Canon Law: A Source for Jewish History?

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I am often asked what appears to be a rather logical question to an illogical circumstance: Why is an observant young Jewish woman studying medieval canon law? In my doctoral studies in the Judaic Studies and History Departments at New York University, I focus on medieval Jewish-Christian relations through law, specifically examining the ways that canon law treats and presents Jews.

Canon law is the Catholic equivalent of halakha: It is the law that guides Roman Catholic practice. However, unlike halakha, in which differing rabbinic opinions can present competing rulings and perspectives on a matter, canon law recognizes papal authority as a final arbitrator and standardizer of legal disputes and questions. Thus, by studying the canon law code, which the pope sanctioned, it is possible to learn about the Church's position on the Jews, as well as to gain an additional perspective on the complex factors impacting Christian views on Jews as real people with differing religious practices, as opposed to as a theoretical competing and threatening alternative religion.

It is important to recognize the difference between these two Christian approaches to Jews and Judaism in order to understand relations between the faith groups and the difference between ideas of intolerance and actual practiced intolerance. Further, by studying Christian attitudes toward and relations with Jews—and the medieval era as a whole—it is possible to better understand the atmosphere in which many rabbinic authorities on whom modern Judaism

continues to rely—authorities such as the Rambam, Ramban, Rosh, Rashba, Rabbenu Asher, Rabbenu Gershom, and others—made their legal rulings.

Because our modern observance of Judaism is based on the rulings, understandings, and perspectives of our predecessors, it is important to examine and understand how halakha and *minhagim* have developed in tandem with socioeconomic and political pressures, as well as shifting religious priorities and outlooks. Appreciating how Jewish practices have resulted from a centuries-old dance between religion, personal spirituality and growth, the contemporaneous society, the past, and community priorities enables a greater appreciation for modern observance, as well as an understanding of how extra-legal pressures have impacted halakhic developments.

For example, Rabbenu Gershom—the highly influential eleventh-century Ashkenazic scholar—ruled in a responsum that rabbinic authorities should permit Jews to do business with Christians on Christian holidays because it had become standard communal practice; a prohibition would be ignored for economic reasons. He supported his position by citing Rebbi Yohanan's lenient opinion from the Talmud that outside of Israel, non-Jews are not considered idolaters, and therefore there is no concern that the eleventh-century Jews would be supporting idolatry by engaging with Christians commercially during their holidays.[1] The sensitivity that he displayed toward his contemporaneous community's needs and practices is an example of halakha developing in response to socioeconomic conditions and practices.

Understanding the historical realities that contributed to contemporary Jewish life, traditions, and law deepens our connection to modern Judaism by demonstrating how halakha has continued evolving on the basis of prior scholarship and Jewish communal needs. History highlights the sensitive side, relevance, and communally in touch nature of halakha and Jewish leadership.

Examining historical relations between Christians and Jews enables a fuller appreciation of how Jews could and did act as members of Jewish communities and broader Christian societies in Western Europe. It reveals how Jews related to and lived amongst a majority culture and religion that differed from themselves and to examine how our predecessors navigated life as Jews amongst non-Jews, balancing economic necessities, social realities, and cultural pressures with their continued Jewish observance. Understanding that Jews engaged with Christians culturally, politically, economically, and socially shows that Jews throughout history have balanced interacting with non-Jews surrounding them, their ideas, and practices with their own religious and cultural norms. The Rambam

participated in contemporaneous philosophical debates, Avraham ibn Ezra composed poetry influenced by Muslim peers, Shemuel haNagid wielded tremendous political power, and Isaac of Norwich was a leading English financier in the twelfth and thirteenth centuries. It would be incorrect to believe that all Jews maintained full halakhic lifestyles, but halakhic observance was important in some fashion to some percentage of the community, though we can never know exactly what percentage.

For example, completed in 1234, Pope Gregory IX's (d. 1241) *Liber Extra*, which compiled and organized prior ecclesiastical court cases in order to standardize rulings brought to ecclesiastical courts, includes rulings related to Jews and their proper function in Christian society. Although there is a whole chapter dedicated to Jews' place in Christian society, Jews also appear scattered throughout the book. These other appearances are perhaps more interesting because they are less concerned with Jews as a religious group and more interested in how to manage Jews as individual people. Jews emerge in the code as real individuals, biblical and historical ideas, and religious others. A study of how Jews emerge as ideas and realities in the code—which I hope to complete for my dissertation—will shed further light on Jewish life in medieval Christendom, and Jews' place in medieval ecclesiastical thought.

Studying Jews in canon law cases, such as those in the *Liber Extra*, further enhances our knowledge of Jews' daily lives and their realities. For example, there is an assumption that most Jews in medieval Europe worked as moneylenders, in banking, or perhaps as artisans. Agriculture is not normally associated with medieval Jews. However, the *Liber Extra* records that in the mid-twelfth century the bishop of Montpellier, in Southern France, asked Pope Alexander III about whether or not Jewish farmers owed tithes to the Church, as Christian farmers did. The pope responded, "You should force them with everything in your district to pay tithes or renounce their possessions as punishment, lest, by chance, they should succeed to trick the church through their law." The question itself enhances our knowledge of Jewish history by demonstrating that Jews, at least around Montpellier, did farm. Further, the pope's answer evidences concern that Jews may have attempted to use Jewish law, which ecclesiastical and secular authorities allowed to govern communal Jewish life, to evade paying tithes. His worry highlights part of the ecclesiastical concern that Jews' observances and laws might threaten Christians in Christendom and their success. As a result—and also no doubt because of financial concerns—he warns the bishop about the possibility of Jewish law superseding their obligations within Christendom and ignoring Christian practices. Thus, Christian ideas about Jews and their proper place in Christendom emerge from this case, as well as evidence of Jewish daily

life. [2]

Although the modern and medieval Jewish conditions vastly differ, our past offers examples for how to live as Jews engaged with the non-Jewish world. So, when I am asked why I, an observant Jew, study medieval canon law and the Jews, I answer that it is not about the canon law—though that too is important and fascinating—but it is about understanding and appreciating the cultural and socioeconomic milieu in which Judaism has evolved. It is important for us twenty-first century Jews to realize that for centuries our ancestors were engaged members of the non-Jewish world around them and simultaneously members of the Jewish community. Studying the past from a perspective other than our own sheds light on what outside forces and pressures have influenced the development of Judaism and on how relations between the different faith groups were possible and occurred. When we branch out from the at times all-encompassing world of Jewish texts, we gain a deeper sense of how and why Judaism and Jewishness evolved. In order to fully appreciate modern Judaism, we must grapple with our past in all its complexities, examining every angle and dimension—including canon law.

[1] Shlomo Eidelberg, ed., הלוגה רואמ סושרג ונבר תובושת (New York, 1955), no. 21, pp. 75–77.

[2] X 3.30.16.