

Title needed

Mikha'el Makovi

Universalism for the non-Jew is a critical component of the Modern Orthodox philosophy. Frequently, the Provencal halakhist R' Menahem haMeiri is appealed to, for his famous thesis that discriminatory Talmudic laws apply only to “nations not restricted by religion”.¹ However, the Meiri in actuality defined “religion” in such a way as to preclude many gentiles today, which is problematic for one who seeks to utilize his thesis. In actuality, however, this obstacle can thankfully be creatively overcome rather easily.

Halbertal² discusses the philosophical sources for Meiri's thesis, showing that the Meiri derived his definition of “religion” from the ibn Tibbonide tradition of Maimonidean philosophy. Meiri concluded that anyone believing in four things was considered to be “restricted by religion”, viz.: creation ex nihilo, providence and recompense, repentance, and in the reality of metaphysical incorporeality. This innovation was not of Meiri, but was rather simply borrowed by him from the ibn Tibbonides, who in turn followed Maimonidean philosophy. Meiri's innovation, however, was that such a believer was exempted from the Talmud's discriminatory legislation in civil law: "The Me'iri differed from his predecessors in how he ranked one possessed of religion and one possessed of wisdom, yet he derived the concept of religion and its essential nature from the philosophical tradition that preceded him".³ Again, "The Me'iri derived his conception of the functional importance of the religious core from the Provencal philosophical tradition that preceded him. Again, however, he was unique in applying it to the issue of the halakhic attitude to gentiles and in concluding that discrimination with respect to rights and responsibilities extends only to those gentiles not found within the category of those possessing religion."⁴ Such a conclusion was not forgone, seeing as how Maimonides and the ibn Tibbonides themselves held the Talmudic discrimination to be firmly in place. Meiri, on the other hand, held⁵ “that the Talmud's inequality between Jew and gentile with respect to personal and property rights arises from the parallel distinction between restricted nations and those unrestricted, not from any ontological distinction between Jew and gentile [as held by Maimonides] or even between idolaters and worshippers of the Divine [as used by Maimonides and Meiri alike to loosen laws of matters of benefit from gentiles' ritual and worship (Muslims in the case of Maimonides, Christians too in the case of Meiri). This distinction is related to, but not identical with, Meiri's conception of “nations restricted by religion”. This conception flows from the distinction between idolaters and monotheists, and was used by Meiri to nullify the Talmudic discrimination against gentiles in matters of civil law, as opposed to religious law.]. By establishing the inequality on this new basis, the Me'iri limits its application to

the ancient idolatrous nations and also provides it an inner rationale. The inequality reflects a sort of measure-for-measure attitude toward the undisciplined nations: There is no obligation to treat lawless nations in accordance with legal constraints.”

Goldstein point outs⁶ that Meiri's thesis is thus no solution for our situation today, for many gentiles would fail Meiri's criteria. However, as shown by Halbertal, Meiri's concept of "religion", and the fact that one possessing said "religion" is to be treated differently by halakha, are two different independent matters. Thus, we need not necessarily follow Meiri on both - the former is borrowed by Meiri from the ibn Tibbonides following Maimonidean tradition, and it is the latter that is in fact Meiri's own unique innovation. In fact, while the ibn Tibbonides had almost the identical conception of “religion” as Meiri, and were clearly Meiri's source, they never made the leap to the conclusion that such religious gentiles were to be excluded from the Talmud's discriminatory legislation. Therefore, we ought to be entitled to follow a different definition of "religion" and yet retain Meiri's own innovation that one possessing of "religion" is to be regarded specially.

In fact, the Meiri himself gives us the grounds for such a course of action – he himself gives us basis for even the non-religious being considered "religious". Halbertal notes⁷, "The Me'iri, as noted, associates the category [of non-religious, who do not believe in creation ex nihilo, providence, repentance, and metaphysical incorporeality] with ancient nations, rather than with the philosopher [who, as noted just prior to this passage, did not believe in those beliefs even in Meiri's own day]; for, in his view, the philosopher recognizes that the masses need religion and the philosopher himself is disciplined by internally generated moral commands, rather than by fear of religion." The reason (according to my own personal understanding, not Halbertal's) is that for Meiri, these beliefs are not “obligatory” ones (a Maimonidean term for a belief that is necessary solely because it is true), but rather, they are “necessary” ones (a Maimonidean term for a belief that is necessary only for its practical outcome, especially for the unlearned laity). These beliefs are necessary because they lead to a certain type of society. Meiri is not focusing on dogma for its own sake, but rather, he is focusing pragmatically on deed, with his criteria being the minimal requirements of dogma to ensure proper behavior; as Halbertal puts it⁸, Meiri's thesis “does not arise out of any logical argument [i.e. dogma or creed for its own philosophic sake], but is distinguished primarily through its ability to create a disciplined society.” The philosophers are therefore exempt, for they have alternate means of achieving this same end. Perhaps today's atheists can be considered like Meiri's philosophers? Meiri's distinction is not made on dogmatic grounds, but on pragmatic ones: ““All of these people possess no religion in the world and submit to the fear of no divinity, instead burning incense to the heavenly bodies and worshipping idols; therefore, they are unconcerned about any sins” (*Beit Ha-Behirah Avodah Zarah*, A.

Sofer ed., p.39).”⁹ Halbertal shows¹⁰ that the significance of Meiri's requirements of belief (in creation, providence, recompense, and in metaphysical incorporeality) is not for the sake of dogma, but rather, because these are the minimal characteristics of one “concerned about sins”; as Halbertal puts it¹¹, “Religion does not reflect the philosophical core common to intellectuals of all religions. Its concern is rather with the domain of religious *praxis*, which grows out of beliefs that inquiry cannot prove.”

Alternatively, we can disagree with Meiri's own definition of religion, but retain his innovation that such a religious individual is exempted from Talmudic discrimination. As Meiri himself defined his beliefs as those necessary for “concern with sin”, with this “concern for sin” being the true determination, we can substitute our own definition of “religion”. Personally, I am inclined to follow Rabbis Isidore Epstein¹² and J. H. Hertz¹³: both say that the Torah and Prophets denounce idolatry not because it is false theology, but rather because it is "false morality"; i.e., not for what heathens and idolaters believed, but instead for what they did. Both distinguish polytheism in that it had no binding moral imperatives, for the gods rarely had moral demands, and even when they did, another god would likely have contrary moral demands. Thus, moral chaos reigned, without any binding moral imperative. But if an atheist today believed in such a binding moral imperative, and is “concerned with sin”, for whatever reason, could we not define this as “religion”, for the purpose of satisfying Meiri's thesis?

My thoughts here are all tentative, that we could define “religion” solely as deed, without recourse to creed, or maintain the definition of “religion” as defined by Meiri but reclassify today's atheists as “philosophers” whom the Meiri exempted from his requirements. I merely wish to raise these issues and possibilities, and leave it for authorities far more competent than myself, to explore their validity, as well as other possibilities. Nevertheless, I believe my point stands, that we have the right to, in some way or another, redefine “religion” and yet maintain the Meiri's innovation that such a “religious” individual is exempt from the Talmud's discrimination. We can maintain the thrust of Meiri's innovation without being beholden to every detail of it, and thus uphold religious universalism even in our own day.

1 For thorough analyses of the Meiri's thesis:

- Comprising numerous examples of his applying it to concrete halakhic cases, see:
 - Goldstein, David, “A Lonely Champion of Tolerance: R. Menachem ha-Meiri's Attitude Towards Non-Jews”. Talk Reason: <http://www.talkreason.org/articles/meiri.cfm> (accessed October 3, 2008).
 - Halbertal, Moshe, “Ones Possessed of Religion”: Religious Tolerance in The Teachings of The Me'iri”, The Edah Journal, 1:1, 2000/Marheshvan 5761. <http://www.edah.org/backend/JournalArticle/halbertal.pdf> (accessed October 3, 2008). (“This essay is a translation of major portions of Chapter 3 of Bein Hokhmah Le-Torah, by Moshe Halbertal, Jerusalem, 2000 (Hebrew University Magnes Press). Translation by Joel Linsider” - quoted from the article itself, unnumbered footnote, p. 2.)
- His philosophical source in the Tibbonide interpretation of Maimonidean philosophy: Halbertal, op. cit.
- His minority status in halakhic history as opposed to the majority opinion opposed to him (viewing the Talmudic discrimination as being ontological between Jew and gentile), with sources: Halbertal op. cit. (briefly) Goldstein, op. cit. (at tremendous length) Halbertal chiefly cites Maimonides and several Tosafists, whereas Goldstein systematically cites numerous halakhic authorities from Maimonides through the Shulchan Aruch and its commentaries, showing clearly that the overwhelming majority of historical authorities were opposed to the Meiri's thesis. Goldstein also raises many other difficulties with the Meiri's thesis. These difficulties have answers, in my opinion, but regardless, every single one of Goldstein's difficulties is a serious and thoughtful one, and deserves an answer in like; I am greatly indebted to Goldstein no less than to Halbertal. One of Goldstein's difficulties is that the Meiri's philosophical underpinnings for his definition of “nations restricted by religion” are not satisfied by today's atheist. This article is in fact intended as a solution precisely to this difficulty.

2 Op. cit., beginning on p. 18, section “[C]”

3 Halbertal, op. cit., p. 19.

- 4 Ibid. p. 22.
- 5 Op. cit. p. 19
- 6 Op. cit. The article lacks pagination.
- 7 Op. cit. p. 20, note 42
- 8 Op. cit. p. 22.
- 9 Op. cit. p. 7f.
- 10 Op. cit., beginning from p. 18, section “[C]”.
- 11 Op. cit. p. 20.
- 12 Judaism: A Historical Presentation. Great Britain: Penguin Books, 1959 and numerous reprintings thereafter.

P. 143: “Belief in the one and only God was not demanded, provided there is no idolatry, which Judaism condemns not so much because it is false religion, but because it is false morality; the Son of Noah is not charged the confess the one and only God of the son of Israel. He may be a dualist or a trinitarian, as he wishes. This conception of the Noah laws reveals the real significance of the theocratic constitution of Israel: it rested not on the unity of the state and religion but on the unity of the state and morality.” Apparently, the first Noachide command would not mandate strict monotheism of the Jewish sort, but rather, would prohibit gross heathenistic worship. Epstein should not be misinterpreted as conceding any truth to non-monotheism; previously (p. 134) he notes that the Trinity is in stark contrast to the pure noble monotheism of Judaism, and is thus anathema to the Jew. The issue is not what is true per se, but rather, what is efficacious for achieving the desired end of moral deed. Meiri would agree: as Halbertal (op. cit. p. 22) puts it, “Creating a common core shared by religious people in general requires a mind-set different from the one that distinguishes between true and false religions, which is the distinction that underlies intolerant points of view. The ability to break free of the distinction between true and false religion and create a generic rubric of “religion” that encompasses various particular traditions (including the religion of Israel) grows out of a conception of the important functional role played by religion, or the “ways of religion,” in Judaism, Islam, and Christianity. This core, common to all those possessed of religion, is fundamentally independent of questions of truth and falsity. It does not arise out of any logical argument, but is distinguished primarily through its ability to create a disciplined society.”

13 The Pentateuch and Haftorahs. London: Soncino Press, 1937 and numerous reprintings thereafter. P. 759 (on Deuteronomy 4:19): “[I]dolatry was for them [the Jews] an unpardonable offense; and everything that might seduce them from that Divine Revelation was to be ruthlessly destroyed. Hence the amazing tolerance shown by Judaism of all ages towards the followers of all other cults, *so long as these were not steeped in immorality and crime.*” (Emphasis in original.) Again, p. 833 (on Deuteronomy 20:10-18): “It is seen that the Canaanites were put under the ban, not for false belief, but for vile action; because of the savage cruelty and foul immorality of their gruesome cults.” These passages are also found, with some minor but noticeable variations, in Rabbi Hertz's Sermons, Addresses, and Studies (London: Soncino, 1938. Pp. 215 and 219, under “Religious Tolerance”) and Affirmations of Judaism (London: Soncino, 1975. Pp. 183 and 186, under “Religious Tolerance”.)