a problem of one generation, mostly a century; there are Christian Jews, national Jews, religious Jews . . . emotional Jews, traditional Jews. In short, various hyphenated Jews shaped by the nineteenth century.”⁴⁷ Additional creative

⁴⁴ Yehudah Leib Ben Ze’ev, *Yesodei ha-Dat* (Vienna: Anton von Schmid, 1811), 8–9. (My translation).

⁴⁵ Quoted in D. Ruderman, *Jewish Enlightenment in an English Key* (Princeton and Oxford: Princeton University Press, 2000), 9.

⁴⁶ See www.ccarnet.org/rabbis-speak/platforms/declaration-principles.

⁴⁷ F. Rosenzweig, *Letters and Diary: A Collection*, ed. R. Horowitz (Jerusalem: Bialik Institute, 1987), 328 (Hebrew, my translation).

combinations, such as “religious beliefs,” “religious experience,” “religious meaning,” “religious values,” and so forth, continue to appear as time goes by. They are all created in order to suit the needs of the modern believer, who identifies *dat* as a set of theological beliefs or a vague religious experience, no more as strictly law. The traditional *dat Israel* is not sufficient anymore to capture such nuances.

Likewise, many of these scholars also rejected traditional terms for Jews and Judaism, which acquired a negative meaning in the surrounding Christian environment, and preferred to use other terms, neutral or positive in their view, which seemed to be more respectable, such as *Mosaïsche Religion* (the Mosaic religion), *Israelitische religion* (the religion of Israel), over such terms as *Judische religion* (Jewish religion). They preferred to call themselves *de confession Israelite* (of the Israelite confession) or *de confession mosaïque* (of the Mosaic confession) instead of the negatively loaded *Jude* or *Juif*, while American Jews preferred to call themselves “Hebrews,” instead of the loaded “Jews.”⁴⁸

By the early nineteenth century this new definition of Judaism and the Hebrew *dat* as “religion,” started to influence also East European Jewish *maskilim*, such as the above mentioned Yehudah ben Ze’ev, maybe the first Jew to directly equate religion and *dat*. Appropriately, he clearly moved the emphasis of Judaism from obeying the practical commandments to theological beliefs:

Even if a person will transgress any of the commandments by mistake, he will not cease to be a member of the religion (*dat*). However, if he will be ignorant of one of the principles of religion and mistakenly hold unto a false view, he will cease to be a member of the said religion. Whoever does not believe in the unity of God or will attribute corporality to his creator, will not be a member of the Hebrew religion (*dat Ivrit*), even if he will fulfill all the commandments of the Torah.⁴⁹

ben Ze’ev strongly criticizes the abundance of commandments in Judaism and the severity of the halachic restrictions, which suffocate the believer. He insists that following the commandments automatically, without understanding them, and without the right intention, is futile. What is essential is the intention of the heart (*kavanat ha-lev*) and the understanding of the heart (*havanat ha-lev*).⁵⁰ This emphasis on right beliefs and the inner religious experience is clearly influenced by the new Protestant-Romantic views, now dressed in Jewish garb.

In his *Teudah be-Israel* (*The Mission of Israel*, Vilna, 1828), Isaac Ber Levinson makes ample use in the new term *dat Ivrit* (*Hebrew Religion*), coined by ben Ze’ev, and in addition uses traditional terms, such as *dat ha-Torah*, and *dat Yehudit*, in their new meaning, as religion. Levinson charged *dat Ivrit* with a broad national-cultural meaning, in his struggle to fulfill the aims of Jewish Enlightenment, especially the reform of Jewish education, to include also secular studies, the modernization of the

⁴⁸ On the whole issue see details and many more examples in Melamed, *Dat*, *supra* note 1, 146–52.

⁴⁹ *Yesodei ha-Dat*, *supra* note 44, First Introduction, unnumbered page (my translation).

⁵⁰ *Ibid.*, Introduction, xii.

Hebrew language, and the productization of Jewish economic life. He distinguishes between *dat ha-Torah*, which is based on the authority of revelation, and *dat Ivrit*, which is based on what reason teaches us.⁵¹ Judaism is transformed from a theological system into a broad national culture which combines the authority of the Torah with the teachings of reason. Influenced by the emerging national movements in Europe, he identifies Judaism not just as religion, but primarily as a national-cultural entity which contains a religious component.

This tendency is strengthened in Levinson's later *Beit Yehudah* (*House of Judah*, Vilna, 1839). In the very beginning of this treatise he directly equates the Hebrew *dat* with the vernacular "religion" (in Hebrew transliteration), and later on, he translates it into *dat toratit* (*dat of the Torah*) and *dat Elohit* (*Divine dat*) specifically.⁵² From among the various kinds of *dat* (as law), this is the only kind which is directly equated with religion. Moreover, he even identified the Hebrew *emunah* (belief, equated with the German *glaube* in Hebrew transliteration), as specifically religion, and admits that this identification was influenced by Christianity.⁵³ Levinson concludes that the Mosaic religion is the only one which is a philosophical religion (*eine phlososifshe religion*, in Hebrew transliteration),⁵⁴ since it is the only one which combines all three kinds of law as classified long ago by Albo: human law (*dat nimusit*), natural law (*dat tiv'it*), and divine law (*dat elohit*).⁵⁵

This attitude was typical of various Enlightenment and Reform Jewish scholars in Germany, and those East European scholars who were influenced by them.⁵⁶ An exceptional figure is Shmuel David Luzzatto who was active in Italy in the first half of the nineteenth century. He was a typical Italian rabbi, who easily combined strict orthodoxy with openness to the general culture. Luzzatto was unique in his critical attitude towards various facets of the Enlightenment, which German Jewish scholars so enthusiastically embraced. He rejected the anti-religious and anti-traditionalist tendencies of the radical Enlightenment, and what he viewed as its ultra-rationalist and individualistic tendencies. Following his pessimistic view on human life, Luzzatto was skeptical of the optimistic theory of human progress. He was strongly opposed to the effort to modernize Judaism, and argued that it would necessarily lead to assimilation. Luzzatto's emphasis on Jewish tradition over reason was clearly influenced by Romantic anti-Enlightenment tendencies of his period.

His religious views crystalized on the background of these influences. Although he was a strict orthodox Jew, and fiercely rejected reform tendencies, still also Luzzatto was influenced by the new Protestant concept of religion, albeit

⁵¹ Isaac Ber Levinson, *Teudah be-Israel* (Jerusalem: Zalman Shazar Center, 1977, reprint of the 1828 edition published in Vilna and Grodno), xvi.

⁵² Isaac Ber Levinson, *Beit Yehudah* (Vilna: Menahem Man ben Barukh, 1839), 3, 5, 18.

⁵³ *Ibid.*, 26.

⁵⁴ *Ibid.*, 41.

⁵⁵ *Ibid.*, 121. We can see here how he uses the term *dat* both in its old meaning as law and its new meaning as religion.

⁵⁶ See more examples with detailed discussion, Melamed, *Dat*, *supra* note 1, 171–88.

unconsciously. This was the outcome of his imbedded ambivalence towards the Enlightenment project. Although he wrote in Hebrew, and did not have to use vernacular terms at all, still Luzzatto chose to consistently use the term “religion,” in Hebrew transliteration, instead of using the Hebrew *dat*, which should have been his natural choice. Still, the Hebrew term does not appear even once in his *Yesodei ha-Torah* (*The Foundations of the Torah*), nor in his other Hebrew writings; It is consistently replaced by “religion.” This only shows how deeply he internalized the Christian religious vocabulary.

Moreover, it was not only a matter of the term Luzzatto chose to use, this is also clear from the views which he expressed. The whole texts open with this term; It is anachronistically applied to Judaism from its very inception: “This religion was bequeathed to the people of Israel from their fathers Abraham, Isaac and Jacob.”⁵⁷ And later on:

This religion was sufficient for the people of Israel as long as they were only one family. However, when they became a people, and it was time to bring them to the land that God promised their fathers to give them, God decided that they need laws and ordinances to guide them in the right path, for the amelioration of their values, for the perfection of their society, and for the preservation of the religion. So that they will not leave it and follow the gentiles who surround them, and remain without a religion. This is why He gave them this *Torah* which Moses placed in front to the people of Israel.⁵⁸

In doing so Luzzatto practically gave a traditionalistic justification for the usage of this originally Christian term, with all its Protestant connotations. It is clear from this that in his view, this religion was originally a matter of monotheistic belief. The need for laws came only later, when they became a people and settled in the promised land. The Mosaic laws are presented as a necessary means to sustain and preserve the religion itself. By doing this, Luzzatto practically adopted the Christian definition of religion as primarily belief, and superimposed it upon his image of traditional Judaism. Thus, not only Enlightenment Jews, but even so-called orthodox Jews started to internalize and use the Christian term “religion,” with all the connotation attached to it, albeit unconsciously, and reinterpreted their image of Judaism thereby; the influence of the surrounding culture was so powerful. This phenomenon will only increase in the forthcoming generations, as we shall see in the following; nobody could escape modern religion.

IV EARLY TWENTIETH CENTURY

The last scholar who championed the definition of Judaism as rational monotheism, of the Kantian kind, was Hermann Cohen, who created the famous hyphenated

⁵⁷ Shmuel David Luzzatto, *Collected Writings* (Warsaw: Ha-Tzeferah, 1913), 9 (my translation).

⁵⁸ *Ibid.*, p. 11. The term “religion” always appears in Hebrew transliteration.

term “religion of reason” (*religion der Vernunft*), in his great theological system, published already at the beginning of the twentieth century.⁵⁹ It was the epitome of the so-called “Protestant Judaism.”⁶⁰ Scholars of the next generation, such as Franz Rosenzweig, Martin Buber, and Aharon David Gordon, will lead the concept of Judaism as religion to new and different directions: from reason to subjective personal experience, from religion to religiosity. They will continue with the criticism of halachic Judaism as oppressive, and identify the core of Judaism in the religious experience of the individual, but now this experience will no more be rational, Cohen style, but existential. As they rejected halachic orthodoxy, they also rejected the alternative of a rational religion; both were deemed to be oppressive and subjugate the creative spirit of the individual believer.

Franz Rosenzweig was strongly influenced by Cohen in his process of return to Judaism, but developed a system of existential Judaism, which was very remote from Cohen’s rational Kantian views. He was the one who practically completed the process of the Protestantization of Judaism. Rosenzweig almost converted to Christianity in his youth, and considered it to be a true divine religion, alongside Judaism (so unlike his blatant negative view of Islam!). However, more than Judaizing Christianity, he Christianized Judaism. Due to his assimilatory education, he was better cognizant of Christianity than of Judaism. He read the Hebrew Bible from a distinct Christian point of view, and his knowledge of the rabbinic teachings was very limited at best. The very fact that he preferred the Bible over the oral *Torah* is in itself proof of a clear Christian orientation. His view of Judaism was anchored in a Christian vocabulary.⁶¹ Rosenzweig’s very ambivalent attitude towards Jewish law also fits very well into this description.

Rosenzweig rejected Zionism, and considered Judaism to be a religion, in the distinct meaning he applied to it, and not a nation. Turning Judaism from a revelation of the divine law or a revelation of reason – both of which reject Christianity, into a revelation of love, in a distinct Protestant-Pietist sense, is clear indication of this attitude. For Maimonides, the Knowledge of God was the first and most important commandment; for Rosenzweig it was the Love of God. While in the Jewish tradition revelation occurred foremostly at Sinai, for Rosenzweig it is exemplified in the dialogue of love in the *Song of Songs*, in its allegorical-Midrashic interpretation,

⁵⁹ J. Rose, “Hermann Cohen: Kant among the Prophets,” in G. Rose, *Judaism and Modernity* (Oxford: B. Blackwell, 1993), 111–25.

⁶⁰ D. N. Myers, “Hermann Cohen and the Quest for Protestant Judaism,” in *Leo Baeck Institute Year Book* 46 (2001), 195–214.

⁶¹ In an early letter from 1909 Rosenzweig indicated that: “We [=the Jews] turned into complete Christians; We live in a Christian state, study in Christian schools, read Christian books; In short, our entire culture in essentially Christian.” F. Rosenzweig, *Briefe*, ed. E. Rosenzweig (Berlin: Schocken Verlag, 1935), 45 (my translation). See also G. Rose, “Franz Rosenzweig: From Hegel to Yom Kippur,” in G. Rose, *Judaism and Modernity*, 128–29: “the work [=his *Star of Redemption*] retains a predominantly Christian orientation.” Gershom Sholem, Rosenzweig’s great adversary, wrote that he was most irritated by the fact that Rosenzweig turned Judaism into a kind of a Protestant-Pietist church, and his ongoing devotion to the so-called German-Jewish synthesis. See G. Sholem, *Devarum Bego* (Tel-Aviv: Oved Publishers, 1976, in Hebrew), 28.

which turned it into a tale on the love between humans and God. Loving God, the most significant religious duty, necessitates in his view also the love of our fellow humans, henceforth the connection to Buber's Dialogical philosophy which was taking shape at that very same time. His was a distinct existential tendency, which emphasized the inner experience of the individual and his relationships with others – human and divine, as he says in one of his letters: “Jews and Christians alike deny the basic ethical-religious idea (the love of God and the love of your friend), which is common to both.”⁶²

This tendency culminated with Martin Buber. Buber was the first one to introduce the term “religiosity” (*religiositate*, *datiyut* in Hebrew) to the Jewish context. This is yet another example of the need to create new conjugations and hyphenated terms in order to express the changing meaning of Judaism. Buber made a clear distinction between religion and religiosity:

Religiosity (*religiositate*) is a human emotion, which is forever renewed. . . . The feeling of amazement and admiration in a person, which is beyond his ever-changing mode and dependence, there is something absolute . . . Religion is the culmination of all customs and rules by which the religiosity of a specific period in the life of a people is expressed. It regulates the halachic rules and commandments given to all subsequent generations, as an ever-binding law, without any regard to religiosity, which is perpetually renewed. . . . Religiosity is the creative force; Religion is the organizing principle.⁶³

Buber identified this religiosity with the perpetual renewal of the authentic inner feeling of awe for some absolute entity a person desires to connect with. This in contrast with “religion” (*dat*), which is identified by him as the external organizing facet of this religiosity, which tends to be fossilized in time; he identified this with Halachic Judaism. Buber transferred the focus of Judaism from religion, which he deemed to be its formal, external, and institutionalized manifestation, to religiosity, which is its inner, spontaneous, vital, and individualistic true expression. He identifies the new hyphenated term he created – Jewish religiosity – as “A pure divine feeling,”⁶⁴ and anachronistically reinterpreted the whole Jewish history on the basis of this idea, in order to legitimize it as an authentic Jewish creation, albeit its clear Protestant sources which he tended to overlook. In many respects, he adopted here Kierkegaard's religious-Christian existentialism, and dressed it in Jewish garb. Although he understood that this religiosity cannot be a matter of individualistic experience only, and needs some kind organized expression, still Buber was reluctant to make clear rules lest it would degrade into an oppressive system like rabbinic

⁶² F. Rosenzweig, *A Collection of Letters and Diary*, ed. R. Horowitz (Jerusalem: Bialik Institute, 1987), a Hebrew translation. See discussion in Rose, “From Hegel to Yom Kippur,” *supra* note 61.

⁶³ Martin Buber, *Teudah ve-Yeud; writings of Jewish Issues* (Jerusalem: Zionist Library, 1960, Hebrew), 70 (my translation). See on the whole issue: L. J. Silberstein, *Martin Buber's Social and Religious Thought: Alienation and the Quest for Meaning* (New York: New York University Press, 1989).

⁶⁴ Buber, *Teudah ve-Yehod*, *ibid.*, 22.

Judaism. He was very conscious of the human need to live in an organized community, but instead of the oppressive rabbinic system, he preferred the new national Jewish entity which was developing in Palestine.

Religion as the spontaneous experience of the individual is also at the core of Aharon David Gordon's thought. It is ironic that the hyphenated term *Dat ha-avodah*, that is, "the religion of labor," which is so associated with him, never appears in Gordon's writings, and he himself rejected it. Yet, it well illustrates the centrality of human labor in his thought, and the strong relationship between his religious orientation and the concept of labor, especially working the land, as the supreme human value. Influenced by Romantic-Tolstoian ideas, he described labor, and through it the direct connection with nature, religiously, as the true worship of God. Tilling the Land of Israel became for him a substitute for the exilic-halachic existence. The *Kibbutz* movement adopted this religious interpretation of labor.⁶⁵

The very fact that Gordon's views were defined as *dat* (despite his indignation), the fact that the hyphenated *dat ha-avodah* was quickly absorbed, and became popular among Hebrew speakers, well illustrate the amorphous, fluid nature the word *dat* acquired, so much that it became possible to use it in order to define and illustrate ideological tendencies which are very remote from its original meaning, even secular views which are completely detached from it. This tendency increased as time went by, as we shall see in the following.

Like Buber, Gordon also grew up in the Halachic world, but rejected it as an oppressive institution. Still, although he stopped following it, he was full of empathy to the world he left behind, and tried to inject religious components, a certain kind of religiosity, into the life of the *Haluzim* of the Second Aliyah. Like William James, he identified the powerfulness of the religious experience in the very fact that humans are never indifferent to it; they adopt it enthusiastically or reject it ferociously. Gordon defined it, however, in a distinct Deist-Pantheistic manner, which identifies God as a natural force. This is a subjective, authentic, and spontaneous personal experience; it is the direct instinctive bonding the individual and community with existence and nature, without the belief in divine providence, or obeying halachic norms:

Religion (*ha-dat*) is the feeling of the full unity of the whole existence and its supreme and complete harmony. . . . Religion has no other basis, no other expression, and no other proof but emotions and their modes of expression. . . . Religion is completely subjective, but this is a unique subjectivism.⁶⁶

While Buber made a distinction between religion and religiosity, Gordon distinguished between the form of religion and its content. The content is the inner

⁶⁵ D. Can'ani, *The Second Aliyah and its Attitude Towards Religion* (Tel-Aviv Institute for Research of Workers and Society, 1976, in Hebrew), 56–64; A. Shapirah, *Gordon's Thought and Its Sources in Kabbalah and Hasidism* (Tel-Aviv: Oved Publishers, 1996, in Hebrew).

⁶⁶ Aharon David Gordon, *Writings*, vol. 2. (Tel-Aviv: Zionist Library, 1957, in Hebrew), 112–13 (my translation).

subjective experience, while the form is the external ritual expression of religion, which cannot follow the authentic flow of the experience, and tends to be fossilized and subjugate the soul:

This is why the form of religion (*dat*) always stays behind the ongoing thinking and the purified spirit; It was always backward. There is no wonder then that it lately completely fossilized. . . . until the content became completely superfluous. . . . There is no wonder that lately the living thought, which seeks and surveys, in which the soul lives, which always seeks to be renewed, distanced itself from religion completely.⁶⁷

In the formal religion, Gordon distinguishes between the historical religion and the philosophical religion; both were in his view a “dried-up abstraction.”⁶⁸ As far as he was concerned, Jewish renewal meant both the rejection of the oppressive halachic religion, and the dry formal religion of reason, and their replacement with the living experience, which he, like Buber, identified in biblical prophecy. In his view, Judaism was closer than Christianity to this authentic religious experience, since it is by essence a national religion. In the national component, he identified not only an ethnic framework, but, more importantly, a vehicle which enables the mystical bonding with existence and nature in the Land of Israel. Both religion and nation are an expression of the human bonding with what he phrases as the “soul of the world,” the unity of existence. He aspired Zionism to become a movement of religious renewal, in a Deistic-Pantheistic sense, which would enable the Jew to bond again with his land, thereby with nature and the wholeness of being.⁶⁹ Here is where *dat* and *avodah* (labor) coalesced, and enabled his followers to create the hyphenated *dat ha-avodah* (religion of labor), as the supreme expression of the revival of the nation in the Land of Israel. On this basis, they created an oxymoronic secular religiosity, so typical of the *Kibbutz* movement in its formative years.⁷⁰

V THE ORTHODOX REACTION

So far, we have encountered the views of nineteenth- and early twentieth-century Jewish scholars who were influenced in various ways by the new meanings Judaism acquired in modern times, as a *dat* which is a religion. Whoever wrote in Hebrew continued to label Judaism as *dat*, but invested it with the new Protestant meaning of religion they acquired from the surrounding culture; all the more so those who wrote in various European languages, mainly German. However, other currents in Judaism and their scholars, who encountered the challenge of modernity, voiced

⁶⁷ *Ibid.*, 125.

⁶⁸ *Ibid.*, 127.

⁶⁹ *Ibid.*, 120.

⁷⁰ See many examples and discussion in Can'ani, *The Second Aliyah and its Attitude Towards Religion*, *supra* note 65; Melamed, *Dat*, *supra* note 1, 200–05.

strong reservations and rejected the process of turning Judaism into a religion, this from different and contrasting motives. Some acted from religious-orthodox motives, others on the basis of a secular, national, or cultural orientation. The very fact that such a fierce resistance evolved from so many different directions, only proves how deeply this new definition of religion penetrated the Jewish environment, and gradually dripped from Germanic Central Europe into Jewish centers in Eastern Europe. One never rejects, albeit so forcefully, a phenomenon which is nonexistent or is negligible; the powerfulness of rejection is a clear indication of how deeply this new concept of religion penetrated.

However, many among those who resisted were so deeply influenced by this modern concept of religion, and the Christian religious vocabulary which was used in the surrounding culture, that they imposed it on their reading of Judaism, even against their own will or unconsciously, so powerful was the influence of the new concept of religion.⁷¹

The Orthodox rejection of the identification of Judaism as religion, and the translation of the Hebrew *dat* into “religion,” should be subdivided between Ultra-Orthodoxy (*Haredim*) and Neo-Orthodoxy. Paradoxically, the Ultra-Orthodox quest to freeze Judaism in its present condition (i.e. that of the early nineteenth century), as a means to combat modernism, created a new current in Judaism, just like the appearance of Reform Judaism. The creators of Ultra-Orthodoxy were unconscious of this fact, and in any case denied it vehemently.⁷² Their contention that they are the one and only authentic inheritors of traditional Judaism is an invented tradition created to legitimize their claim. They were a new current in modern Judaism, just like any other, they were a response to modernity; the difference was in the nature of the response. Their response to the appearance of Reform Judaism was quite compatible, even in the terms used, to the reaction of the Catholic establishment to the Reformation. The irony is that the famous slogan of Hatam Sofer, the founder of Ultra-Orthodoxy, a freely interpreted Mishnaic dictum: “Anything new is strictly forbidden by the *Torah*,” was in itself a major halachic innovation. Previous rabbinic authorities, who were not forced to confront the challenges of modernity and reform, had no need for such a radical theory about the unchangeability of the Halacha. Orthodoxy had to invent a tradition in order to defend its very existence.

Orthodox Jews continued to use traditional terms. This is clearly apparent from the collection of letters, known as *Eleh Divrei ha-Berit* (*These Are the Words of the Covenant*, 1818), a reaction to the formation of the first reform congregation in

⁷¹ See many examples in Melamed, *Dat*, *supra* note 1, 206–10.

⁷² Y. Katz, *Ha-Kerah Shelo Nitachah* (Jerusalem: Zalman Shazar Institute, 1995), 25–27; D. Ellenson, “Traditional Reactions to Modern Jewish Reform: The Paradigm of German Orthodoxy,” in D. Ellenson, *After Emancipation: Jewish Religious Responses to Modernity* (Cincinnati: Hebrew Union College Press, 2004), 154–83; M. K. Silver, “The Emergence of Ultra-Orthodoxy: The Invention of Tradition,” in *The Uses of Tradition*, ed. J. Wertheimer (New York: Jewish Theological Seminary of America; Cambridge, MA: Distributed by Harvard University Press, 1992), 23–84.

Hamburg.⁷³ The rabbis whose letters were published in this volume continued to use traditional terms, such as *dat Moshe ve-Israel* (*The law of Moses and Israel*), *dateno ha-kedosha* (*our holy law*), and so forth, all in the plain meaning of the commandments of the *Torah*. Judaism for them was *dat*, in the plain legal meaning, never a religion.

However, even here the new definition of *dat* as religion started to penetrate, albeit unconsciously. At the beginning of a letter by a rabbi from Alsace, a French seal appears, indicating that he was a member of the *consistoire*, the official organization of French rabbis established by Napoleon. At the center of this seal appear the French words: *Patrie-Religion* (*Homeland-Religion*).⁷⁴ This rabbi fiercely rejected religious reform, but ironically, his seal identifies Judaism as a religion, recognized by the secular state, which give it official status. Thus, also he had to practically accept the modern separation between state and religion, and recognize the fact that the power to enforce the law belongs to the state, and the religious establishment lost the right to enforce its rulings. This is a fascinating example of how even orthodox Jews were left with no other choice but to recognize the authority of the modern state, thereby practically adopting the identification of Judaism as religion, in the modern sense of the term.⁷⁵

It is no coincidence that this appears in a letter by a French rabbi. Eastern European Orthodox Jews barely came in touch with these modern influences, and in any case, this happened much later. They were quite oblivious of the appearance of modern religion and its influence on the concept of Judaism. They will continue to use the Hebrew *dat*, in its traditional legal meaning, deep into the twentieth century, quite unconscious of the “Protestant” connotations it acquired. However, as already indicated, even they had with time to reconcile with the fact that the rabbinic authorities lost their autonomic judicial power, and were subjected now to the coercive authority of the modern state. They lost their most lethal tool, the right to impose a *herem* (excommunication) on a Jew; membership in a congregation and obedience to rabbinic authority became completely voluntary. As Hatam Sofer himself wrote in a famous conditional sentence, concerning the attitude towards reform Jews: “Had we had the legal authority, I would have decided to expel them from us.”⁷⁶ The key phrase here is the conditional “Had we had;” he was already clearly conscious of the fact that this authority was taken away. Orthodox Jews thus attempted to leave the organized Jewish congregation whenever it became dominated by reform Jews, and form a separate congregation (*teilung*); they had to pressure the state to agree to such move. Thereby they practically accepted the new

⁷³ *Eleh Divrei ha-Berit* (Altona, 1818). See D. Ellenson, *After Emancipation: Jewish Religious Responses to Modernity* (Cincinnati: Hebrew Union College Press, 2004), 156–59.

⁷⁴ *Eleh Divrei ha-Berit*, *supra* note 73, 83.

⁷⁵ See also Batnizky, *How Judaism Became a Religion*, *supra* note 16, in various places, especially 91.

⁷⁶ Hatam Sofer, *Sefer Hatam Sofer* (Bratislava, 1840), section 89.

reality, in which Judaism became a religion, just another confession in the modern state.⁷⁷

Neo-Orthodoxy, however, was already a conscious response to modernism and the reform tendencies, in Germany in particular. An acute observer already remarked that neo-orthodoxy pretended to be an authentic continuation of traditional Judaism (*Urjudentum*), but in reality, was nothing more than the Judaism of the hour (*uhrjudentum*).⁷⁸ It was described as “The Counter-Reform,” just like the Catholic Counter-Reformation.⁷⁹

Shimshon Raphael Hirsh, the founder of Neo-Orthodoxy, and the one who famously adopted the Mishnaic mantra: “*Torah* with *Derech Eretz* (*Derech Eretz* can mean both good manners and occupation),” illustrates his attitude very well. Like the Ultra-Orthodox, he rejected any changes in the *Halacha* (this is what *Torah* stands for in this equation), but unlike them, he added *Derech Eretz*, which means restricted openness to the general culture, both in education and occupation, and endeavored to find some delicate equilibrium between the two. Hirsh consciously avoided the usage of the term *dat*, this because of the strong association which already existed in his period, around the mid-nineteenth century, between the Hebrew *dat* and the Christian “religion.” He insisted that Judaism is not a *dat*, but a *Torah*; the usage of the term *dat* distorts its meaning and practically Christianizes it. He criticized great Jewish philosophers – from Maimonides to Mendelssohn – of imposing alien concepts on Judaism, thereby distorting its very essence; while Maimonides imported Aristotle, Mendelsohn was influenced by Kant. Judaism should be defined only by its inner authentic criteria:⁸⁰ “Comparisons [=with Christianity] are useless. Judaism is not a religion, the synagogue is not a church, the rabbi is not a priest. Judaism is not some addition to life, it encompasses life.”⁸¹ Hirsh repeated this assertion in various places, and accused reform Jews of Christianizing Judaism by turning it into a religion.⁸² However, even he was practically forced to identify Judaism as a confession, a religion based primarily on belief, just like the various Christian sects, and not as a separate ethnic component. Like emancipated Jews, also he wanted the Jews to become equal citizens in the German homeland. He refused to identify Judaism as *dat* (religion), and likewise rejected its identification as a separate ethnic group (*volk*), as German anti-Semites started to define it. Such Jews preferred to call themselves “German citizens of the

⁷⁷ B. Brown, “The Two Faces of Religious Radicalism: Orthodox Zealotry and ‘Holy Sinning’ in Nineteenth-Century Hasidism in Hungary and Galicia,” *The Journal of Religion* 93 (2013), 341–74. See also more examples and extended discussion in Melamed, *Dat*, *supra* note 1, 212–22.

⁷⁸ M. Breuer, *Modernity within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, trans. E. Petuchowski (New York: Columbia University Press, 1992), 23.

⁷⁹ *Ibid.*, p. 19.

⁸⁰ Shimshon Raphael Hirsh, *Igrot Zafon* (Jerusalem: Mosad Harav Kook, 1949), 75.

⁸¹ S. R. Hirsh, *Judaism Eternal: Selected Essays from the Writings of Rabbi Samson Raphael Hirsh*, trans. by I. Grunfeld, vol. 2 (London: Soncino Press, 1956), 237.

⁸² See more examples in Melamed, *Dat*, *supra* note 1, 222–26.

Jewish belief' (*deutche staatsburger Judischen glaubens*), like any other.⁸³ In order to make themselves indistinct they preferred to use the word *glaubens* (belief, faith), and not religion (or *dat*). This also concurred with their new concept of religion as belief, in the Protestant sense.

In the last count, even Hirsh has to accept in practice the designation of Judaism as religion, although the contents of this religion were of course quite different from the Reform view. In his view that Jews should participate in German society as equal citizens, he also practically accepted the fact that religious practice should be confined to the private sphere, and that practicing the *mizvot*, and membership in a Jewish congregation, became a voluntary matter. The emphasis moves to the private religious life of the individual in the congregation he chooses to become a member of. The emergence of the modern state necessitated this development.⁸⁴ This is the background of Hirsh's struggle to get permission from the German authorities to secede (*austritt*) from the Jewish congregation in Frankfurt, which was dominated then by reform followers. This also shows how reality forced him to identify Judaism as a confession, and the fact that Jews, just like Christians, split into different sects, recognized by the state. In his request to the government he used as arguments the precedent of the Christian schism, and the right to religious freedom. He apparently used these arguments in order to persuade the authorities, but there is no doubt that he also internalized them.⁸⁵

Later orthodox scholars who followed in Hirsh's Neo-Orthodox path, rejected his refusal to identify Judaism as a *volk*, and adopted national-religious views (Religious Zionism), but continued to evolve the view of Judaism as a *dat* which is a religion. Rabbi Yehiel Michal Pines, one of the founders of Religious Zionism, rejected reform Judaism, but nevertheless expresses a religious sentiment that even radical reformers could identify with. Consequently, despite Hirsh's reservations, he did not hesitate to apply the loaded term "religion" to Judaism, and even used it in Hebrew transliteration. Since he wrote in Hebrew, Pines could just use the term *dat*, or its equivalencies, but he deliberately chose the use "religion," and this at the very beginning of his book:

The *religia* (in Hebrew transliteration), has a secure place in the heart, and its roots are deeply planted in the essence of life. This is why it will never die . . . This is a deep feeling among humans, which eternally whispers to them, and rings in their heart, just like a bell. There is a sublime and hidden force which cannot be seen; there is a cause for our existence and that of the universe, humans must give tanks to

⁸³ M. A. Kaplan, *The Making of the Jewish Middle Class* (Oxford: Oxford University Press, 1991), 14. Also K. Koltun-Fromm, *Abraham Geiger's Liberal Judaism: Personal Meaning and Religious Authority* (Bloomington: Indiana University Press, 2006), 19: "Deutsche Glaubensbruder."

⁸⁴ Batnizky, *How Judaism Became a Religion*, *supra* note 16, 40–43; M. Graupe, *The Creation of Modern Judaism* (Jerusalem: Schocken, 1990, in Hebrew), 195–97; E. Hammel, *The Middle Course: The Beginnings of Modern Religiosity* (Jerusalem: Carmel, 2011, in Hebrew), 160–61.

⁸⁵ Breuer, *Modernity within Tradition*, *supra* note 78, 295–96; Ellenson, *After Emancipation*, *supra* note 73, 76–77, 177–78, 242; J. Katz, *Ha-Halacha Be-Meizar* (Jerusalem: Magnes, 1991), 12–14.

this force. . . . This feeling is common to all the children of Adam and Eve, and it is embedded in us as a natural orientation.⁸⁶

This is a typical universalistic and Romantic, even Deistic, concept of religion that is no different from the list of such definitions we found above among early reformers. Pines distinguished among three kinds of religion (*dat*): “The positive civil *dat*” (*dat mehuievet ezrahit*), which is the application of the universal religious belief to the social distinction between good and evil, applied in different manners in different societies; “the positive *dat* of the individual” (*dat mehuievet l-adam ha-prati*), which is the individualistic bonding with the sublime. When this religious feeling goes through the prism of reason, the “*dat* of the philosophers” (*dat ha-filosofim*) evolves.

Here Pines finds the great advantage Judaism has over other religions, especially Christianity.⁸⁷ In Christianity, which is based primarily on a set of necessary beliefs, scientific discoveries undermine the foundation of religious beliefs, and cause a massive shift to secularism. Judaism, however, is essentially different, since it is not based on necessary beliefs, but on the obligation to follow the Halacha. This is the fourth kind of *dat*, “the Divine *dat*” (*dat Elohit*). Therefore, there is no danger, in his view, that Jews will abandon their religion. Here his national views come to the fore; the appearance of Zionism was for him a clear proof of the ongoing vitality of the Jewish people. Unlike Hirsh, Pines simultaneously defined the Jews as a *volk* and Judaism as a religion; these two ingredients coalesced in his view into one ever-lasting whole.

Pines’ collaborator in the creation of religious Zionism, Rabbi Hayyim Hirshenzon, developed a system which tried to create a synthesis between Judaism and democracy, this under the influence of his encounter with the American political system in the long years he lived in the USA. Unlike Pines, Hirshenzon did make a clear distinction between the Jewish *dat* and the gentile “religion”:

Dat Israel is superior to the religions (*datei*) of other nations, which are called religion (in Hebrew transliteration). This is because they are obligated to a few practical commandments (*mizvot*) only, which are based on belief, while we received an abundance of commandments, which obligate us not by command, but through the tradition which we accepted upon ourselves, like any constitution (Hebrew transliterated), which was voluntarily accepted by a people. This is why our law (*dinenu*) is “A national *dat*” (*dat leumi*), while theirs is “A religious *dat*” (*dat religiosi*). The gentiles have a religion, while we, the Jews, have a *Torah*, and *dat*, just laws (*hukim*) and ordinances (*mishpatim*).⁸⁸

⁸⁶ Yehiel Michal Pines, *Yaldei Ruhi* (Mainz: Brill, 1872), 1–2. See I. Shalmon, “Yehiel Michal Pines: His Historical Image,” in I. Shalmon, *Religion and Zionism: First Encounters* (Jerusalem: The World Zionist Organization, 1990, in Hebrew), 97–111.

⁸⁷ *Yaldei Ruhi*, *supra* note 86, 3–4.

⁸⁸ Hayyim Hirshenzon, *Sefer Berurei ha-Middot* (Jerusalem: The Hebrew Printing Press, 1929) vol. 1, 288–89. See E. Shweid, *Democracy and Halacha: The Thought of Rabbi Hayyim Hirshenzon* (Jerusalem: Magnes, 1978, in Hebrew).

In order to define the Christian's religion Hirshenzon created the oxymoronic combination: "religious *dat*." The difference between this *dat* and the Jewish *dat* is twofold: While the Christian religion is based on necessary beliefs, the Jewish one is based on the practical commandments. Second, while the Christian dogma is imposed upon the believers, the obedience to Jewish law is a voluntary matter. He defined the Halacha as a constitution which the people voluntarily agree to uphold, in the spirit of the American republican ethos.

While religious thinkers rejected the identification of Judaism as a "religion" from halachic reasons, secular Zionists rejected it from national reasons. Religious thinkers attempted to return to the original legal definition of Judaism, and eradicate the foreign influences, which have defined it as a "religion," thus practically Protestantized it. Secular Zionists, on the other hand, strived to belittle, even eradicate, the religious facets of Judaism, which they identified with the exilic existence, while emphasizing the national-cultural nature of Jewish existence. They also considered the modern definition of Judaism as religion to be a foreign influence, which should be abolished, but forgot to notice that the national idea itself was also a foreign import.

One of the first scholars to identify the Jews as a nation was the Historian Heinrich Zevi Graetz. Like Hirsh, his teacher, he also rejected the definition of Judaism as "religion," but this from a clear national-cultural point of view. He defined Judaism as a political entity, thus rejected its modern definition as religion. As he says:

Even after the Talmud was closed, the national character remained embedded in the history of Israel, ... It never became a sect or a religious church (*Kirchengeschichte*), since it is not based only on the *Torah*, the principles of faith and the moral values, but is a living people.⁸⁹

Graetz's shift to Jewish nationalism was influenced by Moses Hess's famous *Rome and Jerusalem* (Leipzig, 1862), one of the first proto-Zionist treatises. Hess empathetically argued that "Judaism is a nation (*nationalitat*)."⁹⁰ He completely rejected the identification of Judaism as a religion (*religiose confession*), and argued that the reform movement endeavored to turn Judaism into a kind of rationalistic Christianity (*ein zweites Christentum*); he labeled the reform movement as "Our Jewish Protestants" (*unseren Judischen Protestanten*), who emphasize the salvation of the individual, Protestant style, at the expense of any congregational-national obligation.

Hess distinguished between two kinds of religions: "Natural Religion" (*Naturkultus*), which is the Greek religion, based on natural phenomena, and "Historical Religion" (*Geschichtesreligion*), which is the Jewish religion, based on

⁸⁹ Zvi Graetz, *Divrei Yemei Israel*, trans. sh. Rabinovitz (Warsaw: Ahisefer, 1893), vol. 3, 5.

⁹⁰ Moses Hess, *Rome and Jerusalem*, trans. M. Waxman (New York: Bloch publishing company, 1918), 85–86. See in the German original, *Rom und Jerusalem* (Tel-Aviv: Hitachduth Olej Germania We Olej Austria, 1939), 50–51.

the appearance of God in nature and history. To these he added the Christian “Religion of Love” (*Religion der Liebe*), in its German variant. This is yet another manifestation of the abundance of new hyphenated terms which were coined in an effort to capture the ever-changing fluid meanings of modern Judaism.

Early Zionist thinkers, such as Judah Leib Pinsker and Theodor Herzl, both argued that Judaism is primarily a national entity, and de-emphasized its religious component. In their view, in the future Jewish state, religion should become the private matter of the individual, religious functionaries should serve the needs of the state, and have no independent power whatsoever. Ahad ha-Am strongly criticized Herzl’s Political Zionism, which in his view diluted the Jewish cultural identity, but still argued that Judaism is a nation with a distinct culture, not a religion. He criticized Western-European Jews of Christianizing Judaism by turning it to nothing but a religious sect in the modern state. Religious Zionists (yet another newly coined hyphenated term), rejected secular-Zionism, and insisted on an integration between the national and religious facets of Judaism.

On the other hand, anti-Zionist Jews in Central and Western Europe, who endeavored to integrate in their respective countries as equal citizens – in the whole spectrum between Orthodox and liberal Jews – vehemently rejected the Zionist claims, and insisted that Judaism is nothing but a religion, like any other, in the modern sense of the term, of course. This debate was carried on in the twentieth century, both in Europe and the nascent Jewish entity in Palestine.⁹¹

VI CONTEMPORARY TRENDS: RELIGIOSITY AND SECULARIZATION

These trends are currently continuing at an accelerated rate. Modern religiosity – and Judaism is no exception – is a religious conversion of a secular cultural and political phenomenon, which in itself was a conversion of a Christian phenomenon. In its revolt against Papal coercion and corruption, Lutheranism emphasized the personal religious experience of the individual, his direct connection to his God, without the need for the mediation of any ecclesiastical authority. These concepts later went through a secular political conversion towards the principles of the centrality of individual, his rights and liberties in the modern state.⁹² Now these secularized concepts are superimposed back onto the religious arena, and modern religions are going through a conversion to a religiosity based on the subjective spiritual experience of the individual in his private space, without the need for any binding authority and mediated interpretation of the Scriptures.

⁹¹ See detailed discussion of these thinkers and others, in Melamed, *Dat*, *supra* note 1, 244–89.

⁹² M. Walzer, *The Revolution of the Saints: A Study of the Origins of Radical Politics* (Cambridge, MA: Harvard University Press, 1965).

For Christianity, this was quite a natural process, since it was always based on the individual's duty to accept the right beliefs. In Judaism (and Islam) this conversion has a revolutionary impact. Traditional Judaism was always based on the duty to obey Halacha, first of all, and it has a strong ethnic and congregational component. The conversion from the emphasis on the duty to follow Halacha in an ethnic congregation, to the personal subjective religious experience in the private space, is revolutionary indeed. This process of diffusion, the privatization of religion, and the concentration on the individual believer, is nowadays moving from the level of the division of Judaism into different religious currents, which occurred since the early nineteenth century, to the division of these currents into endless voluntary congregations and individuals (the so called "sovereign self"), who adopt various shades, dosages, and combinations of beliefs, values, rituals, texts, and commandments, they choose from the enormous reservoir of the Jewish tradition, which they deem relevant and meaningful for themselves; these they constantly and creatively reinterpret to suit their liberal-pluralistic views, and the current gender attitudes.

Despite the myth that Orthodoxy is still trying to implement, Judaism was never a monolithic entity; it was always an evolving multi-lanyard culture, which went through endless theological and halachic disputes. Still, there was always a strong common denominator, created by the Sages, which lasted until the early nineteenth century approximately. This was the common obligation to follow the Halacha, at least in the public sphere. In premodern circumstances, halachic authorities had the power to enforce obedience. This power was eliminated with the advent of modernity. The majority of the Jews stopped following the Halacha, and the rabbis lost the power to enforce it. Judaism was divided into various currents, and now they are subdividing at an accelerated rate. One cannot speak of "Judaism" as one entity any more, there is an abundance of "Judaisms." Not only the word *dat* or "religion" is being hyphenated, Judaism itself is being hyphenated. We now have "Orthodox Judaism," "Haredi Judaism," "Conservative Judaism," "Reform Judaism," "Humanistic Judaism," "Secular Judaism," and so on. These processes are now accelerating in American Jewry with the appearance of the so-called "Post-Judaism," and its influence also reverberates among Israeli Jews, regardless of their religious orientation.⁹³

As a consequence of these processes, the terms *dat* and "religion" became so amorphic, that today, any particular view, on any subject – religious or secular – which a person adopts is labeled "religion" (or *dat*). This labeling includes also completely secular phenomena, even belatedly anti-religious views.⁹⁴ Thus, we use today hyphenated terms such as "Humanistic Religion" (*dat humanistit*), or "Civil

⁹³ See detailed discussions in A. Eisen and S. Cohen, *The Jew Within: Self, Family, and Community in America* (Bloomington: Indiana University Press, 2000); Sh. Magid, *American Post-Judaism: Identity and Renewal in a Postethnic Society* (Bloomington: Indiana University Press, 2013).

⁹⁴ In a letter to the editors of the Israeli daily newspaper *Ha'aretz*, a reader recently stated that in his view: "Secularism (*hilloniut*) is a religion (*dat*)" ("Letters to the Editor," *Ha'aretz*, June 15, 2017, 13).

Religion” (*dat ezrahit*), which relate to the common rituals and norms of a given political culture.⁹⁵

Radical ideologies are especially prone of semi-religious connotations, due to their totalitarian characteristics, their hero worship and tendency for indoctrination. Communism, a blatantly anti-religious ideology, used to be called a “religion,” and now various extreme environmental and vegan ideologies are being labeled by the very same terms, such as: “The Dark Green Religion.”⁹⁶ Psychoanalysis was called “a new religion” already in Freud’s life.⁹⁷

This usage proliferates now at an accelerated rate, as we can easily find in contemporary newspapers, which are a great source for detecting new meanings and usages of the terms and words we use. The belief that modern science replaced traditional religions as the source of all knowledge, is labeled as “the religion of science” (*dat ha-madah*), the religion of liberal secularism.⁹⁸ The enormous influence of the internet on our lives today is called: “the religion of information.” In an article published a few years ago in the Israeli daily newspaper *Ha-Aretz* we find the following assessment: “We envision today the ascension (*aliyah*) of a new religion (*dat*), the religion of information (*dat ha-meidah*). The religion promises to improve our lives . . . , this under the condition that we will sanctify (*nekadesh*) the supreme value of the flow of information.”⁹⁹ It is no incident that besides the repeated usage of the term *dat*, we find in these excerpts a collection of traditional religious components, now converted to a secular context: “Ascension” (*aliyah*), “improvement” (*shipur*), “sanctification” (*kidush*), “supreme value” (*erech elyon*), “the spirit of God” (*ruah Elohim*), “commandments” (*mitzvot*), and “holy war” (*milhemet kodesh*). Also, the manner by which we cope with the memory of the Holocaust, obsessive in the view of some, and the pilgrimage to Auschwitz, were recently labeled as: “the religion of the Holocaust”: “This is a religion (*dat*), the religion of Holocaust (*dat ha-Shoah*), this is a symbolic and metaphysic act, in which the nation

⁹⁵ Ch. S. Liebman and E. Don Yehiya, *Civil Religion in Israel: Traditional Judaism and Political Culture in the Jewish State* (Berkeley: University of California Press, 1983). The usage of *dat* or religion in this context is widespread. See for instance the Hebrew economic newspaper *Globs*, January 5, 2012: “The television program ‘The Big Brother’, has a status of a civil religion (*dat ezrahit*).” See also the remark of the American actress Robin Wright concerning award ceremonies. *New York Times*, February 5, 2014: “I don’t get the award theory, rather I don’t understand the religion of it . . . It’s not my religion.” Also, *New York Times*, June 2, 2017, concerning the new trend of tiny homes: “A tiny home is a state of mind, if not a religion.”

⁹⁶ B. Taylor, *Dark Green Religion* (Berkeley: University of California Press, 2010).

⁹⁷ P. Ferris, *Dr. Freud*, trans. D. Levi (Tel Aviv: Books in the Attic, 2010), 360.

⁹⁸ *Ha-Aretz Sefarim*, October 14, 2013, 10. See also in an article by Y. Caspi, *Ha-Aretz*, February 4, 2014: “Standing by itself, critical thinking erects a religion (*dat*) of its own.”

⁹⁹ Y. Harari, *Ha-Aretz*, February 23, 2013. See also in an article by B. Tsifer, *Ha-Aretz*, December 17, 2013: “We find recently more and more people that Facebook brought meaning to their life . . . , they found out that they have at last a function in a new militant religion (*dat hadashah*), which is being formed. The nature of this religion (*dat*) is not clear yet, but the spirit of God already hovers upon it; it is a militant spirit, and there are already commandments, or more precisely, one commandment: a holy war; let’s call it a *jihad*.”

is united with the object of its belief (*emunatah*).¹⁰⁰ The centrality of the army in Israeli life was recently labeled as: “the religion of the I.D.F.” (*dat zahal*).¹⁰¹ Likewise, the centrality of children in Israeli culture was recently labeled as: “the religion of the children” (*dat ha-yeladim*): “The child is holy, he is sublime, he is a little Buddha, he bestows you with a sense of meaning and purpose, you don’t raise him, you worship him as if he was God. Secular people are looking for something to believe in. . . . We are all devotees of the religion of the children.”¹⁰² Also here we find a collection of converted religious terms, even Buddhism, used to describe a secular sociological phenomenon.

Dat, a Hebrew term borrowed from the Persian, which originally denoted human law, was transformed to mean religion, creed, or fate. Now it has been re-secularized again, and acquired an elastic and amorphous meaning, which is being used to denote any social or intellectual trend in which people deeply believe in, with no necessary connection to religious beliefs anymore. This is alongside the traditional religious usages, which also acquire new meanings with the advent of modern religiosity. Thus, when we use this term now, it is essential to clarify which possible meaning of it is implied precisely; it does not stand by itself anymore. This is why we find so many hyphenated terms, in which an additional word is added to *dat* or “religion,” in order to clarify the intended meaning, and various conjugations of this word, from *datiut* (religiosity) to *hadata* (to influence somebody to become religious). This is an ongoing process. What we call *dat* is going through a radical process of change in contemporary culture: secularization, on the one hand, and religiosity on the other. In any case, its original meaning as law has been eliminated altogether.

¹⁰⁰ A. Misgav, “Auschwitz: We Came back to You Again,” *Ha-Aretz*, January 25, 2014.

¹⁰¹ R. Alfer, “The Religion of the I.D.F.,” *Ha-Aretz*, March 12, 2017.

¹⁰² N. Shore, “The Child is the New God,” *Ha-Aretz*, July 8, 2016. See also: “The Man Who Turned the Stock Market into the Religion (*dat*) of the Federal Bank,” *The Marker Magazine*, May 15, 2017, 126; *The Marker*, July 11, 2017: “The Tycoons are the result of the religion of privatization (*dat ha-hafatah*).”