Defining Deviance, Negotiating Norms: Raphael Meldola in Livorno, Pisa, and Bayonne

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1 The Secularization Thesis

The link between modernization and secularization has long been a staple of Jewish historiography. Secularization was the necessary prerequisite for, and the inevitable response to, Jews' "emancipation" from discriminatory legal provisions. It was evidenced in the abandonment of Jewish ritual observance, an intentional imitation of external norms that was either to be praised as "enlightenment" or decried as "assimilation," and the abandonment of Jewish "authenticity." The decline in observance was accompanied by, or justified by, a parallel abandonment of traditional religious beliefs and theological concepts. And at the same time, the *kehilla*, the autonomous Jewish community, lost its ability to enforce religious discipline and suppress unacceptable religious ideas.¹ Thus the transition to modernity was equated with a decline in rabbinical and communal authority, the abandonment of traditional behaviors, and the collapse of orthodox mentalities. In a famous article published almost a century ago, the young historian Salo Baron questioned whether modernization had been worth such a great cultural and communal cost.² But he did not question the narrative itself; if anything, his regret over what was lost reinforced the assumption that modernization and secularization were one.

* My thanks to Professors Gérard Nahon and Peter Nahon as well as to Doctor Nimrod Gaatone for their thoughtful comments on this paper. While I was unable to take up their several excellent suggestions here, I hope to do so in further work on Meldola. Of course, all errors are my own.

- 1 This approach to modernization, including the emphasis on the ideological justification for deviance and the breakdown of communal authority, was clearly articulated by Jacob Katz in a number of seminal studies: *Tradition and Crisis* (1955; complete translation, New York University Press, 1993); *Out of the Ghetto* (Cambridge, MA: Harvard University Press, 1973); and see also the introduction to his edited volume, *Toward Modernity: The European Jewish Model* (New Brunswick, NJ: Transaction Books, 1987), 1–12. For the debate over his views see my Afterword to *Tradition and Crisis* as well as *The Pride of Jacob: Essays on Jacob Katz and His Work*, ed. Jay M. Harris (Cambridge, MA: Harvard University Press, 2002).
- 2 Salo W. Baron, "Ghetto and Emancipation," *Menorah Journal* 14 (1928): 515–26.

This approach to the Jewish experience drew directly on then generally accepted understandings of European modernization as a whole: the Weberian disenchantment of the world, the gradual spread of rationalism and skepticism, and the democratic liberalization that granted ever-wider rights and freedoms to the individual. But the so-called “secularization thesis” is no longer as dominant as it once was, challenged on many fronts, including by the growing scholarly acknowledgment of the links between institutional religion and the modern state in European history.³ Treatments of “confessionalization” have highlighted not the supposed waning of religious practice but the definition of stronger and more rigid boundaries between denominations and religious communities in both Protestant and Catholic lands.⁴ The open, cosmopolitan liberalism supposedly at the heart of European secular modernity is increasingly seen as a chimera—a self-interested justification for empire and the basis for racist colonialism.⁵ Nor has the expected universal victory of scientific rationalism over myth, superstition, and religious credulousness proven as “inevitable” as was once thought. The narrative of modernity has changed: whiggish titles that trumpeted liberal progress (one thinks of J.B. Bury’s 1913 *A History of Freedom of Thought*) have given way to titles that portray a tentative and complex world of uncertain direction and unintended consequences (for example, Brad Gregory’s 2012 volume on *The Unintended Reformation: How a Religious Revolution Secularized Society*).

Truth to tell, the assumptions of the old model never fit neatly with the specifics of Jewish history. European secularization was built around institutional differentiation, with the state taking over functions formerly ascribed to religion. This pattern simply does not apply in the Jewish case. Jews did not have religious institutions parallel to the Catholic Church with its attendant wealth,

3 Steve Bruce, ed., *Religion and Modernization: Sociologists and Historians Debate the Secularization Thesis* (Oxford: Clarendon Press, 1992), provides a convenient starting point. I intentionally ignore here, primarily for reasons of space, the wide debate in contemporary scholarship over the very meaning of secularization and secularism. These issues, as they apply to the study of Jewish history, were taken up in a year-long workshop at the Herbert D. Katz Center for Advanced Judaic Studies, University of Pennsylvania, that produced the stimulating volume, *Secularism in Question: Jews and Judaism in Modern Times*, ed. Ari Joskowicz and Ethan B. Katz (Philadelphia: University of Pennsylvania Press, 2015). The extent to which they apply to the early modern period remains to be explored.

4 For an introduction to Heinz Schilling’s path-breaking studies of confessionalization see his *Early Modern European Civilization and Its Political and Cultural Dynamism. The Menahem Stern Jerusalem Lectures* (Hanover, NH: Brandeis University Press, 2008), especially chap. 2.

5 See for example Talal Asad, *Formation of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003), especially chap. 1: “What Might an Anthropology of Secularism Look Like?”

bureaucracies, and hierarchies, nor was the state seeking to take over Jewish religious functions. Unable to focus on institutional change, therefore, historians of the Jewish transition to modernity have focused on the secularized experience of individuals. They rooted the Jews' collective abandonment of tradition in the "rebellion" of intellectuals—those enlightened *maskilim* who freed themselves from "the discipline demanded by the rabbinical elite."⁶ The result was to portray what was often a gradual and contradictory process of cultural shift over several generations as an ideological conflict between proponents of the new ideas and the rabbis, defenders of the old.⁷ The conflict was presented as far more sudden, more intense, and more fully articulate than it may have seemed at the time. The rabbis, whose condemnatory and polemical writings are often the major source for our knowledge of the deviance of the *maskilim* and their followers, emerged in this schema as simple reactionaries, stubborn opponents of all change who were bent on protecting their own prerogatives and defending the system of categories through which they had learned to order experience.

But was the world of Jewish tradition as adamant as described, as monolithically stable in its reactionism? There has, as yet, been relatively little scholarship devoted to the class of rabbinic intellectuals on a par with the recent investigations of the modernizers, their real-world contexts, their intellectual and literary networks, and their varied interests and skills.⁸ New

6 Shmuel Feiner, *The Origins of Jewish Secularization in Eighteenth-Century Europe* (Philadelphia: University of Pennsylvania Press, 2011 [Hebrew original 2010]), xi. Feiner's book, the most recent overview of the broad process of "secularization," succeeds in widening the circles and themes of Jewish modernization without, however, abandoning the view of the eighteenth century as a period of confrontation marked by the collapse of tradition. See also his programmatic essay, "From Renaissance to Revolution: The Eighteenth Century in Jewish History," in *Sepharad in Ashkenaz*, ed. Resianne Fontaine, Andrea Schatz, and Irene Zwiep (Amsterdam: Royal Netherlands Academy of Arts and Sciences, 2007), pp. 1–10. Azriel Schochat's *Im Hilufei Tekufot* [Changing Eras] (Jerusalem: Mossad Bialik, 1960), sharply criticized when it appeared because it equated modernization with forms of social deviance that were not justified ideologically, was never translated into English, but its positions are summarized clearly in Chimen Abramsky, "The Crisis of Authority within European Jewry in the Eighteenth Century," *Studies in Jewish Religious and Intellectual History presented to Alexander Altmann on the Occasion of His Seventieth Birthday*, ed. Siegfried Stein and Raphael Loewe (Tuscaloosa: University of Alabama Press, 1979), 13–28.

7 In treating *The Jews of Georgian England 1714–1830: Tradition and Change in a Liberal Society* (Philadelphia: Jewish Publication Society, 1979), Todd M. Endelman seemed able to avoid this polarized view of modernization. But his argument, built on the special social and demographic circumstances of Jews in England, has not been easily applied to the rest of European Jewry.

8 On the literary circles of the modernizers see the important contribution by Shmuel Feiner, Zohar Shavit, Natalie Naimark-Goldberg, and Tal Kogman, eds., *Ha-Sifriya shel Tenu'at*

scholarly approaches—in particular those loosely referred to as the “history of the book”—have allowed us to appreciate the shifts and changes in the content and motivations of writings by the reformers. When intellectual historians have taken on rabbinical writings, they have tended to search out the rare demonstrations of interest in natural science⁹ or the surprising statements of “heretical” thought within the traditional system.¹⁰ In other words, the focus has been on examples of dissidence, skepticism, or outright religious disbelief, especially in communities of the Western Sephardic diaspora. But the mainstream of rabbinic thought has been largely ignored, with most rabbis assumed to be spokesmen for the enforcement of social and religious discipline.¹¹ The

ha-Haskala. Yetziratah shel Republikat ha-Sefarim ba-Hevra ha-Yehudit ba-Merhav ha-Dover Germanit (Tel Aviv: Am Oved, 2014); Shmuel Feiner, “Seductive Science and the Emergence of the Secular Jewish Intellectual,” *Science in Context* 15, no. 1 (2002): 121–35. On the effort to construct a Jewish “republic of letters” among sixteenth-century intellectuals, see my “*Amicitia* and Hermeticism: Paratext as Key to Judah Moscato’s *Nefutsot Yehudah*,” in *Rabbi Judah Moscato and the Jewish Intellectual World of Mantua in the 16th–17th Centuries*, ed. Giuseppe Veltri and Gianfranco Miletto (Leiden: Brill, 2012), 79–104.

9 David B. Ruderman, *Jewish Thought and Scientific Discovery in Early Modern Europe* (Detroit: Wayne State University Press, 1995).

10 Shalom Rosenberg, “Emunat Hakhamim,” in *Jewish Thought in the Seventeenth Century*, ed. Isadore Twersky and Bernard Septimus (Cambridge, MA: Harvard University Press, 1987), 285–341; Yosef Kaplan, “‘Karaites’ in the Early Eighteenth Century,” *Sceptics, Millenarians and Jews*, ed. David S. Katz and Jonathan I. Israel (Leiden: Brill, 1990), 196–236, reprinted in Kaplan, *An Alternative Path to Modernity: The Sephardi Diaspora in Western Europe* (Leiden: Brill, 2000), 234–79. Criticism of the authority of Jewish tradition from within the rabbinic world is a promising area of new research; see the important studies by Talya Fishman, *Shaking the Pillars of Exile: “Voice of a Fool,” An Early Modern Jewish Critique of Rabbinic Culture* (Stanford: Stanford University Press, 1997), and Yaacob Dweck, *The Scandal of Kabbalah: Leon Modena, Jewish Mysticism, Early Modern Venice* (Princeton, NJ: Princeton University Press, 2011).

11 It seems to me that a great deal about the nature and effectiveness of religious discipline within the traditional Jewish community remains to be clarified. I am not convinced, for example, that the decree of *herem* (excommunication) was as widely used as is sometimes assumed, much less that it was actually enforced, at least with regard to matters of religious doctrine and practice. See my very tentative remarks in “Legitimizing Rhetorics: Jewish ‘Heresy’ in Early Modern Italy,” *Études Épistémè: Revue de littérature et de civilisation (XVI^e–XVIII^e siècles)* 31 (2017): <https://episteme.revues.org/1764>. Yosef Kaplan’s detailing of the extensive use of *herem* by the Jewish communal authorities in Amsterdam may be yet another indication of the special nature of that community, rather than a broadly characteristic feature of religious discipline among Jews, or even Sephardic Jews, everywhere; “The Social Functions of the *Herem*” and “Deviance and Excommunication in the Eighteenth Century,” both reprinted in his *Alternative Path to Modernity*, 108–54. See also Mark Saperstein, *Exile in Amsterdam: Saul Levi Morteira’s Sermons to a Congregation of “New Jews”* (Cincinnati: Hebrew Union College Press, 2005), esp. 181–225. On ethnic aspects of the enforcement of public observance see Adam Ferziger, “Between ‘Ashkenazi’

content and style of halakhic writing—the hermetic, difficult terminology of a legal system, the insistent claims to an unbroken chain of traditional authority, and the repeated invocation of precedent—have tended to discourage investigation into the dynamics of halakhic discourse itself. But halakha was not simply a closed system of authoritative citations and fixed ideas. Under the influence of cultural studies, historians have learned to see the processual and fluid aspects of religion and ritual. Even the apparently obdurate textuality of responsa must be understood as the articulations of a negotiated and changing set of terms and values.¹²

We should not dismiss traditional rabbis on the eve of modernity as simply parroting long-established and carefully memorized rules. As individuals, they too were engaged in an intellectual, spiritual, and personal progression through life, a progression that was shaped and misshaped by the daily problems and dynamics of the communities in which they lived and with which they were deeply engaged. It is crucial then to gain an appreciation of their personal lives and careers if we wish to hear the nuances and implications of their halakhic statements. As a group, moreover, these rabbinic intellectuals formed a collectivity far larger than that of the “modernizers” and “rebels” on whom so much historiographical effort has been lavished, and it is therefore vital to understand their group dynamic. They formed a true “republic of Jewish letters,” gathering in publicly and privately supported institutions in the newly emerging, larger communities of the day, and also engaged in extensive correspondence with each other wherever they lived. They also took advantage of the printing revolution to publish an ever-growing library: classics with new commentaries, systematic treatises, and anthologies of correspondence in

and Sepharad: An Early Modern German Rabbinic Response to Religious Pluralism in the Spanish-Portuguese Community,” *Studia Rosenthaliana* 35, no. 1 (2001): 7–22.

- 12 A cultural approach informs such volumes as David Biale, ed., *The Cultures of the Jews: A New History* (New York: Schocken, 2002) and David B. Ruderman, *Early Modern Jewry: A New Cultural History* (Princeton, NJ: Princeton University Press, 2010). The thrust of the cultural approach varies with each scholar who has claimed it, but it almost always implies a rejection of one or another “orthodoxy” of past historiography and past Jewish identity. In this paper, however, my intent is less to reject, and more to expand, the interpretive ground of halakhic literature, and to take its jurisprudential and literary aspects more seriously than has often been the case in historical treatments. Moshe Rosman, *How Jewish Is Jewish History?* (Oxford: Littman Library of Jewish Civilization, 2007), and especially chap. 5: “Prolegomenon to the Study of Jewish Cultural History,” 131–53, is one of the few explorations of the theoretical challenges of the method. See also my “Global History and Jewish Studies. Paradoxical Agendas, Contradictory Implications,” in *Giornale di Storia* 9 (2016): <http://www.giornaledistoria.net/index.php?Articoli=557D0301220A74032104060B777327>.

volume after volume of rabbinic responsa. Like other guilds of highly trained experts, the halakhists in their intellectual pursuits questioned accepted views, thrust and parried with each other, cited and rejected past authorities while elevating the opinions of present ones, and developed an ever-more complex set of “standard” texts, references, and concepts. Scholarship on early modern Judaism has focused on challenges to rabbinic thought from the outside and mystical theologies and messianic movements from within. Rather than using this sort of polarized “challenge and response” approach, in this paper I shall try to capture the excitement and ferment of the process through which authorities defined and redefined the norms of their society through the quotidian practice of religious life.

The task is a delicate one. I am trying to catch sight of the cultural assumptions and implications behind rulings that I can know only from a few, highly stylized texts. I am trying to offer a “thick description” of “the webs of significance” in the practices of a society I cannot observe directly.¹³ My justification lies only in my basic assumption that traditional Judaism, like every human culture, is a set of rituals and interactions performed in public and in private in ways that had to create meaning and satisfaction for both performers and observers.

2 Rabbi Raphael Meldola

The career and writings of Raphael Meldola (1685–1748) provide an excellent starting point for our examination of the dynamics of religious normativity in the Mediterranean areas of the Western Sephardic diaspora.¹⁴ Born into

13 The reference is of course to Clifford Geertz, *The Interpretation of Cultures* (New York: Basic Books, 1973), chap. 1: “Thick Description: Toward an Interpretive Theory of Culture,” 3–30. The influence on my approach of Geertz’s view of “Religion as a Cultural System” (chapter 4) will be obvious to the reader.

14 On Meldola and his collected responsa see Maier Zipser in a series of articles “Lebensgeschichte Rafael Meldola’s und ein Bild der jüdischen Zustände in Italien zu seiner Zeit,” in *Literaturblatt des Orients: Berichte, Studien und Kritiken für jüdische Geschichte und Literatur*, the literary supplement to Julius Fürst’s *Der Orient* 8 (1847), nos. 36: 571–576; 37: 580–85; 38: 597–602; 40: 627–31; and 42: 657–63. More recently Simon Schwarzfuchs explored Meldola’s responsa from his years in France in “Notes sur les Juifs de Bayonne au XVIII^e siècle,” *REJ* 125 (1966): 352–64. Gérard Nahon, who has treated Meldola’s writings in several of his studies concerning the New Christians/Jews of Bayonne, including his PhD dissertation “Communautés judéo-portugaises du sud-ouest de la France: Bayonne et sa région, 1684–1791,” (Paris, Centre d’études juives and Ecole pratique des hautes études, 1969), provided important new documents in his Hebrew article “Rabbi

a long-established rabbinic family,¹⁵ Meldola received his education in his native Livorno at the height of that Tuscan Jewish community's prosperity and cultural efflorescence.¹⁶ He climbed the rabbinic ladder steadily, beginning as a teacher in the community Talmud Torah school, later giving regular classes to various advanced groups (a confraternity's yeshiva as well as various *midrashim*), and finally gaining an appointment as *dayan* or rabbinic advisor to the community's lay court once he reached age twenty-five (27 March 1710). Two years later, he would "be called"—as he put it—to the smaller community in nearby Pisa where he served as rabbi until 1729. His next position was as rabbi of Nefusot Jeudah (Dispersed of Judah), the Jewish community established by Portuguese *conversos* who crossed the border into France and were allowed to settle in Saint-Esprit-lès-Bayonne.¹⁷ Finally, in 1741, he returned to

Rafael b. Elazar Meldola in Bayonna, 1728–1741," in *Lo Yasur Shevet mi-Yhuda: Hanhaga, Rabanut u-Kehila be-Toldot Yisrael: Mehkarim mugashim le-Prof. Shim'on Shwarzfuks* [*The Scepter Shall Not Depart from Judah: Leaders, Rabbinate and Community in Jewish History. Studies Presented to Professor Simon Schwarzfuchs*], ed. Joseph R. Hacker and Yaron Harel (Jerusalem: The Bialik Institute, 2011), 271–99.

- 15 An elaborate family tree tracing the origins of the Meldola family through generations of rabbis and intellectuals back to the Middle Ages on the Iberian Peninsula, appears in the *Jewish Encyclopedia* (1904), s.v. "Meldola"; see below n. 24. On Raphael's grandfathers who served in rabbinical positions in Pisa and Livorno see below, nn. 19–20. Raphael's first cousin and brother-in-law, David ben Abraham Meldola, was cantor, *dayan*, and senior rabbinical teacher (*rosh metivta*) in Livorno; *Mayim Rabim, Orah Hayim* (1735–36), §8. He was also signatory to the Livornese rabbinic "imprimatur" and copyright issued for *Mayim Rabim* in late 1736.
- 16 On the history of Jewish Livorno of this period, see Renzo Toaff, *La Nazione ebraica a Livorno e a Pisa (1591–1700)* (Florence: Leo S. Olschki, 1990); Francesca Bregoli, *Mediterranean Enlightenment: Livornese Jews, Tuscan Culture, and Eighteenth-Century Reform* (Stanford: Stanford University Press, 2014), on which see my review, *AJS Review* 39, no. 2 (2015): 452–54. Lucia Frattarelli Fischer is undoubtedly the premier guide to archival history. Many of her articles are summarized in *Vivere fuori del Ghetto. Ebrei a Pisa e Livorno (secoli XVI–XVIII)* (Turin: Zamorani, 2009). On the city generally, see recently Corey Tazzara, "The Masterpiece of the Medici: Commerce, Politics, and the Making of the Free Port of Livorno, 1574–1790," PhD diss., Stanford University, 2011. On rabbinic culture in early modern Livorno, the classic study remains Alfredo Toaff and Aldo Lattes, *Gli studi ebraici a Livorno nel secolo XVIII: Malahi Accoen (1700–1771)* (Livorno 1909; repr., Bologna: Forni, 1980).
- 17 Much work remains before we can understand the religious life of this community. Especially important are Gérard Nahon, "Bayonne dans la diaspora sefarade d'Occident (XVII^e–XVIII^e siècle)," *Proceedings of the Seventh World Congress of Jewish Studies* (1977), vol. 4, *History of the Jews in Europe*, 47–55, reprinted in his *Métropoles et Périphéries sefarades d'Occident: Kairouan, Amsterdam, Bayonne, Bordeaux, Jérusalem* (Paris: Cerf, 1993), 253–59; Nahon, "Les Rapports des communautés judéo-portugaises de France avec celle d'Amsterdam aux XVII^e et XVIII^e siècles," *Métropoles et Périphéries*, 95–183 [an expanded

Livorno where we find him in senior positions as a member of the *Isur ve-Heter* rabbinical council until his death in 1748. Meldola's entire career was thus spent in Portuguese- and Spanish-speaking communities where former *conversos* formed a significant, even dominant, element. But the communities of Livorno and Pisa were rooted as well in the Mediterranean Sephardic world, with well-established traditions of religious practice and rabbinic learning tied to other respected centers in Italy, North Africa, the Land of Israel, and elsewhere in the Ottoman Empire. Meldola's task was to delineate Jewish law in what must have seemed a religious and cultural minefield. *Mayim Rabim*, the four-volume anthology of rabbinic responsa that Meldola collected over his lifetime and published in 1737, can be read as a roadmap to his ongoing effort to negotiate the not always congruent assumptions of his multiple audiences.¹⁸

Mayim Rabim presents special challenges—and opportunities—to the historian seeking to penetrate the rabbinic culture of this era. First, the volume is a multi-generational anthology that preserves and highlights the intellectual accomplishments of a single family. Most of the responsa are attributed, as we would expect, to Raphael Meldola himself, but several are by his grandfathers—David Israel ben Elazar Meldola in Livorno,¹⁹ and Jacob b. Moses Senior in Pisa.²⁰ Many more responsa are authored by Raphael's own son David. In at least some cases, these were questions that had been posed to David in Amsterdam, and the young man forwarded his answers to his father

version of a talk delivered at the Sixth World Congress of Jewish Studies and published in its proceedings, 1973], as well as the articles cited above in n. 14.

- 18 Amsterdam: Yosef Dayan [Dajn] Metzuyan, 1736–37. The volumes were ready for the printer at least a year earlier. Spanish dedicatory letters to volumes 2 (*Yore De'ah*) and 3 (*Even ha-Ezer*), addressed respectively to the lay leaders of the Jewish communities in Bayonne and Livorno, are dated *Rosh Hodesh Quisleu* [Kislev] 5496—that is, late fall, 1735. My thanks to Heide Warnke, curator of the Ets Haim Library, and Rachel Boertjens, curator of the Bibliotheca Rosenthaliana, for their help in clarifying which volumes had dedicatory letters.
- 19 Rabbi David Israel ben Elazar Meldola was a member of Livorno's *yeshiva klalit* in the mid-seventeenth century; *Mayim Rabim*, *Yore De'ah*, §52, fol. 40b. Responsa by him are to be found in *Mayim Rabim*, *Yore De'ah*, §§20 and 24; *Hoshen Mishpat*, §44. The first of these texts, dating from 1647, includes a rather lengthy description of the writer's great anxiety over the unsuccessful circumcision of Raphael's father Elazar. For Raphael, then only a teenager, finding his grandfather's writings among the papers of his own, recently deceased father was a source of significant comfort, as he mentions in the introduction to *Mayim Rabim*.
- 20 E.g., *Mayim Rabim*, *Yore De'ah*, §§51 and 70. At least the second of these, as we shall see, dates back to the earliest years of Senior's appointment in Pisa which began in 1635.

for review.²¹ In other cases, the questions were initially addressed to the father and David had prepared preliminary responses. (Meldola, as we shall see, believed in the pedagogical value of setting halakhic “research questions” to his pupils and asking them to write out formal answers.) Raphael may have felt it was a little odd to include his son’s work in the anthology. In the Introduction he seems a little embarrassed, and hastens to assure his readers first that David, not he, was the true author, and second that he had enormous faith in the boy’s future rabbinical excellence. But for our purposes, what is important is that the responsa by grandfathers and son are not simply archived in *Mayim Rabim*. In every case, Raphael has added his own response. The book thus became both a rabbinic genealogical record generated by three generations of a single family and a diachronic picture of halakhic thought over a full century. The close link between family and rabbinic scholarship, a sociological phenomenon not unique to the Meldolas, deserves historical investigation in its own right.²² But here I stress that Raphael was doing more than indulging in what he liked to call “the pride of ancestral family.” Past family scholarship served him as a springboard for his own. As he wrote after one of his reviews of his grandfather’s opinion, “This is what I have observed and thought about the

21 See for example, *Mayim Rabim*, *Hoshen Mishpat*, §§2–3, fols. 1a–2a: David modestly declares that he has taken the trouble to write out an opinion on a well-known proposition “at the command of great men.” *Mayim Rabim*, *Orah Hayim*, §31 shows us what may have often been the progression of such correspondence. The halakhic permissibility of carrying mechanical watches on the Sabbath had been debated by two students in the Ets Haim yeshiva in Amsterdam after they witnessed an *am ha-arets* (a term I would translate here as “lay person”) doing so. The two young men forwarded their opinions to Meldola who then wrote his own opinion, rejecting David’s permissive view and forbidding winding, or even carrying, the new watches on the Sabbath). See also Benjamin Diaz Brandon, *Emek Binyamin* (Amsterdam, 1753; reprint Borgóprund, 1912), §7. Abraham Hezekiah Bassan, editor of Brandon’s volume, adds that the topic was later taken up again by his own father, Jacob Bassan in Hamburg, and the latter’s opinion, which sided with David, was printed in *Peri Ets Hayim*, the collected volumes of student opinions that were one of the hallmarks of the new educational methodology in Amsterdam (according to Bassan as vol. 4, fol. 100–n.v.).

22 Though the prosopography of rabbinic intellectuals remains largely in the hands of bibliographers and hagiographers, the importance of genealogy to a critical history of rabbinic training is clear. There are many examples of this family dynamic. In this era in Livorno, for example, we can point to the halakhic work *Pri Hadash* of Hezkia da Silva (b. Livorno, 1656) and to the collection of responsa, *Halakhot Ktanot*, of Israel Jacob Hagiz (in Livorno 1652–1655; pupil of Meldola’s grandfather Jacob Senior, *Mayim Rabim*, *Even Ha-Ezer*, §§28–29; at some point, rabbi in Pisa, *ibid.*, *Orah Hayim*, §39). Each book was published by its author’s son: the former by David da Silva (Amsterdam, 1706 and 1730); the latter by Moshe Hagiz (Venice, 1704). Each of these sons, David Meldola included, became a well-known scholar in his own right. Examples could be easily multiplied.

issue [...] and I have written it down in a book for the sake of intellectual practice [in preparation] for some other occasion.”²³ Raphael, and his son David after him, took it as their moral obligation to preserve a familial intellectual tradition that would otherwise have been lost to the exigencies of time.²⁴ They engaged with that tradition and enthusiastically elaborated upon it.²⁵ Their passion has left historians with a rare opportunity to watch halakhic thought develop over time within the intimate circle of a single family.

This leads to a second point: both the structure and content of *Mayim Rabim* clearly underscore a view of halakha as an ongoing discussion and debate. The literary back and forth between grandfathers and grandson, and the active correspondence between father and son, remind us that we are now in an era when halakhic discussion is an active universe of intellectual discourse. The legalisms of *Mayim Rabim* come alive, turning the book from a collection of magisterial rulings into the record of an interactive dialogue. Unfortunately, much of Meldola's oeuvre has not survived. He tells his reader that what made it into print was only a small portion of the original, and most was lost “owing to the troubles of the times.” His son David had located and recopied what he could, but the book had had to be heavily edited. David had had also to translate many responsa from Spanish and Italian, leaving open the question of how much the content may have been changed in the process. Even so, we can see clearly in what has survived in *Mayim Rabim* that, for Meldola, halakha was a

23 “[L]ehitlamed le-makom aher,” in *Mayim Rabim*, *Hoshen Mishpat*, §45, reviewing an opinion by Rabbi David Israel ben Elazar Meldola (§44) disputing the view of Isaac ben Eliyahu Montalto (§43).

24 He uses the Talmudic expression “*shevah beit avi*” [cf. *Ketubot* 79b] referring to property that a bride brings with her into marriage and which cannot be alienated because it is the heritage of her father's house. Family pride among Italian Jews (and not just Sephardim) in the early modern period, as well as its connection with writing and publishing deserves scholarly attention. Genealogy is not only a framework, for example, at the start of Leon Modena's famous memoir, *Life of Judah (The Autobiography of a Seventeenth-Century Venetian Rabbi)*, ed. Mark R. Cohen [Princeton, NJ: Princeton University Press, 1988]). It provides, in my opinion, the key to the structure and flow of the entire work. It was apparently Meldola's father who in 1679 initiated *Toldot Adam*, the family genealogical record that would be continued for hundreds of years and be a major source for C.I. De Sola's article on the family in *The Jewish Encyclopedia* (New York: Funk & Wagnalls Co., 1904), 6: 454. Note also Raphael Meldola's remark cited in the next note below.

25 In his introduction, Raphael reports as well that while still a teen-ager, when going through his father's papers after the latter had died suddenly, he had found solace in discovering responsa and other rabbinic writings by his paternal grandfather, David Israel ben Elazar Meldola (as well as from other deceased rabbis). These had “enlivened me and strengthened my soul, for [even casual] conversations of the fathers become the Torah [or teachings] of the children.”

collaborative project and a field for intellectual debate within the family and, as we shall see, within a broader community of scholars.²⁶

Finally, it is crucial to take note of the literary aspects of *Mayim Rabim*. The book is actually written in two different registers: one the legalese of formal citation and argumentation, and the other a dense, ornate, and allusive idiom favored by Sephardic rabbis of the era.²⁷ I will try to give the reader a sense of the former style as we make our way through specific cases below, though a full treatment will require a careful bibliographical mapping of the sources and authorities Meldola and his correspondents cite. But if we restrict ourselves to the workaday sections and language of halakhic precedent, we would miss the cultural meaning contained within, and written around, the book's legalism and legal rhetoric. In the introductory sections in particular, Meldola's very literary prose assumes that the reader has extensive and intimate familiarity with both the biblical and the rabbinic sources being quoted and intentionally "misquoted" for effect. Investigation of this literary style is still a scholarly desideratum, and I do not claim to have always caught the implications of Meldola's complex rhetorical conventions and techniques.²⁸ Still, the story flows with considerable facility, and reveals the individual behind the stylistics. He clearly wanted to be understood.

26 According to a list prepared by Schwarzfuchs, over sixty scholars make appearances in *Mayim Rabim*; "Notes sur les juifs de Bayonne," 362 ff.

27 Meir Benayahu, ed., *Dor Ehad ba-Arets: Igrot Rabi Shmu'el Aboab ve-Rabi Moshe Zacut be-Inyenei Erets-Yisrael* [5]399–[5]426 [A Single Generation in the Land: Letters of R. Shmu'el Aboab and R. Mošeh Zacuto Concerning the Affairs of Erets Yisrael 1639–1666] (Jerusalem: Yad Ha-Rav Nissim, 1988) provides an excellent, edited example of this type of epistolary style a generation earlier.

28 For example, in the introduction to *Mayim Rabim*, Meldola refers metaphorically to his own youthful studies in preparation for a career as a teacher of Torah as "filling one's own belly with fatted meat from a golden tray (or table)." I have not been able to locate a classical source for the Aramaic phrase "bisra shamina a-ptura de-dahava," but it is used in exactly the same sense in the introduction to Isaac Arama's *Akedat Yitshak* (the early sixteenth century) as well as in two other slightly later works identified in the Bar-Ilan University Responsa data base (<https://www.responsa.co.il>), suggesting a widely shared store of idioms and associations. Another direction for research into this literary style is provided by the poetic conventions of North African rabbis. Thus, Meldola uses the phrase "ve-shabhu rabanan le-de-tsv"i," a play on *Gittin* 56a, to praise his son David who had been instrumental in raising the funds needed to publish the book. The last word is here an abbreviation for *tsair be-yisrael*, and the phrase is thus a call to rabbis to praise a young Jewish man. But note that half a century later, the same phrase is used in a laudatory poem about the scholarship of a *shadar*, a representative of the Jewish community in Palestine, who had come to Morocco. See Ephraim Hazan, "Shluhei Erets-Yisrael ba-Shira u-va-Fiyut shel Yehudei Tsfon Afrika," *Peamim: Studies in Oriental Jewry* 24 (1985): 99–116, here 102, line 14. I thank Professor Hazan for his help.

Examination of one paragraph out of the fifteen that make up the book's carefully crafted autobiographical introduction will give the reader a sense of *Mayim Rabim's* literary style.

"Sustain me with raisin cakes, refresh me with apples, for I am faint with love."²⁹ I have so far been unable "to give preference to the son of the beloved,"³⁰ to realize my yearned-for goal, "for the food in [my] bag is all gone."³¹ [I am a] poor man who has nothing.³² "With no food or clothing in my own house, I shall not be a scholar"³³ for my days have been used up³⁴ pursuing fiery snakes³⁵—[that is,] the temporal concerns [*yelidei ha-zman*] that have canceled out any thoughts or ideas that arise from intellectuality.³⁶ I have walked through this world's sea storms, the waves roaring like "great waters."

The book's title phrase, "*mayim rabim*" (many waters) provides the refrain and the dominant image in this, as in every, paragraph of the introduction.³⁷ Meldola will use the metaphor to explore his passionate devotion to an intellectual and religious vocation on the one hand, and his emotionally turbulent youth, his difficult life, and the course of his career on the other. Floods, he declared at the start, using the language of the Song of Songs, cannot quench the fire of his love for the study and teaching of Torah.³⁸ Now, in this second paragraph, he draws again on the language of that biblical book to explain why he had been so far unable to publish his own work. His poverty has forced him to preoccupy himself with this-worldly concerns. He has weathered the storms of life—but at a cost. The paragraph is an intricate thicket of biblical and Talmudic references, plays on words and associations, but through it all we get a clear statement of the author's own life and the financial difficulties of his chosen career, a point to which he returns often.

29 Song of Songs 2:5.

30 Deuteronomy 21:16.

31 1 Samuel 9:7.

32 2 Samuel 12:3.

33 Isaiah 3:7 following the traditional Jewish explanations for the biblical phrase.

34 Playing on Job 7:6 with homophones and other words marked when they are substituted for the original.

35 Numbers 24:1 and 21:6.

36 Here Meldola plays on a standard phrase in Jewish divorce and contract legal documents (*Shulhan Arukh, Even ha-Ezer*, §154:20) to describe the life of the mind he has lost.

37 The phrase is also a coded reference to his own initials: רבִּים contains within it רמ, i.e., Raphael Meldola.

38 Song of Songs 8:7.

What conclusions can we draw about Meldola's education and his intellectual world from this dense and allusive text, from his facility with such an ornate Hebrew style, and from his deep familiarity with its sources? The language of our text is, of course, a claim to status and authority within the learned rabbinic hierarchy. But perhaps its unabashedly erudite Hebrew intellectualism is not as straightforward a claim as we might think. Remember that Hebrew was not this society's, or Meldola's, only literary language. The community in which he was raised spoke Spanish, Portuguese, and Italian. When he preached in Livorno (and most likely in Pisa and Bayonne as well), he would have been required to use Spanish. He and his contemporaries also knew and used Latin; for instance, in a Spanish letter to the *parnassim* of Bayonne he quotes Seneca, *De vita beata*, in Latin.³⁹ Meldola's slightly older contemporary, Joseph Attias, is famous in Livornese history for his broad secular scholarship, wide circle of non-Jewish intellectual friends, and enormous scholarly library in European languages. Attias's secular knowledge was no doubt influenced, his protests to the contrary notwithstanding, by the fact that his father had grown up as a Christian in Iberia, had practiced law in Salamanca, and had Spanish plays and literature on the bookshelves of their home in Livorno.⁴⁰ But we should not assume that there was any sharp division between Hispanic and Hebrew cultures in the Tuscan city. Attias would be appointed one of Livorno's five rabbis in 1733, while Meldola would be commissioned by the community to translate into Hebrew a volume of Spanish hymns commemorating the earthquake of 1742 (*Shever Metzarin*). There are, in other words, two competing literary languages in this community. We should not even take it for granted that Hebrew was the language of rabbinics while Spanish was reserved for recent *converso* immigrants or the community's lay leadership.⁴¹ Halakhic communication

39 *Parashat ha-Ibbur* (Amsterdam, 1733–34). The letter has been preserved in the digitized copy of the book available at <http://www.hebrewbooks.org/45146>.

40 On Attias (born 1672), see Lucia Frattarelli-Fischer, *Vivere Fuori del Ghetto*, 307–38 and Francesca Bregoli, *Mediterranean Enlightenment*, chaps. 2–3. Professor Bregoli translated Attias's description of his own education in her "Jewish Scholarship, Science, and the Republic of Letters: Joseph Attias in Eighteenth-Century Livorno," *ALEPH: Historical Studies in Science and Judaism* 7 (2007): 97–181, here 175–79, and in slightly different form in the online proceedings of the Eighth Early Modern Workshop (2011): <https://fordham.bepress.com/emw/emw2011/emw2011/6/>. Though we have information only about Attias's non-Hebrew library and know nothing of his holdings in Hebrew and rabbinics, his appointment as a member of Livorno's rabbinic council indicates that he had a very strong rabbinic education as well. He is one of the five rabbinic signatories to the Livornese *haskama* and copyright given to *Mayim Rabim* in late fall, 1736.

41 As is well known, the Jewish communities of Pisa and Livorno kept all of their records first in Portuguese, and then later in Spanish through the eighteenth century. Only *ketubot* were kept in Hebrew.

was, surprisingly, not exclusively in Hebrew. As we have already mentioned, Meldola's son David reports that his father wrote many of his responsa in Spanish or Italian, from which languages he—that is, David—had to translate them into Hebrew for the publication of *Mayim Rabim*.⁴² Whatever the circumstances that determined language choice, it is clear that Hebrew faced real competition as the language of religious self-expression and piety, and that cultural literacy and prestige were a complex affair in Livorno, Pisa, and Bayonne, just as in other centers of the Western Sephardic diaspora.

In noting the formality of Meldola's language I do not wish to obscure the everyday realities and tensions that he described. Bits of biographical information scattered through *Mayim Rabim* and other surviving letters allow us to reconstruct something of his world and give his opinions social concreteness beyond their halakhic abstraction. Most important, I think, is the fact that Meldola was never financially secure, and he remained always dependent upon the not-always-liberal generosity of the communities that employed him.⁴³ His father Elazar had been a *rubi*, that is a teacher of lower-level classes, in Livorno's Talmud Torah for forty years.⁴⁴ Raphael remembers himself as not an especially dedicated student, and perhaps, as a disciplinary measure, he was married off at sixteen to his first cousin, daughter of his father's brother.⁴⁵ Meldola describes his uncle and father-in-law Abraham as learned, wise, elderly, honored, and a "pleasant singer in Israel"—presumably indicating that Abraham served as a cantor in Livorno. But marriage did not solve the boy's financial problems, for Elazar died almost immediately, leaving the young Raphael as sole support for his new wife, his widowed mother, and his three sisters. The community elders, he says, were kind enough to give him a job teaching in the community's school—that is, as his father's replacement. He would remain at the school for eleven years, gradually working his way up through the various levels of responsibility, and supplementing his salary by

42 *Mayim Rabim, Orah Hayim*, §2, fol. 2b. This of course also leaves open the question to what extent David also edited his father's writings.

43 Except where indicated, the autobiographical details in this paragraph are taken from Meldola's introduction to *Mayim Rabim*.

44 In 1676, the elder Meldola was identified as teaching one of the two lower-level classes in the community school; Guido Sonnino, "Il 'Talmud Torà' di Livorno," *Rassegna Mensile di Israel* 10 (1935): 183–96, here 187. We do not know whether he ever progressed to a higher-level teaching assignment because the records of the Livorno Talmud Torah were apparently destroyed during World War II; R. Toaff, *La Nazione ebraica a Livorno e a Pisa*, 337, n. 7.

45 A few years before Joseph Attias was similarly betrothed at age sixteen "to a little niece," daughter of his older half-brother. Attias *père* had hoped thus to cement family relations between his offspring, though Attias hints that this ultimately hadn't worked out as intended. See the sources mentioned above, n. 29.

giving regular classes as “head of the yeshiva of the confraternity Torah Or⁴⁶ as well as in a number of other “*midrashim*.” When he reached the age of twenty-five, the Livornese *parnassim* appointed Meldola to the rank of *dayan* or rabbinical advocate (1710).

Why did he leave for the much smaller community in Pisa, twenty-five kilometers to the north? Was the salary better there? Was he attracted by the chance of being the main rabbi? Whatever his motives, Pisa proved no easy job. It was certainly not an undemanding schedule: he taught three hours each morning and then another three in the afternoon, he led the services on Sabbaths and holidays, he gave sermons on special Sabbaths, and of course he had to be available to rule on any and all questions of ritual that arose in the community.⁴⁷ Meldola struggled to perform his duties while supporting a growing family of seven children. Years later he would remember himself becoming as “weak as a woman” and aging prematurely. In Bayonne, Meldola’s salary was apparently adequate: “They gave me what I asked,” he wrote to an old teacher, and there were also the special fees he received to supplement his monthly wages.⁴⁸ But in that remarkably frank letter, Meldola admits that Bayonne had not been his first choice. He had actually hoped to obtain a position in Livorno but was refused. There had moreover also been some sort of scandal there about his son Elazar’s relations with women, and at least some in the community had tried to block the rabbi altogether from the city.⁴⁹ At fifty, his hair turning white, he could not afford to publish his writings, and had to rely on his son David, whom he had sent to Amsterdam, to collect the needed funds. His own repeated requests to the rabbinic council of Amsterdam for

46 On this privately sponsored academy, one of several in Livorno, see Sonnino, “Talmud Torà,” 192. In this period there were apparently financial tensions in the community schools. Senior students staged a public “rebellion” against the “gabai dos povres del Talmud Tora,” the schools’ financial manager, in 1715; *ibid.*, 188.

47 Whether Pisan Jewry in the eighteenth century maintained a lay civil court with rabbinic advisors (*dayanim*) as did the daughter community in Livorno is not clear. Thus we cannot say whether Meldola had judicial duties in Pisa. He refers to himself as *av bet din* and *more tsedek*—that is, judge and teacher (*Mayim Rabim*, *Orah Hayim*, §22). Attached to that responsum is a letter from the Safed rabbinical emissary Samuel ha-Levi, who inadvertently gives us a sense of the marginality of the Pisan community. He uses a Talmudic expression to describe coming through Pisa and discovering the young rabbi who was a “scroll of the law set down in a dark corner” (*Kiddushin* 66a). He stresses Meldola’s double duties there as *more tsedek* and *shaliah tsibur* (cantor).

48 Letter to R. Elazar ha-Cohen, back in Pisa in Nahon, “Rabbi Rafael b. Elazar Meldola in Bayonna,” (above n. 14), 288. In 1736, his base salary was 740 *livres*; *ibid.*, 274 f. Note that Meldola also arranged that his son-in-law, Joshua Milo, serve as a teacher in the community school; *ibid.*, 275.

49 Nahon, “Rabbi Rafael b. Elazar Meldola in Bayonna,” 287.

financial help were absolutely refused.⁵⁰ We should certainly take with a grain of salt the flowery gratitude for past support that Meldola included in the elaborate letters of dedication to the *parnassim* of Bayonne and Livorno prefaced to volumes two and three respectively of *Mayim Rabim*.⁵¹ Such obsequious sentences were obligatory in appeals for financial support, the genre to which these letters certainly belonged.

3 Normativity and Deviance

Let us now turn to Meldola's halakhic opinions. By its very nature, a responsa collection such as *Mayim Rabim* will include efforts to address religious deviance, using the language of halakha to define, critique, and call for suppression of unacceptable behaviors. Deviance is of course an umbrella term, so capacious that it can subsume almost any social problem, any crime, any personal confrontation, any mistake. *Mayim Rabim* tells us about a cheese merchant whose employee cut corners making the resulting product not kosher; could any of the product still be acceptable?⁵² There are men suspected of themselves drinking gentile wine; may they be employed to press grapes for kosher wine?⁵³ There is an abused wife who had fled to the Christian authorities; could she now be allowed to return to her husband and family?⁵⁴ There are people carrying the new mechanical watches or taking snuff.⁵⁵ Are they desecrating the Sabbath? Do these vignettes demonstrate anything more than human emotions or the vagaries of fashion? Is there broader social significance to such everyday deviance? Can these cases, individually or collectively, give us an overall sense of continuity and rupture, of how strictly tradition was observed and of how widely it was ignored?

Jewish historians have tended to decide the significance of such "misdemeanors" by asking whether they were tolerated as the unavoidable result of human imperfection or whether the "misdemeanors" themselves became a new norm to be justified by some new ideology. But perhaps there is another

50 Ibid. Meldola requested, and had difficulty obtaining, financial support for David's stay in Amsterdam; *ibid.*, 279 f. In 1741 he also requested help with a dowry for his youngest daughter Simha from Amsterdam's Society for Dowering Orphans and Poor Girls; *ibid.*, 273.

51 On this letter see above, n. 18.

52 *Mayim Rabim*, *Yore De'ah*, §2.

53 *Ibid.*, §24–25.

54 *Mayim Rabim*, *Even ha-Ezer*, §1. The original case was raised no later than 1635 before Meldola's grandfather, Jacob Senior. Meldola's opinion is *ibid.*, §3.

55 *Mayim Rabim*, *Orah Hayim*, §28 (Meldola allows the taking of snuff) and §31 (he forbids carrying mechanical watches). On the latter case, see above, n. 25.

possible approach. Why, after all, should we assume that the “normative” was stable, and that the deviant had to articulate a justificatory ideology? Perhaps it was those who claimed to be defending tradition that were forced to create an ideological justification to legitimate their “rigidity” in the face of inevitable social change. Rather than imagining a host of barbarians breaking down the walls of custom, perhaps we should visualize a crew of wall builders designing and constructing barriers to the natural flow of time. Let us test this approach by examining just a few cases of halakhic deviance that are featured in *Mayim Rabim*.

4 Public Space/Jewish Space

The first is a case that arose in Pisa quite early in Raphael Meldola's tenure there. Pisan Jews employed non-Jewish laborers in their leather tanneries. The Christians were day laborers—paid for each day they worked, including the Jewish Sabbath. This was an infraction of rabbinic law,⁵⁶ and Meldola urged the Jewish owners to revise their contracts with the workers and to pay them on a monthly or annual basis. This was the standard halakhic “work-around.” Payment for work on the Sabbath would then be “swallowed” or hidden within the larger payment, and therefore be permitted. Moreover, because he was not being paid specifically for Saturday work, the Gentile was at least in theory choosing on his own to work on that day rather than doing it at the Jews' command. But Meldola was still uncomfortable. Halakhic authorities had allowed this arrangement so long as the Gentile was not working on the Jew's property, lest other Jews coming by and observing the labor misunderstand and think that it was permitted to order a Gentile directly to do on the Sabbath what was forbidden to the Jew himself. In this case, the workshops were known to belong to Jews, and thus the salary arrangement was an insufficient solution. Meldola apparently did not raise this issue with his congregants but he did mention his concern to a fellow rabbi, Joseph Ergas, and in the fall of 1713 the two men undertook a lengthy correspondence over the halakhic issues involved.⁵⁷

56 Here I use the term “rabbinic law” (Hebrew: *de-rabanan*) in the technical sense of something not forbidden by the Torah itself but on a secondary level by later rabbis. In certain cases, this distinction provided a way of massaging or even forgiving prohibitions.

57 Responsa *Mayim Rabim*, *Orah Hayim*, §§14–17, fols. 9b–14a. A slightly different version of the first letter from Ergas to Meldola is preserved in *Divre Yosef*, §9, fols. 20b–21b. We cannot be exactly sure of the dates, but the discussion that began during Tabernacles, 1713, went on for over three months.

How shall we understand this question and the correspondence? Jacob Katz, the first historian to discuss this case, saw in it the impact of Italian Jews' participation in the early stages of industrialization. He collected a number of similar cases from Mantua, Venice, Emilia, and Gorizia, each involving Gentiles employed as day laborers in Jewish-owned light industries such as leather tanning and silk weaving.⁵⁸ Katz was interested in these cases as part of his investigation of the internal logic of halakhic discourse in the face of modernization. He traced the complicated principles that came into play in each successive case in order to understand the internally determined response of what was still a halakhically observant society to changing economic times. Although he saw the number of these cases as significant, he felt that the real cataclysm remained in the future, and the Jewish authorities did not yet imagine themselves facing an existential crisis.

But is the main factor a new form of Jewish economic activity? At least in Pisa the factories were not at all new. Jews in Pisa and Livorno had maintained such workshops ever since their community was established at the end of the sixteenth century.⁵⁹ If the economic activities of Pisan Jews had not changed, what then had suddenly made them religiously problematic? I would suggest that it was Rabbi Meldola himself. In the fall of 1713 the twenty-eight-year-old had literally just taken up his position in Pisa. He would have come across the Jewish leather workshops almost immediately. They were located in public places in what was, after all, a small town. He was troubled and gave the owners the standard halakhic instructions. But this did not yet resolve the issue for Meldola. Two weeks after the New Year, during the intermediate days of the feast of Tabernacles, he went back to Livorno—possibly to spend a few days with family, and there he mentioned his concerns to his old classmate and friend, Joseph Ergas. The two young men initiated an exchange of legal essays. Both men were clearly enjoying themselves: they wrote with exaggerated formality, begging each other's forgiveness for not responding more quickly and meanwhile managing to highlight how busy each was in his career. Ergas attests: "I swear I have four rabbinic questions that I haven't even opened" (§14, fol. 9b), to which Meldola replies: "A rich man has asked for my opinion on a judgment involving monetary damages, and I couldn't push it off" (§15, fol. 10a). The letters are bravura displays of intellectual prowess, as each

58 See Jacob Katz, *Goy shel Shabbat* (Jerusalem: Zalman Shazar Center, 1983), chap. 7, 84–93. Translations below are my own, and differ at points from *The "Shabbes Goy": A Study in Halakhic Flexibility* (Philadelphia: Jewish Publication Society, 1989).

59 Bernard Dov Cooperman, "Trade and Settlement: The Establishment and Early Development of the Jewish Communities in Leghorn and Pisa (1591–1626)," PhD diss., Harvard University, 1976.

writer in turn took up every twist and turn of the argument at length and with enthusiasm. But note that the point of this epistolary exchange—it went on for three or four months—was never a halakhic verdict. Meldola had already ruled in Pisa using the long-established Maimonidean remedy of giving the Gentile worker ostensible power to decide on which day he would work. He would make a minor modification in his instructions to the employers (fol. 10b), but from his words it seems he remained convinced that the arrangement was actually impermissible.⁶⁰ This intellectual exercise was therefore not a response to some changed practice in Pisa, to a sudden innovation in either the business activities or the social values of the city's Jews. What had changed was the arrival of the new young rabbi, full of book learning and eager to make his mark on the community.

And we have not yet gotten to the bottom of what happened in 1713. If I am correct that the workshops were not a new phenomenon, why had they only now become religiously problematic? Surely the community's earlier rabbis, including Azariah Picho and Meldola's own grandfather Jacob Senior, had also known about the halakhic issues and given exactly the same advice to the factory owners. I would suggest therefore that there is more here than the reforming enthusiasm of a young rabbi. Something had changed in the way religious authorities saw such establishments, and it was expressed in a new understanding of the halakhic relevance of Jewish space. As we noted, the well-established mechanisms for contracting with Gentiles had left hanging the problem of appearances. The labor could not be done on the Jew's property lest *other Jews* be misled. (This is why, if the Jew's property lay out of town and "beyond the Sabbath pale"—that is, outside the zone within which Jews were allowed to walk on the Sabbath—the work was permitted since it could not be observed by a Jew.) But in the late seventeenth century, rabbis had become concerned about *non-Jews* witnessing such labor, and this for an interesting reason. As the influential Venetian rabbi Samuel Aboab had put it several decades earlier, Christians might invidiously compare the Jews' shops open for business on Saturdays with Christian firms that closed on Sundays and other holy days. This, he felt, was derogatory to Judaism, since it would give Christians the impression that Jews did not rigorously observe their own religious precepts. Aboab's concern about how Jewish actions were perceived in

60 Katz suggests that he is not sure what Meldola finally ruled. In fact, Meldola told his friend what he had ruled in the very first responsum and then, in responsum §16, added that he would urge the party to go even further.

the public—that is, the non-Jewish—space is an early indication of a cultural sensitivity that will be fundamental to Jewish modernity.⁶¹

Aboab's sensitivity to the impression Jews made in the public space may have been heightened by his own experience living in the walled ghettos of Verona and Venice, where he had learned to value separate Jewish spaces—what he referred to with the biblical phrase, “the camp of the Hebrews.”⁶² But Aboab was not unique, and his attempt to cope with the halakhic implications of *where* an action occurred would have an impact also in Pisa and Livorno where there was no ghetto. It was, I would argue, what lay behind Meldola's objections to the workshops, even if he did not express it directly to the owners, perhaps because he knew that his predecessors had never raised this issue. Finally, it is the distinction between Jewish and non-Jewish space that lies behind a rather startling argument proposed by Joseph Ergas in his correspondence with his friend. Perhaps, Ergas suggested, the rabbinical ruling about appearances applied only to a Jew's *domestic* space but not to separate industrial space! Meldola does not take up his friend's suggestion, and seems to have remained highly skeptical of the permissibility of the arrangement. Still, Aboab and Ergas, though standing on opposite sides on the issue at hand,

61 For an introduction to recent historiographical investigation of the significance of space see Beat Kümin and Cornelia Osborne, “At Home and in the Workplace: A Historical Introduction to the ‘Spatial Turn,’” *History and Theory* 52 (October, 2013): 301–18; Doris Bachmann-Medick, *Cultural Turns: New Orientations in the Study of Culture* (Berlin: Walter de Gruyter, 2016): chapter 6: “The Spatial Turn,” 211–44. On the various notions of Jewish space in this period see my “Jewish Space in Early Modern Pisa,” in *Diversi angoli di visuale fra storia medievale e storia degli Ebrei. In ricordo di Michele Luzzati*, ed. Anna Maria Pult Quaglia and Alessandra Veronese (Pisa: Pacini, 2016), 103–22. The definition of Jewish space in the early modern city presented new challenges in connection with the laws of carrying on the Sabbath, an issue to which Meldola devoted considerable attention in his *Parashat ha-Ibbur* (Amsterdam, 1734). See Boaz Hutterer, “The ‘Courtyard Eruv’ in the Urban Space, Its Development from the Times of the Mishna and the Talmud to the Twentieth Century,” PhD diss., Bar-Ilan University, 2013 [Hebrew]; Hutterer, “The Schlagbaum—A Chapter in the History of Eruvin in Western Europe,” [Hebrew], <http://www.biu.ac.il/JS/JSIJ/13-2015/Hutterer.pdf>; and with special reference to Meldola, “Parashat ha-Ibbur u-Farashat ha-Tsiyur,” <https://safranim.com> (issue 38: accessed 16 July 2017). I hope to explore this aspect of Meldola's concern with Jewish space and its specific relevance to Pisa and Livorno in a separate article.

62 Samuel Aboab of Venice had treated the case of a Jews' silk factory that ran on the Sabbath in Mantua; *Dvar Shmuel* (Venice, 1702), §192, fol. 48f. Aboab's impractical “solution” was to rent the entire manufacturing operation—building, equipment, and goods—to a Gentile, limiting the Jew to no more than a capitalist or rentier role. He does not even mention the technological expertise that the Jew presumably possessed or the supervisory role he played. On his protective attitude to ghetto space as the “camp of the Hebrews” see *ibid.*, §4, fol. 2a.

can be seen as exploring a common sense of inside/outside, a perception that would eventually allow the sort of dual identity encapsulated in J.L. Gordon's famous nineteenth-century cry to his co-religionists that they be Jews in their homes and human beings on the street.⁶³

5 Cultural Anxiety: Who Defines Tradition?

Let us now look at a second case of tension between public practice and the position adopted by the young Raphael Meldola in Pisa. Again, we are confronted with an issue related to Sabbath observance, and again there is a technical consideration upon which the young rabbi chooses to state an opinion. But in this case, it would appear that his stance was far more vocal, and he was unwilling to compromise. Once again, however, there is a break between his views and the community's norms of Jewish practice. It may not be irrelevant that the issue once again had to do with a subtle change in the cultural sense of space—in this case, recreational space.

In the spring of 1718 Meldola wrote to the rabbinic council, the *Pekidei Isur ve-Heter*, in Livorno about a recurrent problem he faced in Pisa. Each year more and more Jewish tourists were coming to Pisa for the opening of the thermal baths that dotted the region. (Though Meldola does not specify, we can assume that the overwhelming majority of these tourists were from nearby Livorno.⁶⁴) Jews attended the baths not only on weekdays, but even on the Sabbath, and Meldola was appalled. His objections were technical: first, medical treatments were forbidden on the Sabbath except for emergencies; second, bathing should be forbidden because it had an enervating effect that required revival with cakes and fruits; and finally the bathers might wring out the towels or bathing attire, and might carry drops of water or their bathing paraphernalia without an *eruv* from property to property (*reshut to reshut*). He was not accusing the

63 Judah Leib Gordon, "Hakitzza Ami" [Awake My People!], *Ha-Karmel* 7, no. 1 (1866).

64 Meldola's description suggests that going to the baths was not just medicinal; it was recreational—a vacation for entire families, that involved, as he admits, not just the somewhat enervating baths, but also the subsequent lounging about on the grass, restoring oneself with sweets and fruits. On Jews' attendance at the baths as an upper-class activity that could lead to friction with non-Jewish patrons, see Francesca Trivellato, *The Familiarity of Strangers: The Sephardi Diaspora, Livorno, and Cross-Cultural Trade in the Early Modern Period* (New Haven: Yale University Press, 2009), 89 and n. 111. But as we shall see, Livornese rabbis were unwilling to challenge this activity. We should not take it as a given, as Trivellato and many other scholars have done, that rabbinic authorities were opposed to such "transgression of social boundaries" and participation in the surrounding culture.

bathers of total religious ignorance (“*lav be-shoftani askinan*”), but there were women and children who might not be familiar with the rules, “for not everyone is learned.” He had confronted the bathers but to no avail: “I swear that I screeched like a rooster about this, but I was unable to correct this distortion. It has become accepted as permitted; they inform their teachers that earlier authorities did not object. ‘He who wishes to lie calls on distant witnesses.’ They issue false tales about the early authorities, the holy ones in the land, saying that they were lenient. ‘He who wishes to choke himself hangs himself from a high tree.’” Meldola now turned to the senior scholars in Livorno to back up his authority; as he put it in liturgical terms, to “sanctify him in the eyes” of the rebellious bathers. He laid out his halakhic logic in detail and begged the Livornese authorities to respond in writing by adding their names to his responsum. Their support would allow him to eradicate the problem.⁶⁵

No doubt to Meldola’s surprise and chagrin, however, the authorities in Livorno refused to back him up. About a month after he wrote, he received a brief and somewhat elliptical note back from Raphael Barukh, apparently then a member of the rabbinic council. He had shown Meldola’s letter around to the rabbis of the various *yeshivot* in Livorno; they had agreed that there was a halakhic problem with therapeutic bathing on the Sabbath. But they refused to sign the letter that had not, after all, been addressed to them. In Livorno this sort of official act was the prerogative of the community-appointed *Pekide Issur ve-Heter*, not lower level schoolteachers. As for the three councilors, one was out of town and could not be reached. Another, Meldola’s uncle Moses Senior, disagreed on the substantive point. There were well-established precedents for allowing Sabbath bathing, and he did not see the therapeutic aspect as significant, possibly because he knew it was incidental to the bathers’ real purpose: a holiday with their wives and children complete with picnics on the lawns. As for Raphael Barukh, he himself agreed with Meldola, but he could not, on his own, sign the responsum.⁶⁶

It is hard not to read this as a polite but firm brush-off to the thirty-three-year-old Meldola. His uncle, a prominent rabbi in Livorno, did not agree with his stringency. And those rabbis who did were unwilling to get involved, no doubt for fear of offending wealthy members of their own community who would have been among the prime clientele at the baths. In eighteenth-century Livorno, even a conversation conducted within the traditional four cubits of halakhic rhetoric did not necessarily lead to increased religious rigor.

65 *Mayim Rabim, Orah Hayim*, §25, fols. 18b–19a.

66 *Ibid.*, §26, fol. 19a.

But what is especially striking for the cultural historian is the nature of the lay response to Meldola's normative demands. Even if we can hear them only through the version provided by the rabbi, the bathers' arguments sound out loud and clear. The bathers do not see themselves as libertines; they are simply following tradition. "The first settlers in the kingdom allowed it."⁶⁷ We rely on the ancient ones, and you," they admonish the rabbi, are overstepping when you "come to add" strictures. This is hardly a community of new Jews unsure of themselves who feel ignorant about the past. Quite to the contrary, at least in this part of the Western Sephardic diaspora the lay members of the community have a strong sense of lived Jewish tradition, and they resent the innovations and strictures being introduced by their rabbi. This attitude can be heard again and again in Meldola's responsa. They are not arguing for a secular value system, nor for a loosing of the bonds of tradition. In their eyes, *he* was the innovator, not they.

Tradition then was not a simple matter in the eighteenth-century Jewish world—at least not in the communities where Meldola served. It was a claim to authority that could work in multiple directions depending on who was laying claim to past precedent. And this is crucial to understand when interpreting the halakhic literature of this period which seems to discuss the concept of tradition with special frequency.⁶⁸ It is no simple matter to ferret out the cultural significance of these halakhic discussions if only because the Hebrew term for custom (*minhag*) has a broad range of often contradictory connotations. *Minhag* was binding, but to what degree was it open for discussion? Meldola distinguishes, for example, between "the *customary* order of [Torah] readings" which, he claims, "derives originally [*me-ikara*] from the regulations [*takanot*] issued by Moses and by Ezra and his court and is the universal norm [*minhag pashut*]"⁶⁹ and the less binding "*custom* concerning [a special Torah reading in honor of] bridegrooms [...] that does not derive from any *takana* and was not universally adopted."⁷⁰ *Minhag* could be "correct" or "mistaken,"

67 "Ha-yoshvim rishona ba-malkhut hitiruhu." An alternative interpretation might read: "those who were pre-eminent in the kingdom allowed it"—i.e., rabbis who had preceded Meldola had allowed this. In the end, the argument would be the same: Meldola is an unacceptable religious innovator.

68 See, for example, the treatments of *minhag* in Hizkia da Silva, *Pri Hadash to Shulhan Arukh, Orah Hayim*, §§468.4 and 496. Da Silva was born in Livorno (1656) and studied there under Samuel Costa who would later also be Raphael Meldola's teacher.

69 *Minhag pashut* would most commonly be translated as "simple custom" but here Meldola seems to be using *pashut* in the sense of "dispersed" since in the next line he uses another form of the verb, *nitpashet*.

70 *Mayim Rabim, Orah Hayim*, §8. David Meldola, Raphael's brother-in-law and himself a rabbi and cantor in Livorno, had been invited to lead the service in Pisa on the Sabbath

and therefore establishing correct *minhag*, for example in the liturgy, was a source of concern. One of Meldola's first tasks when he moved to Bayonne was to establish the proper method for synagogue recitation of the "Hear O Israel" prayer.⁷¹ In another responsum he took up the Bayonne *minhag* not to allow haircuts from the first of Av until after the fast day on the ninth of the month. Meldola assumes that this was an erroneous custom adopted out of ignorance by the earliest *converso* settlers who were then still living outwardly as Christians.

Perhaps they heard from someone passing through that it was forbidden to have one's hair cut or to wash one's clothes during the week in which the fast day fell. They erred and thought that it was forbidden from the New Moon of Av. Or perhaps some Jew passed through their land with a wild growth [of hair] because he conducted himself as an ascetic and did not cut his hair [for the three weeks] from the 17th of Tamuz or from the New Moon of Av, and the people of the city erred and thought that this was a practice required of everyone.⁷²

The concern over correctness was not limited to ritual. *Minhag* was also the guide to acceptable public behavior—for instance, whether unmarried young women might appear in public without their hair covered. Problems arose when different Jewish "ethnicities" with different traditions in this regard came together in a single city.⁷³ And finally local *minhag* could quickly coalesce into a mechanism for ritualizing and regularizing ambiguities of social status. For example, only a half-century after its establishment, Livorno was known to have developed a *minhag* for a protracted process through which New Christian couples arriving from the Iberian Peninsula might solemnize

preceding a wedding, but his procedures had offended a Pisan named Eliezer ben Jacob Supino. On the furor that arose, see below n. 86.

71 *Mayim Rabim, Orah Hayim*, §1. The concern in Bayonne for correct liturgical practice was also highlighted, *ibid.*, §10; the community had carefully preserved a responsum they had received from the rabbis of Amsterdam on the question of whether a blind man could participate in the service.

72 *Mayim Rabim, Yore De'ah*, §67.

73 *Mayim Rabim, Even ha-Ezer*, §§28–30, concerning the custom of *Italiani* young women to appear with their hair uncovered in public. Jacob ben Moses Senior in Pisa wrote to his student Jacob ben Samuel Hagiz: "The point is, if the halakha is not certain, follow *minhag*, for Jewish custom is considered binding, and if Jews are not prophets, they are at least [considered] the descendants of prophets." Raphael Meldola added his own opinion. On Jacob Hagiz, see Elisheva Carlebach, *The Pursuit of Heresy: Rabbi Moses Hagiz and the Sabbatian Controversies* (New York: Columbia University Press, 1990), 19–29.

their Jewish marriage and thus also legitimize any children born to them in the “Lands of Idolatry.” So firmly entrenched was this customary norm even in that still young community, that in the 1650s Rabbi Moses Benveniste, writing in distant Istanbul, could solve the status problems faced by one *conversa* and her children based on what *must have happened* in Livorno a decade earlier even though there were no living witnesses to the events.⁷⁴ Rabbis knew the authority of local tradition and custom even when not formally written down. They called upon collective memory when it was useful. And they realized that they could challenge collective memory only at great risk. The historian’s task lies therefore not simply in distinguishing between a rabbi’s intellectualist and literary approach and a communal conception of propriety. It is the even more delicate obligation to understand the shifts in the norms articulated by the rabbis in their apparently stylized language as they continuously negotiated with their communities.

6 Defining the Unacceptable

We come now to our third case through which to investigate broad conceptions of deviance in Meldola’s halakhic rulings: how did he react to the presence of former (New) Christians in his community? Historians have emphasized that rabbinical opinions on the “*converso* question” must be understood in their real-world context rather than as expressions of abstract principles. When *conversos* left Iberia and “returned,” often at considerable danger to themselves, to a Jewish way of life, rabbis sought ways to allow the process and ease the transition. When it came, therefore, to deciding whether *conversos* were Jewish sinners seeking to atone for their sins or non-Jews who now sought to join the Jewish people as converts, the latter position was favored since it neatly resolved all the problems that might arise from the *conversos*’ marriages on the Iberian Peninsula. If they had not been Jews, then the strict rules about divorce, levirate marriage, and legitimacy simply did not apply to them, and they could now get on freely with establishing families and building new lives for themselves.⁷⁵

74 Moses Benveniste, *Pnei Moshe* (Constantinople, 1674), 1, §61.

75 See the summary by Simon Schwarzfuchs, “Le retour des marranes au judaïsme dans la littérature rabbinique,” *Xudeus e Conversos na Historia: Actas do Congresso Internacional Ribadavia 14–17 de outubro de 1991* (Santiago da Compostela: La Editorial de la Historia, 1994), 1: Mentalidades e Cultura, 339–48. Fundamental treatments were prepared by H.J. Zimmels, *Die Marranen in der rabbinischen Literatur* (Berlin: R. Mass, 1932); Simha Assaf, “Anusei Sefarad u-Fortugal be-Sifrut ha-Teshuvot,” *Me’assef Zion* 5 (1933), reprinted in his

Mayim Rabim includes a responsum issued in Bayonne in 1729–30 that seems to exemplify this approach. The halakhic issue before Meldola was not marriage but wine. Faced with a *converso* who had undergone circumcision and behaved outwardly as a Jew but continued to desecrate the Sabbath and to swear by Christian saints in private, Meldola insisted on regarding the man as nevertheless a fully observant Jew for halakhic purposes. Even though the *converso* had eventually reverted to Christianity, wine that he had owned during his Jewish years was still to be considered kosher. Meldola does not elaborate on his thinking, but it is not difficult to see his logic. No matter the evidence, to question the *converso*'s Jewishness retroactively would have effectively put the status of every *converso* returnee into permanent contingency. The facts of the particular case were apparently less significant than Meldola's need to assuage his community's psychic insecurity.⁷⁶

Of course the question of *converso* identity did not always present itself in such stark terms. Established halakhic discourse could deal in a straightforward manner with most issues, even if they arose out of implicitly existential questions of identity and involved large sums of money. In 1715, for example, a newly arrived and very wealthy *converso* had his will drawn up in Bayonne by the Jewish community secretary. He made sure, however, to satisfy also the legal conventions of the state. The will was now being contested. Should the will be executed according to secular or Jewish law? An (unnamed) rabbi in Bayonne, backed up by a colleague in Florence, had recognized the validity of the secular will. "Their Excellencies, the *memunim* and lay leaders of the Jewish community ruled correctly [...] and we should not reverse their ruling."⁷⁷ But Meldola, in a review, rejected that position, insisting that halakhic norms were paramount.⁷⁸

collected essays, *Be-Ohalei Yaakov* (Jerusalem: Mosad Ha-Rav Kook, 1943), 145–80; and Ben Zion Netanyahu, *The Marranos of Spain from the Late Fourteenth to the Early Sixteenth Century According to the Hebrew Sources* (New York: American Academy for Jewish Research, 1966), 5–76. Yosef Hayim Yerushalmi, *From Spanish Court to Italian Ghetto. Isaac Cardoso: A Study in Seventeenth-Century Marranism and Jewish Apologetics* (New York: Columbia University Press, 1971), 24–31 stresses the real-world thrust of the rabbinic view of the *conversos* as not Jews.

⁷⁶ *Mayim Rabim*, *Yore De'ah*, §27.

⁷⁷ The will, dated 21 Adar 5475 [1715], was originally drawn up in *la'az* (non-Hebrew, presumably Portuguese) before eight witnesses "as is the custom of the Christians *so that it would be done also as is required for them*" [kdei she-yihye asui gam ka-ra'ui lahem]. A Hebrew-language summary is included in the appeal which based itself on the conventions of halakha; *Mayim Rabim*, *Hoshen Mishpat*, §46. The rabbi rejected the appeal, and was backed up by Raphael ben Samuel Corcos in Florence.

⁷⁸ *Ibid.*, §47. Meldola's opinion, issued presumably after he had come to Bayonne, was quite likely an exercise in jurisprudential study rather than an applied ruling since the case had been resolved years before.

But in between black-and-white halakhic categorizations of *converso* Jewishness and the more prosaic procedural conflicts over jurisdiction, there was also a muddier area of identity, that liminal zone in which members of a society practice difference by labeling those who belong and those who do not, and in which rituals are created to mark the passage from one status to the other. And here, as before, we will see that public practice and rabbinic opinion do not necessarily coincide.

The issue revolved around the implications of circumcision, an operation that at least some *converso* men sought to delay, arguing that this mark on their bodies would put them in mortal danger should they, for financial reasons, have to return to Spain or Portugal.⁷⁹ Meldola's grandfather, Jacob Senior, was asked about a *converso* who had put off circumcision for this reason. So far, the *converso* had been allowed to participate in every Jewish ritual, and had done so eagerly, with the exception of wearing phylacteries during morning prayers. To touch the sacred parchments was forbidden him until he was circumcised. But the *converso* had forgotten himself. Seeing himself as a regular participant in the community, he had participated in the auction for honors during the holy day services and had "purchased" the honor of opening the Sacred Ark. The congregation was put into a quandary. Should the uncircumcised man be allowed to touch the scroll, even if only to hand it over to the person who would carry it to the reader's desk? Senior, for his part, altogether dismissed the logic of the ritual distinction that had kept the man from donning phylacteries in the first place, and he ruled emphatically that there was no reason for the *converso* not to touch the Torah scroll. For one thing, the genuineness of the *converso's* repentance was unquestioned, and the reason that he was not yet circumcised—"to return and save his money"—was fully legitimate and "not, God forbid, an unworthy motive." And for another thing, the great medieval sage Moses ben Maimon had clearly ruled that a Torah scroll could not be rendered impure, even by a non-Jew or a menstruating woman.⁸⁰

The published text does not provide either a date or a location, but there seems little doubt that what we have here is an event that occurred in Pisa quite soon after Senior's appointment there as *hakham* and *hazan* just before the High Holy Days of 1635. Senior mentions in passing that he has heard

79 Yosef Kaplan, "*Ha-Mitzva ha-Rishona ve-ha-Yoter Ikarit: Brit ha-Mila be-Olamam shel ha-Anusim she-Hazru la-Yahadut ba-Et ha-Hadasha ha-Mukdemet* [Attitudes toward Circumcision among the Early Modern Western Sephardim]," in *From Sages to Savants. Studies Presented to Avraham Grossman*, ed. Joseph Hacker, Yosef Kaplan, and Benjamin Z. Kedar (Jerusalem: The Zalman Shazar Center, 2009), 355–92.

80 *Mayim Rabim, Yore De'ah*, §51. Senior's opinion is clear in his remarkable final sentence: "[...] *conversos* [...] are not considered 'other.' Their hearts are directed towards heaven. They are Jews, descended from our ancient forefathers [...]."

directly from people who know the man and attest to his devotion to Judaism, suggesting that the case was a local one. Thus, although he frames his opinion as a response to a question that someone had sent him, it is likely that the case arose in his own synagogue in Pisa as he himself was officiating. He was still quite young. (Indeed, the *parnassim* recorded their discomfort about his youth in the communal *pinkas* when they first decided to appoint him—perhaps using that to justify offering Senior a very low salary.⁸¹) Unsure of his ruling, therefore, the new rabbi forwarded his opinion to the Livornese *yeshiva klalit* (council of senior rabbis) asking for their approval.⁸²

The four Livornese rabbis proved less flexible than Senior toward uncircumcised *conversos*, but not because they disagreed with his halakhic reasoning. Rather, they were looking for a way to use access to public Jewish space—that is, to the synagogue—as a lever with which to enforce social discipline on the newcomers. Senior's ruling, they said, should be applied only to this one individual whose good faith was well attested. In general, however, those who had not undergone circumcision should be publicly marked, prevented not only from donning phylacteries but even from attending synagogue services altogether. The Livornese rabbis insisted that maximal social pressure be put upon the *conversos* to undertake the ceremony quickly, especially if their hesitation stemmed merely from “laziness.”⁸³

If the Livornese response seems rigid, its effort at social engineering is nevertheless straightforward. But by the time Raphael Meldola reviewed the issue possibly three-quarters of a century later, social discipline had turned into religious taboo. He accepts his grandfather's argument, but then questions its

81 Jacob Senior (Señor, Siñior) was appointed “*hahan y guazan*” (that is, *hakham* and *hazan* or rabbi and cantor) of the community on 9 September 1635, an election confirmed by a general vote a month later, on 9 October 1635. The initial decision stressed that “despite his youth, his works, knowledge and actions surpass his young age, leading one to consider him as a mature man, especially today when he is getting married which earns him the title of a ‘complete human being’ [pois naõ estante a edade naõ ser muta suas obras siencia y aççions supplen a ydade devindose estimar como se for a vello de muytos años maxima oje que ten tomado estado con que fica aquistando o titulo de varon perfecto]. The last term is a reference to *Midrash Bereshit Rabba*, §17 which argues that an unmarried man is not even considered a “complete human being” [*adam shalem*]. (CAHJP, Film HM887, fol. 91v [94v]). Senior's initial monthly salary of six *scudi* proved inadequate, and he repeatedly petitioned the community for a raise saying he couldn't support his family. Finally, eighteen months later, his salary was finally raised to eight *scudi*, and he was promised that he would be paid regularly.

82 Just a few months later, the young man sought a second opinion from Isaac Calo, the rabbi or Florence, on another matter; *Mayim Rabim*, *Hoshen Mishpat*, §§1–2.

83 *Mayim Rabim*, *Yore De'ah*, §52. One of the signatories is Meldola's other grandfather, David Israel ben Elazar Meldola.

textual basis. Meldola was less interested in the motives of the *converso* than in the impurity that attached to him. He devotes much of his legal opinion, therefore, to a survey of post-Maimonidean halakhic views that forbade a menstruating woman from touching the Torah or even attending the synagogue. And then he moves on to the *converso*:

We have to keep a Torah Scroll far away from a place of filth because that would seem like desecrating the Scroll. [...] It is logical, therefore, that we must also protect the Torah Scroll from the touch of an uncircumcised person, for there is nothing as disgusting as a foreskin. No one is as naked as the person who is not “clad” in the commandment of circumcision. True, [the *converso* in the original question] intended and meant only to adore the Torah and honor it by purchasing the honor of opening the doors of the Torah ark at a high price. Moreover, we know the Torah in fact cannot be made impure, and none of the disgusting aspects of the person holding it can cling to it. [...] Even so, [to let him touch the Torah] would be considered a blemish on us and on our children, in that we are not being careful about the honor of the Torah and are not cautious [*haredim*] to protect what is in our custody by keeping the imperfect and impure away from it. [...] It is obligatory on us to insist and take care that only proper and clean people touch it. For all these reasons, I prefer to be strict about this.⁸⁴

Shall we say that Meldola’s astonishingly harsh terminology here is indicative of a radical shift in the rabbinic attitude towards the *conversos*? It seems not; we have already mentioned his resolute acceptance, years later in Bayonne, of the Jewishness even of a *converso* who would later revert to Christian practice. More arguably, his emphasis on the crucial importance of circumcision can tell us how, for Meldola and his generation, halakhic rules had become a symbolic language with which to articulate purity and belonging. It is this shift that helps to explain the virulent opposition that Meldola’s positions often raised in the communities he served.

7 Modernization: Cultural Anxieties and Normative Debate

The cases we have examined demonstrate that at least in the corner of the Western Sephardic diaspora where Raphael Meldola and his family lived,

⁸⁴ *Mayim Rabim, Yore De'ah*, §53.

traditional Judaism was not a static, stable continuum. On the one hand, norms had to be defined and promulgated to each new generation as well as to the “penitents” who newly joined the community. But as well, in the seventeenth and early eighteenth centuries cultural practices and values that had long been acceptable were becoming problematic. Space was ascribed new valence. Recreational activities were subjected to new supervision. And well-established halakhic principles were given new symbolic freight and meaning. What strikes us now is not only the frequency of the debates that we hear about in Meldola’s *responsa*, but the astonishing bitterness that they engendered.

What might seem to a twenty-first-century observer as a minor alteration in the liturgy, for example, could quickly lead to endless *ad hominem* attacks, the ostensible legalistic debates barely masking relentless struggles over status and authority. Meldola provides us with an unusually detailed description of such a case from early in his career.

When I came here to Pisa to be head of its court and preacher, God gave me grace in the eyes of the inhabitants. All as one, from least to most important, happily and contentedly relied upon me to establish religious rules and prohibitions as needed. My luck! I found one person who opposed me [...]. For some reason, [whenever I suggested a modification] he always wanted to support the existing practice. He may have been trying to flatter [the members of the community], to gain favor in their eyes, or to make me somehow detestable. Or perhaps he was trying to protect his own reputation, since he had not previously rebuked them about this, or simply hadn’t known the law. Or maybe it was all of the above.

As for poor me, I tried my best with all my strength to seek peace [...]. With regard to any small quibble that he might raise, I swallowed my pride and paid no attention in order not to stir up argument. But when it came to binding halakhic issues [*piskei dinim*], I stood my ground, dictating the correct path to people in accordance with the traditions of my fathers and teachers of blessed memory. I wanted to do my duty and know that I would not be ashamed.⁸⁵

The rivalry came to a head on the Jewish festival of Shavuot (Pentecost) in a dispute as to how the synagogue honors of *maftir* (the last verses read from the Pentateuch) and *haftara* (the accompanying prophetic portion) should be assigned. In Sephardic synagogues such as those in Livorno and Pisa, these portions were often read by a minor—that is, a boy who had not yet reached

85 *Mayim Rabim, Orah Hayim*, §22, fols. 16a–b.

the age of *bar mitzvah*, because the *maftir* and *haftara* were, in a certain sense, “extras” to the main service. But on the festival, the special *maftir* was obligatory and could not be treated as “extra.” Could it then be read by a minor? In Pisa the custom was to assign the *maftir* to an adult and then to have the minor repeat the reading and go on to the prophetic portion. Meldola pointed out that such repetition had been rejected by most authorities, and he therefore ruled that one adult or one minor should read both portions. Accordingly, the next day, also a festival, he first led a boy through the Torah verses and then the same boy read the *haftarah*: “I immediately heard muttering and mockery whispering against me, gathering and arguing in the city streets, and accusing me of acting improperly and contravening a rabbinic ruling. They contradicted my words as if they had received a prophetic inspiration⁸⁶ using trivial words [...] maligning me by saying I wanted to annul an ancient custom.”⁸⁷

It is difficult to draw general conclusions from such a fierce debate over what seems a minor ceremonial detail and an arcane halakhic issue that had, moreover, already been widely discussed and decided in the halakhic literature. As Meldola tells the story, the entire affair arose because of the personality of one unusually difficult individual. It is worth noting that an even more ferocious rivalry would break out just a few years later when Meldola's replacement as rabbi in Pisa, the Livornese Eliezer ben Jacob Supino, vociferously denounced Meldola's brother-in-law David for going against proper order in reciting a special reading for a bridegroom during the Sabbath services before the wedding. (David had been invited to Pisa to act as cantor.) When Meldola included the back-and-forth correspondence in his *Mayim Rabim*, Supino published his own pamphlet, attacking both David and Raphael (Amsterdam, 1742), though the family managed to have that pamphlet seized and almost every copy destroyed.⁸⁸ Personalities aside, however, we must also take it into consideration that the hothouse atmosphere of the small Jewish community

86 Cf. *Eruvin* 60b and cf. *Bekhorot* 45a.

87 *Mayim Rabim, Orat Hayim*, §22, fols. 16a–b.

88 See above n. 70. *Mayim Rabim, Orat Hayim*, §§6–8, record the Meldola side of this intense argument, leaving the Pisan religious scholar unnamed. Raphael's son David later included many more responsa concerning the affair in his own *Divrei David* (Amsterdam, 1753), §§21–38. For Supino and his pamphlet, see most recently Samuel Glick, *Kuntres al Inyan Shabbat ha-Hatuna le-MOHR"R Eliezer B"R Ya'akov Supino ZLH"R* (Jerusalem: Mosad Ha-Rav Kook, 2007); Meir Benayahu, *Rabi Hayim Yosef David Azulai* (Jerusalem: Ben-Zvi Institute, 1959), 345; Mordechai Ha-Cohen, “Goral shel Sefer,” *Sinai* 34 (1954): 110–21. I have been unable to determine whether Eliezer ben Jacob Supino was part of the influential clan of merchants and scholars who came from Empoli to Pisa in the early years of the community and gained prominence there, in Livorno, London, and several ports of the eastern Mediterranean; *I Supino: Una dinastia di ebrei pisani fra mercatura, arte,*

in Pisa seems to have been especially prone to fostering fierce animosities—over governance and the rights of membership⁸⁹ as well as over the religious direction of the community. But neither specific personalities nor the dynamics of a small-town community should blind us to the central importance that religious custom and practice held for these Jews, or to the cultural anxieties that fueled their fierce opposition to any change or deviation. We need not be surprised that these debates exploded over the synagogue service, for this was the community's primary forum for the performance and recognition of personal status. Debates over an apparently trivial liturgical issue are testimony to the huge cultural investment Pisan Jews had made in the "authenticity" of their tradition.

Where then does all this leave us? We began with a claim that historians are reconsidering the "secularization thesis" as an explanation for modernization generally and for Jewish modernization in particular. Our reading of just a few of the responsa in *Mayim Rabim* demonstrates that any assumption of a sharp breakdown of tradition at least in the Western Sephardic diaspora of the early eighteenth century is too simplistic. Meldola is no traditionalist rabbi barricading himself within the "four cubits" of the halakha against the onslaught of a secularizing laity. To the extent that practices and attitudes are changing, it would seem that it is the rabbinate that is introducing new norms, while the laity is resisting, seeking to defend traditional patterns of behavior. And while we can easily pull out examples of Meldola responding to new technologies such as mechanical watches or new social fashions such as the taking of snuff when these seem to infringe upon Jewish law, that is not the main thrust of his writing. He does not seem threatened by any sense of a new libertinism or of radical ideas that threaten tradition. To look for a crisis of secularization, I would suggest, is to look in the wrong place for the nature of modernization.

I would rather suggest that we look at *Mayim Rabim* itself as a profoundly "modern" book—not in the enemies it fights, but in the techniques it uses to advocate for, and to disseminate, halakhic sophistication and rigor both in local communities and over a widening international circle. Its modernity lies in several of the features we have seen. First, Raphael Meldola is shown in this anthology to be a professional rabbi in the sense we might use the term today—clearly an employee of his community and dependent on the goodwill of a powerful, officially elected, lay leadership. Second, he uses correspondence

politica e diritto (secoli XVI–XX), ed. Franco Angiolini and Monica Baldassarri [=Società Storica Pisana, Biblioteca del "Bollettino Storico Pisano" 3] (Pisa: Pacini, 2015).

89 Our interest here is focused on religious norms, but I have prepared a separate study of "Ethnic Rivalries and Social Conflict" that I hope to publish soon.

and especially print to create halakhic consensus across multiple centers, turning in particular to organized rabbinical committees in large centers like Livorno and Amsterdam. And third, he seeks to demonstrate his own scholarly abilities and thus gain status in a world of Jewish letters through the systematic display of literary eloquence in a sophisticated genre that he and his colleagues have developed. The main point is that Meldola's approach to halakha itself is new. His concerns with Jewish behavior in the public space, his attempts to impose a universal Jewish set of norms over local custom, and his concern with the symbolic weight of halakhic categories are all representative of the new values expressed in the everyday practice of Jewish life in the early modern period. Seen properly, then, *Mayim Rabim* is a combined effort by two Jewish scholars, father and son, to articulate and publicize a sophisticated set of trans-generational and trans-national discussions about Jewish norms and practices.

Mayim Rabim reveals as well another modern aspect of Meldola's career—the efforts he made to shape the religious practices and perceptions of the communities he served. His pedagogical mission was typical of the modern Jewish community that had to accommodate enormous differences in the levels of Jewish knowledge and behavior among its members. Meldola could take nothing for granted. He quickly realized that he could not simply dictate “authentic” Judaism. If he tried to rule against customs like “buying” the *maftir* and *haftara* for rich people's sons, he knew that “they would not listen to us.” When he could, he made compromise his guiding principle for “the ideal can become the enemy of the acceptable.”⁹⁰ But he never gave up on the effort to teach, and it is this “outreach” that is perhaps the clearest mark of his modernity. One example will suffice.

When Meldola first came to Pisa he discovered that his congregants did not know basic rules about the Sabbath. When he told them it was forbidden to reheat cooked food in a hot oven, “they did not believe that such a thing would be written in a book.”⁹¹ He therefore hit upon an ingenious scheme to publicize the rules he wanted to teach. When his friend, Joseph Ergas, came to visit in Pisa, Meldola asked him to “drop in” on his upper-level class. Ergas “casually” asked the boys to research this issue, presenting it as an instructional exercise. Meldola then selected two of the boys to write out their answers. Next, he arranged for the boys to read their essays aloud at a public meeting of the community council. At the ceremony, Ergas gave a lecture about the authenticity of the Jewish biblical, and especially rabbinic, tradition and then went on to

90 Literally: “out of good [do not be called evil].” The phrase, from BT *Brakhot* 30a, is a standard rabbinic expression for accepting the minimum.

91 *Mayim Rabim, Orach Hayim*, §18, fol. 14a.

comment on the boys' papers. Finally Meldola too rendered his critique of the boys' work.⁹² In what seems a remarkably modern mechanism for "adult education," Meldola seized upon the formal institutionalization of Pisan Jewish self-government—itsself a considerable innovation. Ingeniously he used civic government as a stage from which to promote his views of halakha, views that he no doubt felt would have been ignored if stated directly. To note that Jewish tradition was to be taught through schoolboy essays at a town council meeting is to recognize that in Meldola's world, tradition itself was being negotiated.

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92 It is typical of *Mayim Rabim* that all four opinions were published; *ibid.*, §§19–21. The two boys were Eliezer Leucci, scion of one of the oldest Jewish families in Pisa, and Joshua ben Attar Milo who was to become Meldola's son-in-law. The two boys were assigned another educational exercise in *Mayim Rabim*, *Orah Hayim*, §29.

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