Needed: Redemptive Halakha

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Some time ago, I had a long talk with Dr. Jacques Lopes Cardozo, my only brother, age 66 and two years my junior. We spoke about our early years, growing up in our parents' home in the Netherlands. Although we were children of a mixed marriage (Jewish father, non-Jewish mother), we took a keen interest in Judaism. Our father was a very proud Jew, and our mother was raised in a strong Jewish cultural milieu in Amsterdam where she felt completely at home. If not for her "Jewishness," my father would probably not have married her. In fact, our mother was in many ways more Jewish than some members of my father's family who were halakhically Jewish but completely disconnected. I decided to do giyur[1] at the age of 16, and my mother followed suit many years later. After 27 years of married life our parents remarried, this time by the same rabbi who officiated at my wedding three months later. Both hupot took place in the famous Esnoga, the Portuguese Synagogue in Amsterdam.

This put my brother in a very strange position. From then on, all members of his immediate family were Jewish, and while he did not have the halakhic status of a Jew, he continued to feel very Jewish. This was, to say the least, an atypical Jewish family.

During our conversation, my brother referred to a particular Pesah seder that I conducted at our parents' home when I was about 17. An incident took place that profoundly shocked him and caused one of the most painful moments in his life. Fifty years later, with great emotion and tears in his eyes, he told me that he had taken a bottle of kosher wine to pour for our many guests. He felt very much a

part of the Jewish tradition and immersed himself in this religious experience, wanting to participate fully. After all, those who had left the bondage of Egypt that very night and would cross the Red Sea a few days later were also his ancestors! But instead of realizing my brother's enormous religious dedication to that experience, I snatched the wine bottle from his hands and told him he should not touch it since he was not Jewish, and that when a non-Jew touches the wine, according to Jewish law it could be cursed. The latter statement proved my complete ignorance. As a newcomer to Judaism, I had been told that the halakha determines that non-Jews should not touch our wine, and I probably concluded that this meant the wine would be cursed. Our sources state nothing of the sort. The only thing indicated is that the wine is no longer permissible to drink. [2]

My brother froze, and then sat down without uttering a word.

Now a dental surgeon of fame and a man of great integrity, my brother told me that to this day he is deeply hurt by the incident, and although he forgave me for what I had done, he could not emotionally make peace with it. Not only because he considered himself to be very Jewish and could not imagine that this law would apply to him, but also because he could not believe that such a law would be part of this beautiful tradition called Judaism, which he dearly loved.[3] My gut feeling tells me that this incident played a huge role in his decision not to convert, though he came very close to doing so.

Although I studied for more than 12 years in Hareidi yeshivot, which are hardly, if at all, concerned with the non-Jewish world, I admit that I may be more sensitive than others about matters relating to non-Jews. After all, how could I not be? My own background, as well as my brother's situation, forces me to confront this issue on an almost daily basis. [4] At the same time, I am fully aware of the fact that more and more thinking religious Jews are becoming highly uncomfortable with this and similar laws and are asking why these rulings are necessary. What is it about non-Jews that makes their touching kosher wine forbidden for us to drink?

During the almost 40 years that I have been living in Yerushalayim, I have discussed this law with yeshiva students, both Hareidi and dati-leumi (Modern Orthodox). Most of them were born in Israel and have had almost no exposure to non-Jews besides the Arab population. When I challenge them and ask whether they are uncomfortable with this law, and whether they feel that it is discriminatory and perhaps racist, they do not understand my question. Their argument is straightforward: Since according to Judaism non-Jews are secondary inhabitants of this world, and most if not all are anti-Semitic, they should definitely not touch our wine. On top of that, it is their task to serve the Jews, and

the law makes it clear who are the servants and who are the masters. When I tell them that billions of non-Jews around the world are living in countries where they never meet a Jew and therefore cannot serve Jews, their response is either complete silence or that these non-Jews have nothing to live for and are sadly unable to fulfill their mission on earth. When I press them further and ask whether they believe that God treats all His creatures fairly and whether His failure to allow these non-Jews to fulfill their mission would not highly compromise this belief, they are dumbfounded. Their astonishment increases when I explain that since there are so few Jews and there are billions of non-Jews, it would mean that every Jew would have a few thousand non-Jews as servants and that I wonder whether this would not be a little overdone! Moreover, doesn't our tradition teach us that one of the functions of the Jewish people is to aid Gentiles and be concerned about their spiritual and physical welfare? [5]

Surely some readers will argue that when I snatched the wine bottle from my brother's hand, I did the right thing halakhically. After all, this law appears in the Shulhan Arukh: One may not drink kosher wine that was handled by a non-Jew. This prohibition is called issur yayin nesekh or, more accurately, issur maga nokhri—loosely translated as the prohibition of using wine that has been handled by a non-Jew, meaning the bottle is not only touched but moved as well. The law applies only when the bottle has already been opened. [6]

The big question is: How did this law ever become a part of Judaism?
Looking into the history of this prohibition, we can clearly see that the reason why the talmudic Sages forbade the drinking of wine after it was handled by a non-Jew is that most non-Jews of that time were idol worshippers. This worship is identified with evil and immoral behavior, not much different from that of the Nazis, or the terrorists of today. In fact, the same law applies to a wicked Jew; we are also forbidden to drink wine that he/she handled. [7]

It is clear, then, that the motive for this prohibition was one of the great principles behind Judaism: protest—protest against the kind of abomination that was an integral part of idol worship. The Sages wanted to ensure that Jews would never come close to this sort of behavior or to these kinds of people, and as a protest they forbade the drinking of wine that had been handled by them. It reminds me of the Dutch who after World War II refused to have anything to do with Germans, or even bring German-made products into their homes. It was taboo.

It is important to understand that the Sages were not so much concerned with idol worship per se. Had idolatry not led to such excessive abominations, they would most likely not have made such an exacting decree concerning wine. What

really prompted them to issue these rulings were the accompanying loathsome and abhorrent acts, particularly gluttony and orgies. [8]

Yet another reason for this prohibition is that drinking wine with non-Jews increases familiarity, which could then lead to assimilation. It seems, though, that the proscription was more symbolic than practical, since other drinks, even alcoholic, are not included in this prohibition.[9] In the olden days, wine was by far the most popular alcoholic drink, and was used specifically in religious settings. The fact that a person could become intoxicated and lose control increased the possibility that boundaries between Jews and non-Jews would be blurred.[10] The Sages decided to apply this law only to bona fide wine, not to kosher wine that was pasteurized or cooked (known in halakhic literature as yayin mevushal), because once wine was boiled[11] it was no longer used for idol worship and therefore no longer considered “real” wine.[12] The fact that the blessing “al peri ha-gefen” is still recited over yayin mevushal, and it remains an alcoholic drink that could still lead to familiarity in social settings, clearly indicates that this law is mostly symbolic. [13]

While too much familiarity is still one of the primary causes of assimilation, one can hardly argue today that drinking wine plays any role in this unfortunate situation. Religious Jews would not marry non-Jews even if they would drink wine with them, while those who run the chance of assimilating are the ones who don’t care about this law. So what does this prohibition really accomplish? It would seem that its only claim is to remind us Jews of our special status.

Over the years, however, this law has taken on a life of its own. It has created a psychological condition among many religious Jews that exceeds by far what the Sages wanted to accomplish. Since the law was never officially abolished, it created an ontological view of non-Jews. No matter what their beliefs, non-Jews are by definition idol worshippers and depraved people. This is their very nature, and they cannot escape it. This view on the part of many religious Jews is not conscious and deliberate, but it is deeply ingrained in the Jewish religious psyche. It points to a kind of Jungian archetype. What this means is that many religious Jews believe not only that the law concerning wine should not be changed but also that non-Jews are not meant to and are unable to change. After all, this law reflects Judaism’s authentic view of non-Jews. In other words, there is nothing wrong with the Jewish tradition for still applying this law. On the contrary, there is something wrong with the non-Jewish world for changing and no longer fitting the description that the Jewish tradition attributes to them.

While all this may sound very foreign to those living in hutz la'aretz, this view is widespread in Israeli religious communities, whether Hareidi or dati-leumi, with few exceptions. [14]

This attitude is tragic and extremely dangerous. It completely contradicts one of the most important teachings of the Jewish tradition, that man—both Jew and Gentile—can and must change. In fact, this belief is not only a misrepresentation of Judaism; it is the very antithesis of all that Judaism stands for. If non-Jews will always be looked upon as idol worshippers, no matter how far behind they have left that world, then Jews cannot be a light unto the nations, nor do they have anything to offer them. That would mean that Judaism was doomed to fail from the start.

To understand the danger of this unfortunate development, we need to take a broad look at Judaism and its vital mission. Several questions come to mind. Why does the world need a Jewish nation and what is its purpose? Why do the Jews need to be separate, and why is assimilation seen as one of the most destructive forces within Judaism throughout the ages? What lies at the very core of Judaism?

While many opinions prevail, there are some basic beliefs concerning the very existence of the Jewish People and its mission. With perhaps the exception of Maimonides,[15] all the classic Jewish philosophers claim that the ultimate reason for Israel's existence is to be part of the unifying thread in a kind of Heilsgeschichte (redemptive history). Its purpose is to move humankind forward on its spiritual journey both to full recognition of God as the ultimate Master of all existence and to supreme ethical behavior. This noble role demands exemplary conduct on the part of the Jews. To fully understand this, we must realize that God is not merely the Creator and God of the universe but primarily the God Who is deeply involved in human history. God is not a philosophical idea advanced by Greek philosophers, totally separate from and beyond all human existence. He is an almost touchable Being Who dresses Himself in human emotions to make His point known to mankind.

God appears to experience all the human emotions: love, anger, involvement, indignation, regret, sadness, and so on. By so doing, He gives the seal of divinity to the very essence of our humanity. He implicitly says to man: "You cannot know what is above and what is below, but you can know what is in your hearts and in the world. These feelings and reactions and emotions that make up human existence are, if illumined by faith and rationality, all the divinity you can hope for. To be humane is to be divine: as I am holy, so you shall be holy; as I am merciful, so you shall be merciful." Thus, there is only one kind of knowledge that

is open to man, the knowledge of God’s humanity. [16]

God, then, becomes a specific and historic personality. He becomes a player in the history of humanity, together with all the players in the human race. This makes Him the most tragic figure in all of human history, because He cannot appear in His authentic form, which would require Him to be far beyond all human limitations and characteristics. Would He do so, He would be meaningless to humankind. He must appear in opposition to His very Self. Not as a philosophical idea beyond all human resemblance, but as a Redemptive God within history. This means that He had to become a God of compromise for the sake of man’s limitations. Precisely for that reason He often fails in His ultimate goals. He has to fail so as to connect with humans. His objective is to allow humans to fail so that redemptive history becomes a reality. Nothing can be redeemed if all is perfect.

To achieve His goal, God requires a specific people who are destined to carry out the redemptive nature of history. Universal ideas cannot be relied upon, because they are impersonal, and what is impersonal is beyond history. Furthermore, an impersonal entity cannot carry a commitment, a moral assignment; for if all are committed to a particular mission, there is no one to be persuaded and therefore no mission to implement. Redemptive history then becomes impossible.

More important, however, is that the God of history can work only within time and space. This allows for a personal encounter with Him solely in the context of life and history. And only in that way can there be a mission of redemptive and God-centered history. It is through particularism that this universal mission can be accomplished.

And yet, those who are called on to carry out this mission must have an element of universality and eternity. They cannot be completely distinct, as that would lead them to becoming self-absorbed and unable to redeem and help humankind on its spiritual journey. So, paradoxically, this group must to some degree be ahistorical. It must be unique and incapable of being sociologically or ethnologically categorized. It cannot belong to a particular race, culture, or even a conventional religious domination. Nor can it be a nation in the traditional sense of the word. It must transcend all these definitions and represent something that is a mystery, an anomaly and even a contradiction, so that it can stand at the center of history. Through its uniqueness, all of human history must be expressed. It has to carry the true history of mankind in a world that has an origin and a divine goal. This group of people, then, must identify with all of mankind while remaining separate.

Only “Israel” fits this description, for Israel is neither a race nor a nation nor a religion, in the conventional sense. It violates all the criteria that “race,” “nation,” and “religion” stand for. Indeed, it is religion that determines its nationality, and it is nationality that determines its religion. It includes members of all races, and everyone can join to become a genuine child of Avraham and Sarah.

In addition, there is such a wide range of language, culture, and belief among Jews that no definition of these terms can accurately describe this unusual people. Yet the Jews do represent a surviving historic continuum, identifiable but consisting of constantly shifting groups.

This perplexing notion of “redemptive history” stands at the very core of the mission of Jews and halakha. For halakha to be meaningful and eternal, it must be redemptive halakha, constantly deriving its vitality and its guidelines from this notion. Redemptive history must move forward in order to be redemptive, and halakha must therefore move with it. Once it has accomplished a certain goal, it must abandon the means by which it achieved this goal and move to the next stage of its redemptive goals. If, instead, it adheres to the means by which it achieved its goal, it undermines itself and becomes destructive. Instead of being redemptive, it becomes confining and harmful, turning progress into regression and reversing everything that it wants to achieve.

It is for this reason that the law of yayin nesekh is counter-productive. Its objective has already been achieved. It fulfilled its purpose and has become obsolete. As long as a good part of the non-Jewish world was deeply committed to idol worship and abominable acts, it was important and made a powerful point. But since by now, a very large percentage of humankind has abandoned idol worship, is no longer dedicated to repugnant deeds, and has accepted values such as human rights, equity, and equality, we can no longer ignore these developments and look the other way.

In fact, by continuing to observe this law, we deny that Judaism has had a powerful influence on our world. As a protest movement in the face of great evil, it has done extremely well. Many of its redemptive goals have been fulfilled. Franz Rosenzweig’s thoughts on this subject have been right on the mark. He points out that it is not so much Judaism itself that is directly responsible for these achievements.[17] It required a more extroverted monotheistic religion to take on its ideals and expose them to the world. This, says Rosenzweig, is what Christianity did. With all its mistakes and anti-Semitic overtones, it paradoxically made monotheism into a powerful force throughout the world, and many Jewish values are now well known, while conventional idol worship has ceased to exist.

Rosenzweig adds that Judaism gave birth to Christianity for this very purpose, and Christianity can only fulfill its purpose if Israel is in its midst. It must take its inspiration from Israel. It cannot stand on its own feet. Christian philosopher and theologian Paul Tillich suggested that there would always be a need for Judaism because “it is the corrective against the paganism that goes along with Christianity.” [18]

That is the reason why there is no point in continuing to observe a law that forbids non-Jews to touch our wine.

To argue that idol worship is still alive and well and that there is still a lot of evil around is missing the point. First of all, it is questionable whether idol worship is indeed still around. Hinduism and Buddhism may very well not fall into this category, and even if they would, they are definitely not prone to immorality and evil.[19] Secondly, evil behavior is no longer acceptable by any law-abiding society. This is the indirect result of Judaism’s influence on civilization. In fact, Judaism introduced many other ethical laws that are not found in the Torah itself. Its redemptive qualities, which the law of yayin nesekh symbolizes, did the job.

The same is true about assimilation, which is no longer affected by the law of yayin nesekh. Now that there are so many alcoholic drinks that are not forbidden after they’ve been touched by non-Jews, the law is meaningless. If anything, we should forbid non-Jews to touch whiskey or beer. But to do so would be ineffective. If we want to fight assimilation, we need totally different strategies. That phenomenon has undergone a shift and it can be countered only by ideology. To believe that the law of yayin nesekh still has anything to do with assimilation is to bury one’s head in the sand.

For Jews to remain separate, other strategies will have to be developed. It will require a novel attempt to stir a strong feeling of mission among our youth, combined with a very compelling ideology and education that would be irresistible. Paradoxically, as long as this law exists, it sends a message that the mission rooted in the concept of redemptive history is a fake, and an effective ideology cannot be developed. So the law, which should be building a strong, compelling Jewish identity, in fact does the reverse.

My position has been alluded to by several halakhic authorities. As is well known, the famous Menahem Meiri (1249–1316, France) already stated his opinion that non-Jews are moral people who have left idol worship behind them. He therefore concluded that many discriminating talmudic laws concerning non-Jews are no longer applicable. [20] He was clearly a believer in redemptive halakha. However,

Meiri did not go so far as to abolish the law of yayin nesekh. The person who came closest to doing so was none other than the Rama (1520–1572), Rabbi Moshe Isserles, the foremost Ashkenazic sub-commentator on Rabbi Yosef Karo's Shulhan Arukh. He brings a view that if a ger toshav (a non-Jewish resident) touches a bottle of wine, it is still permitted to drink that wine. Whether or not today's non-Jew, who is no longer an idol worshipper, fits the definition of a ger toshav is a matter of debate. [21] Another great halakhic authority who came very close to doing this was the eminent Rabbi Yosef Messas (1892–1974) from Algeria, Morocco, and later chief rabbi of Haifa. He was one of the most daring halakhic authorities of our days. Dr. Marc Shapiro writes about Rabbi Messas:

…[H]e defends drinking alcohol which contains wine that had been handled by Muslims. He quotes a responsum by an earlier Moroccan rabbi who even permitted drinking the wine itself—[Rabbi] Messas didn't go this far—and who had justified this decision as follows: "There is no unity [of God] like the unity found in Islam; therefore, one who forbids them to handle [wine] turns holy into profane by regarding worshippers of God as worshippers of idols, God forbid." [22]

But there is more. The famous philosopher, Talmudist, and halakhic expert Rabbi Eliezer Berkovits argues that over the last 2,000 years halakha has become increasingly defensive.[23] It has had to deal with aggressive anti-Semitism, as Judaism and Jews were constantly attacked in the Diaspora. Under those circumstances, rabbinical authorities built many walls between us and the Gentiles. This was very understandable; it was the only way to survive. But it also meant that halakha became stagnant. It couldn't develop naturally because it had to constantly look over its shoulder to make sure that Jews wouldn't be affected by the non-Jewish world whose practices and ideologies might oppose Jewish ethical values. It had to ensure that in no way, either directly or indirectly, would Jews be influenced by or support non-Jewish idolatrous traditions and immoral acts. During all of these 2,000 years in exile, halakha was forced into a waiting mode, in anticipation of redeeming itself when Jews would again return to their homeland and live in freedom.

Although Rabbi Berkovits does not discuss the issue of yayin nesekh, it is very clear that the law prohibiting it originated under these circumstances. It's a law that is based on fear.

But times have changed. The waiting mode has come to an end. Halakha's longtime dream, to liberate itself from its defensiveness and fear, is being fulfilled in our own days! The Jews' situation has drastically changed, specifically since the establishment of the State of Israel. We no longer have to be defensive, as we

were in the ghettos. The State has given us our long-awaited independence. We run our own affairs and are no longer afraid of the anti-Semitic world. If attacked, we will strike back. And just as the Jewish State has freed the Jews from defenselessness by building a powerful army with tens of thousands of soldiers and the most sophisticated weaponry, which has made the Israeli army into the world's best, so must halakha abandon its fear, take a courageous, assertive approach, and make a radical turnabout.

Instead of fearing the corrupt influence of the non-Jewish world, we should now show ourselves and the world the enormous spiritual and moral power of Judaism. Instead of building high walls around us, we should create transparent partitions. It's time for the world to be awestruck by the power of Judaism. It's time for exposure, and the export of Jewish spirituality and ethics. The world needs it. The world is ready for it. Jews would find great meaning in religious Judaism, and non-Jews would be astonished and impressed. Assimilation will not come to an end by enacting laws rooted in fear and weakness, but by a halakhic ideology of strength and courage. Judaism has more than enough strength to face head-on the many negative powers that surround us and win the war. Yes, there will be victims, as we have in any Israeli war, but war can only be won if you take that risk, no matter how painful. Today's weak approach creates more victims, by far.

Even more important is the fact that all of this will have an immediate effect on our own youth. Judaism will be something people want to be part of. It will again become a mission to fight for and be proud of.

One of the great tasks of Jewish education is to deliberately create an atmosphere of rebellion among its students. Rebellion, after all, is the great emancipator. To paraphrase English writer Charles Caleb Colton (1780–1832): We owe almost all our knowledge and achievements not to those who agreed but to those who differed. It was this quality that brought Judaism into existence. Avraham was the first great rebel, destroying idols, and he was followed by his children, by Moshe, and by the Jewish people.

What has been entirely forgotten is that the Torah was the first rebellious text to appear in world history. Its purpose was to protest. It set in motion a rebellious movement of universal proportions second to none. The text includes all the heresies of the past, present, and future. It calls idol worship an abomination, immorality a scandal, and the worship of man a catastrophe. It protests against complacency, imitation, and negation of the spirit. It calls for radical thinking and radical action, without compromise, even if it means standing alone and being condemned or ridiculed.

This reality seems lost on our religious establishment. We are teaching our students and children to obey, to fit in, to conform and not stand out. We teach them that their religious leaders are great people because they don't want to rock the boat. They would never think of disturbing the established religious or social norm. But these teachers don't realize that they are teaching a tradition of protest, and if they want to succeed they must communicate that message.

By using clichés instead of the language of opposition, we deny our students the excitement of being Jewish. Excitement, after all, comes from the knowledge that you make a difference, and you take pride in it, whatever the cost. It comes from being aware that you are part of a great mission for which you are prepared to die, knowing that it will make the world a better place.

When we tell our children to eat kosher, we need to tell them that this is an act of disobedience against self-indulgence, by which human beings are prepared to eat anything as long as it tastes good. When we go to synagogue, it is a protest against man's arrogance in thinking that he can do it all himself. When young couples are asked to observe the law of family purity, it is a rebellion against the obsession with sex. The celebration of Shabbat must be taught as an enormous challenge to our contemporary world, which believes that happiness depends on how much we can produce.

As long as our religious teachers continue to teach Jewish texts as models of approval, instead of manifestations of protest against the mediocrity of our world, we will lose more and more of our young people to that very mediocrity.

Judaism is in essence an act of dissent, not of consent. Dissent means renewal. It creates loyalty. It is the stuff that world growth is made of.

But all of this can be achieved only if we reestablish halakha as an ideology and practice by which courage and determination will lead to great pride and a strong feeling of mission.

We must now make sure that halakha can once again develop in its original, innovative way and come back to itself. We don't need to reform or update it. We need to simply take it back to the point where it had to turn against its own self because of our galut experience, and we must get it back on track. We have to cut off the many foreign branches that have for centuries concealed its ancient roots. It requires a purifying process so as to bring it to complete spiritual fulfillment.

Yes, it has to be done slowly, with great care, and in a way that doesn't harm the core. I haven't the slightest doubt that we'll discover a beautiful canvas with many diverse but harmonious colors that will deeply impress our fellow Jews and make Judaism irresistible.

To achieve this goal, we have to de-codify Jewish law and dispense with the official codes of law by which Judaism was able to survive in past centuries. Codification stagnates.[24] While it was necessary in order to overcome the enormous challenges of exile, it has now become an obstacle, outdated and unhealthy, which to a great extent blocks the natural development of halakha. Jewish law must move and grow, taking into account various developments in our world and giving them guidance. And that can happen only if it is fluid and allows for a great amount of flexibility, which codification cannot offer. Certainly, some conformity is necessary, such as in the case of civil law, but unlike non-Jewish codifications, Jewish law is foremost a religious and spiritual tradition. As such, it can never be translated into immutable rules to be applied at all times, under all conditions, and for everyone, without considering the personal, religious and practical components. These elements vary drastically, as can be seen by the many differing and even opposing opinions in the Talmud, which the Sages were not only aware of but seem to have actually encouraged. [25]

What we need now is prophetic, New Age halakha, dedicated to the great, authentic, ethical mission of the Jewish people as conveyed by the prophets, and combined with the demands of the Torah. The prophets preached a rare combination of particularism and universalism. They strongly advocated Jewish particularism, so as to keep the Jews separated from the rest of the nations. But they always viewed this in terms of universalism. [26] There was a need for a central driving force, full of spiritual and moral energy, that would enable the Jews to inspire all of mankind and be "a light unto the nations," conveying the oneness of God and the significance of justice.

We must continue to be different and marry only among ourselves, or with those who have joined our people. We should make our own wines and not drink those produced by our Gentile friends, because wine is a sacred drink that needs to be sanctified by the beliefs of different religious communities. I would even suggest that each monotheistic religion produce its own wine, since it is not the liquid itself that is sacred but the winemaker's intentions that have suffused the wine.

It is nonsensical to believe that the world would be a better place if all differences would be eliminated. Distinctiveness is a most important aspect of our society. It gives it color and allows people to belong. But it should not lead to a form of

separation, which serves no real goal and is the outgrowth of something that was meant for a different time.

Should the law of yayin nesekh be abolished altogether? Definitely not! We should not drink kosher wine that has been handled by anti-Semites, terrorists, rapists, financial swindlers, men who refuse to grant divorces to their wives, self-hating Jews, and the like.

After all, the purpose of the law is to protest, not to discriminate.

It is high time that the rabbis consider revisiting this ancient law and adapting it to our new reality.

My brother would agree.

Notes

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[1] See my essay, “Lonely but Not Alone: An Autobiography by a Jew Who Should Not Have Been,” Conversations, Spring 2013/5773, pp. 1–35.
[2] Shulhan Arukh Yoreh De’ah 124:11; Mishneh Torah, Hilkhot Ma’akhalot Asurot 11:4.
[3] Once my brother told me about this incident, I realized there are other laws as well that are very disturbing, such as bishul akum (the prohibition of eating food that was cooked by Gentiles), the saving of non-Jews on Shabbat, the institution of the “shabbes goy,” and the prohibition of doing a favor for a non-Jew. This is not the place to discuss each one of them, but it will become clear to the reader that all of these laws, or customs, are the result of circumstances that prevailed in ancient times, and they should no longer apply today.
[4] Human subjectivity is a major factor in halakhic decision making. See Dr. Aaron Kirschenbaum, “Subjectivity in Rabbinic Decision Making,” Rabbinic Authority and Personal Autonomy by Moshe Z. Sokol, ed. (Northvale, NJ, London: Jason Aronson, 1992) pp. 93–123.
[5] It’s true that certain sources, many of them kabalistic, seem to point out that non-Jews should serve the Jews, but such notions are much debated and not generally accepted. These beliefs may be the result of historical developments. When the Talmud states that Gentiles will serve the Jews in the messianic age, it means they will do it voluntary, out of respect for the Jews, but not because it is their duty. See Yeshayahu 49: 22, 23; Eruvin 43b, Ben Yehoyada’s commentary. See also Nathan Lopes Cardozo, “On Jewish Identity and the Chosen People,” Between Silence and Speech (Northvale, NJ, London: Jason Aronson, 1995) pp.

35–75.
[6] See Shulhan Arukh Yoreh De’ah 124:11. Wine that has merely been touched by a non-Jew is not prohibited. Maga means handling. Two actions have to take place: touch and movement. See Yoreh De’ah, ad loc. When the non-Jew touches the bottle without intent, the wine is permitted for the purpose of drinking. Mishneh Torah, Hilkhot Ma’akhalot Asurot 13:11; Yoreh De’ah 124: 7, 24.
[7] The wicked Jew is foremost identified as a mumar (an apostate), one who deliberately rejects Judaism and violates its demands. Nowadays, many authorities are of the opinion that this term no longer applies, since it is not malice that motivates him but ignorance, as well as the lack of revealed divine providence, which would convince him of the Torah’s truth. See Chazon Ish on Yoreh De’ah, Hilkhot Shehita 2:16, 28. See also Yaakov Ettlinger, Responsa Binyan Tzion Hahadashot, no. 23; David Zvi Hoffman, Responsa Melamed Leho’il, no. 29; Rav Ovadia Yosef, Yabi’a Omer, vol. 1, Yoreh De’ah no. 11.
[8] Some of my halakhic “opponents” may claim that I am overstating the case of wickedness and immorality as the reason for the law concerning yayin nesekh, while the only real reason is idol-worship and its libations. However, this seems to me incorrect. What really bothered the Torah and Sages about idol worship were the abominable, immoral acts that were inherent to paganism and their accompanying libations. Under those circumstances, ethical monotheism could never succeed and flourish. For a careful study of this topic, see Menachem Meiri (1249–1316, France), Beit HaBehirah on Avodah Zarah, 15b, 22a and 26a. Much literature has been published on the Meiri’s understanding of the Gentile world. See Dr. Marc Shapiro, “Islam and the Halakhah,” Judaism: A Quarterly Journal of Jewish Life and Thought, vol. 42, no. 3, Summer 1993. See also Dr. David Berger, “Jews, Gentiles and the Modern Egalitarian Ethos: Some Tentative Thoughts,” in Formulating Responses in an Egalitarian Age by Marc D. Stern, ed. (Lanham, MD: Rowman and Littlefield, 2005) pp. 83–108. Whether or not ongoing libations and immoral acts actually took place is a matter of dispute. See Sacha Stern, “Compulsive Libationers: Non-Jews and Wine in Early Rabbinic Sources,” Journal of Jewish Studies, vol. 64, no. 1 (Spring 2013). See also Sanhedrin 63b.
[9] It is most revealing that several early commentators on the Talmud were at one time not concerned about mixed marriages, since the non-Jews prohibited such marriages. See Ramban on Avoda Zara 35b. See also Encyclopedia Talmudit, vol. 18, s.v. “Hatnut,” pp. 362–366.
[10] There was some discussion about beer, which was also very popular in ancient times, but the Sages did not prohibit it probably because it was a life sustainer and safer than water! See Encyclopedia Talmudit, ibid.
[11] See Avodah Zarah 29a. For a discussion on when wine is considered to be yayin mevushal, see RaN on Avodah Zarah 30a; Yoreh De’ah 123:3; Rabbi Moshe

Feinstein, Igrot Moshe Yoreh De’ah 2:55 and 3:31.
[12] On whether boiled wine is permitted for Kiddush, see Shulhan Arukh Orah Hayim, 275:8.
[13] For a general overview, see Encyclopedia Talmudit, vol. 24, s.v. “Yayin Shel Goyim,” pp. 330–498 and vol. 18, s.v. “Hatnut,” pp. 362–366. See also the following three works by Prof. Haym Soloveitchik: Yeinam: Sachar Be-Yeinam Shel Goyim al Gilgulah shel Halakha Ba’Olam Hama’aseh (Tel Aviv: Alma, 2003, Hebrew); HaYayin BiMei HaBeinayim: Yayin Nesekh [Wine in Ashkenaz in the Middle Ages: Yayin Nesekh– A Study in the History of Halakha] (Jerusalem: Zalman Shazar Center for Jewish History, 2008, Hebrew); “Can Halakhic Texts Talk History?” AJS Review, vol. 3 (1978), pp. 153–196.
[14] I refer here to native Israelis, not to those who came on aliyah from Western countries.
[15] See David Hartman, Israelis and the Jewish Tradition: An Ancient People Debating Its Future (New Haven and London: Yale University Press, 2000).
[16] Dr. Yochanan Muffs, “A Jewish View of God’s Relation to the World,” The Personhood of God (Woodstock, VT: Jewish Lights Publishing, 2009) p. 177.
[17] Franz Rosenzweig, Briefe (Berlin: Schocken, 1935) p. 100. See also Jacob Agus, Modern Philosophies of Judaism (New York: Behrman’s, 1941) pp. 191–194.
[18] Quoted by A. Roy Eckardt in Christianity and the Children of Israel (New York: Columbia University, 1948) pp. 146–147.
[19] See Alon Goshen-Gottstein and Eugene Korn, eds., Jewish Theology and World Religions (Oxford, England and Portland, Oregon: The Littman Library of Jewish Civilization, 2012) Part 3.
[20] See Note 8.
[21] See Shulhan Arukh, Yoreh De’ah 124:2. And especially 124, 24. See also Dr. Asher Ziv, ed., Shu”t HaRama 124, where Rabbi Moshe Isserles is melamed zekhut (judges favorably) those who drink wine produced by non-Jews.
[22] See Rabbi Yosef Messas, Otzar HaMikhtavim vol. 1, nos. 454, 462; Shu”t Mayim Hayim vol. 2, Yoreh De’ah no. 66. Rabbi Messas expresses a similar opinion concerning bishul akum (kosher food cooked by non-Jews). See Dr. Marc B. Shapiro, “Rabbi Joseph Messas,” Conversations – The Journal of the Institute for Jewish Ideas and Ideals, Spring 2010/5770, pp. 100–101. See also Rabbi Ovadiah Hadaya, Responsa Yaskil Avdi, vol. 1, Yoreh De’ah, No. 4.
[23] Eliezer Berkovits, HaHalakha, Kokha V’Tafkida (Jerusalem: Mossad HaRav Kook, 1981). A shortened English version is Not in Heaven: The Nature and Function of Halakha (NY: Ktav Publishing House, 1984) ch. 4.
[24] See Rabbi Shlomo Luria (Maharshal), Yam Shel Shlomo, introduction to Bava Kama and Hulin; Rabbi Yehudah Löw ben Betzalel (Maharal), Netivot Olam 16, end; Rabbi Haim ben Betzalel, Vikuah Mayim Chaim, 7. See also Eliezer Berkovits,

ibid., and my essay “On the Nature and Future of Halakha in Relation to Autonomous Religiosity,” Conversations, Spring, 2010/5770, pp. 66–82.
[25] See Eruvin 13b.
[26] See, for example, Shemot 19:5–6; Yeshayahu 42:6. See my book Between Silence and Speech: Essays on Jewish Thought (Northvale, NJ and London: Jason Aronson, 1995) chapters 3 and 5.