

Isaac Reggio and the London Herem of 1842

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The *herem* [ban] has been a significant feature of Jewish life.¹ Used against Maimonides in medieval times and, in more recent centuries, against such dissenters as Spinoza, the Hasidim, and the Reformers, it was, in religious societies, a powerful weapon in the rabbis' arsenal. Not surprisingly, the *maskilim*, those advocates for 'enlightenment' within Jewry, regarded the *herem* as nothing more than a tool of obscurantists used to stifle creative thought. They were pleased when modern states either entirely forbade the *herem* or required government approval before it was proclaimed.²

Moses Mendelssohn's well-known *Jerusalem* (1783) was the first work dedicated to proving that Judaism is opposed to any form of religious coercion, of which the *herem* was the dominant form during the years of the Exile. Mendelssohn obviously knew that his position could not be defended on historical grounds. However, he was describing a 'pure' Judaism to which he swore allegiance, rather than the diluted Judaism that had developed over time. As Alexander Altmann has put it, 'He makes it abundantly clear that in his view the ban was not an authentically Jewish institution but had been introduced in imitation of Christian usage.'³ This became a popular view among *maskilim*. Even those who recognised that traditional Judaism's coercive nature is to be explained independently of any Christian influence still believed that in the modern era there was no place for religious coercion. This is the position expressed by Isaac Samuel Reggio in his letter to members of London's Spanish and Portuguese community, published here.

Reggio (1784–1855) was a rabbi in Gorizia, Italy, as well as a well-known *maskil* who authored a number of significant works. His book *Ma'amar ha-Tigl'ahat* (Vienna, 1835), which argued that shaving was permissible during the intermediate days of the Festivals [*hol ha-moed*], caused something of a scandal in Italy. Reggio's own father, Rabbi Abraham Reggio, found it necessary to repudiate his son's views.⁴ Reggio's lenient position in this matter was in line with his very liberal

views with regard to rabbinic authority in general, and it was no doubt because of this that the questioners turned to him. After all, they were looking for a condemnation of ecclesiastical authoritarianism, something most rabbis would be reluctant to offer.

Despite Reggio's maverick views he remained an important leader of Italian Jewry. He was one of the founders of the Italian rabbinical college, the Collegio Rabbinico Italiano, and had an international reputation in Haskalah circles. His *Guide for the Religious Instruction of Jewish Youth* was published in English translation in London in 1855. Surprisingly, there has not yet appeared any detailed study of Reggio's life and works.⁵

From Reggio's letter it is not easy to determine the exact details of the case to which he was responding. In his *Mazkeret Yasbar* (1849), which includes a listing and partial description of his published and unpublished writings, Reggio states that the original letter was written in Italian and was sent to leaders of the London Sephardic community in response to their question as to whether they could abolish the *herem* that the community elders had proclaimed on those who made changes to the heretofore accepted communal practices.⁶ From Reggio's response, we also see that they enquired as to the procedure whereby the *herem* could be abolished, assuming such an action was justified. Despite the fact that this letter is mentioned in *Mazkeret Yasbar*, it has never, to my knowledge, been referred to subsequently. None of the authors who wrote about the London Sephardi community, and who examined the community's archives, appear to have been aware of Reggio's letter.

Considering the letter's date (1847), we can deduce that it was written with reference to the great dispute that was then tearing apart the Sephardi community of London, and which has been the subject of much discussion.⁷ To summarise, in the community's *ascamot* [regulations] formulated in 1663, the first *ascama* forbade under penalty of *herem* the establishment of a different Sephardi congregation in London or its surroundings, or even the assembly of ten men for worship, except on the occasion of a wedding or in the house of mourners.⁸ All who violated this *ascama* would automatically be placed under the ban.

In the 1830s, with the expansion of the Sephardi community to the western section of London where they were no longer within walking distance of Bevis Marks synagogue, a number of members wanted to establish a branch synagogue. In addition to being closer and thus more convenient, they also intended to introduce some variations in the synagogue service, such as a later beginning in the winter, English sermons, and a choir. There were also some *halakhic* problems with the proposals – for example, they intended to stop calling people up for *aliyot* [Torah readings]. The reformist tendencies of this group were later made

apparent when they called for, and then carried out, the abolition of the second day of festivals. Significantly, they took this step even before the German reformers.⁹ In fact, it is unlikely that the nascent Reform movement in Germany was a significant influence on the British reformers. It is true that in 1836 a petition was presented to the community elders calling for 'such alterations and modifications as were in the [!] line of the changes introduced in the reform synagogues in Hamburg and other places'.¹⁰ However, this was an anomaly, and Kershen and Romain have convincingly shown that Reform in London developed independently of what was happening on the continent.¹¹

After the elders of the community refused to sanction the opening of a branch synagogue, those who made the request met on 15 April 1840 and declared their intention to create an independent synagogue, which they called the Synagogue of British Jews (a name soon to be abandoned).¹² Although they did not meet as an established synagogue for another two years, they soon hired a minister, David Woolf Marks, who composed a new prayer book for them. In response to this, the community elders secured a declaration from the *Haham* of the Sephardi community, David Meldola, and the Chief Rabbi of the Ashkenazim, Solomon Hirschel. The declaration asserted that the proposed reforms of the new synagogue violated *halakhab*, 'and whoever shall use it [that is, the new prayer-book] for the purpose of prayer will be counted sinful'.¹³ Another declaration by these two condemned the seceders for 'publicly and in their published Book of Prayer reject[ing] the Oral Law'.¹⁴

The pressure brought to bear was to no avail, and on 27 January 1842 the new West London Synagogue of British Jews was formally consecrated. In so doing, the members of the new synagogue immediately incurred the *herem*. This meant that they were disqualified from all offices in the community, could not be called to the Torah or included in a *minyán*, could not marry with members of the community, and could not even be buried in the communal cemetery. During the years when the *herem* was in force, tensions in the community were greatly exacerbated, for a wall had been erected between friends and family. A number of influential members of the community exerted themselves to have the *herem* revoked, and it was they, no doubt, who wrote to Reggio in July 1847 asking for his opinion on the matter. This was an unofficial enquiry, for the community elders and Beth Din were still stubbornly holding onto the *herem*. In fact, Hyamson informs us that an earlier 'attempt in April 1847 to override the local Beth Din by referring the matter for decision to the Sephardi ecclesiastical authorities at Amsterdam was rejected by the Elders'.¹⁵ Communal pressure continued to grow throughout the decade, and in 1849 the *herem* was officially revoked.

Reggio's letter is part of the Elkan Nathan Adler collection, found in the archives of the Jewish Theological Seminary of America, Historical Manuscripts, no.8467. It is unclear how Adler came to acquire this document, which one would expect to be found in the archives of the London Sephardi community. It is also unknown who translated the document into English. I thank the Library of the Seminary and its director, Rabbi Mayer Rabinowitz, for permission to publish Reggio's letter. I have added a few punctuation marks, corrected some obvious spelling errors, and unified certain textual features of the document (for example, in the original letter some words appear underlined inconsistently; I have italicised them each time they appear). There are errors in the bibliographical references of Hebrew sources, which are perhaps due to Reggio copying the errors found in secondary sources without actually examining the original texts.¹⁶ Some of the errors might also be due to the translator misreading Reggio's handwriting.

Reggio's letter to London's Spanish and Portuguese Community

It has been thought proper to submit to my feeble judgment the solution of the two questions contained in the annexed memorandum dated London the 23rd July last, and the honour which is thereby conferred upon me by so distinguished Gentlemen, belonging to a Congregation so highly respectable, might for an instant make me forgetful of the exiguity of my powers, if the answer that I am about to give were not sufficient to remind me how much I stand in need of their indulgence. However, thankful I am for the confidence placed in me, I will endeavour to supply to the scarcity of talent by frankness and impartiality.

Whoever undertakes to examine maturely the two questions alluded to, with their concomitant circumstances, will undoubtedly incline to make common cause with those who affirm that the Seceders ought to be relieved from the *Herem* under the infliction of which they are supposed still to lie by virtue of the alleged *Ascama*. If we were to confine the discussion within the limits of the Talmudical and Ritual circle, we might find that the excommunication thrown by the *Ascama* would eventually meet such objections as to render it entirely powerless, for the following reasons:

1. Because the authors of the *Ascama* were constituted solely as a civil authority, called *Mahamad*, and legally had no ecclesiastical character. They ought therefore to have associated to themselves, in their deliberations, one or more Rabbis, ordained to assume a spiritual authority. If they have omitted to do so, their *Ascama* is null and void.

שכל גזרה ותקנה שעשו הרבים לתקנת הקהל צריך שיהי' החכם או החכמים מנהיגי

הקהלות עמהם ואם לאו אין בדבריהם כלום. רשד"ם סי' קיז [צ"ל יר"ד סי' קנח]

2. To render that *Ascama* valid, a majority in an assembly of those who there voted was not sufficient, but it was necessary that all parties concerned should have *been present*, and as the penalty of *Herem* then established deeply concerned every single individual of that Congregation every one of them should have been present at the deliberation. If it cannot be proved that *all without exception* did attend that meeting, a proof of the legal validity of the deliberation would be wanting, and the whole would be considered as null and void.

אפילו היו הרוב נמצאים בהסכמה והמיעוט מהדיינים והממונים לא נמצאו שם בעת ההסכמה אין בהסכמה ההיא ממש כמו שכתב מהרי"ק ז"ל שורש קפ"א¹⁷ ח"ל: דבר פשוט הוא שאין כח ביד שום ראשי הקהל לחדש שום הסכמה חדשה מדעתם מבלי רשות כלם, ואפילו היו שם רוב אנשי הקהלות לא חשיב רב כיון שלא היו כולם במעמד. רשד"ם י"ד סי' צד [צ"ל סי' צו]

3. It does not appear whether the said *Ascama* has been originally promulgated in the Synagogue in the requisite forms; for it must be remarked that its registration in the archives of the Congregation could by no means be sufficient to give it force of Law; whenever a person should be found to suffer from its dispositions, as in the present case, the necessity of its previous promulgation becomes more evident, upon pain of nullity.

חרמי צבור אינם נוהגים עד שיכריזו אותם. ב"י י"ד סי' רכח
הסכמת חכמים אם הוא מלתא דאיכא רווחא להאי ופסידה להאי צריכה הכרזה מהריב"ל ח"ב סי' עא וחלק ג סי' קכ ועיין סי' בני חיי על ח"מ סי' רלא

4. Assuming that the non existence of any of the aspects above mentioned can be proved, the dissenting parties are still entitled to say that they have never entertained the intention of submitting to the obligations arising from the *Ascama*, and that they would have never given their free consent to such severe dispositions. And so asserting they are not bound to prove it, but it is the duty of the supporters of the *Ascama* to produce evidence to the contrary.

אפילו אם תמצא לומר שהוכרזה ההסכמה נאמנים הם לומר שלא קבלוה עליהם ואינם צריכים רא"י ולא עדים, ואדרבה על המערערים עליהם להביא עדים ברורים איך הכריזו ההסכמה וקבלוה כולם, הרשד"ם י"ד סי' צד [צ"ל סי' צו]

5. The object contemplated in that *Ascama* was of such a nature as ought to have rendered those who framed it alive to the great probability that with the progress of time, its dispositions would prove extremely

burdensome to the majority of the members of the Community, and they ought therefore to have fixed a period, beyond which the rigour displayed should cease. In fact, the authors of the *Ascama* could not be without knowing that, by the succession of human generations, manners, wishes, wants, social positions and all the mutual relations between men, undergo changes, in consequence of which such dispositions as are useful and desirable at one time, may and must become noxious, painful and destructive in other times. Therefore, it was their duty to use a greater caution before they flung an excommunication upon the heads of their latest descendants, who, dragged by the force of changed circumstances, might find themselves in the painful necessity of violating the ill-advised prescriptions of the *Mahamad*, the founders of the Congregation, and having considered, as they should have done, the eventual impracticability of the measures they have been imprudently ordaining, their *Ascama* comes within the category of those, which, on account of their excessive and interminable severity, cannot be obeyed and are consequently ineffectual and void from their origin.

קהל שגזרו חרמים שאין הצבור יכולין לעמוד בהם אין צריכים לקיימם. הרמ"א
דגהה י"ד סי' רכח סעיף נא [צ"ל ג] וקיים דבריו בעל הלבושים

6. Finally, what the authors of the *Ascama* could not, or would not do, can well be done by the members of the Congregation of the present time. They can avail themselves of the right known in the rituals, under the denomination of *Omdana*, and say, 'As it may be supposed, nay, it is most likely, that the selfsame authors of the *Ascama*, if they were living in our day, would not have deemed proper to introduce a rigour incompatible with existing circumstances, so, taking into account rather their intentions than their words, for the respect we owe them, do we make use of such a presumption and abrogate that *Ascama*.'

בהסכמות ותקנות אמדינן דעת מתקני התקנה בין להוציא ממשמעות התקנה
מה שיראה לנו בין להכניס ולהוסיף בכלל התקנה מה שלא פירש בה. הר"ם הובא

ב"ס פחד יצחק ערך אומדנות

אין ב"ד יכול לבטל וכו' לא אמרינן אלא בדבר שאם היה הב"ד הראשון קיים לא
היה מסכים בו, אבל בדבר שנשתנה הענין ואילו היה אותו ב"ד קיים היה מסכים
בו אין זה ביטול דבריי. שיטה מקובצת על כתובות פ"ק דף טו ב'¹⁸

אית לן למיזל בתר אמדנא שהם לא הסכימו הסכמתם אלא בחשבם שימשך להם
תועלת, עכשיו שנתלגה הדבר שנכזבה מחשבתם פשיטא דאית לן למימר אדעתא

דהכי לא הסכימו. רשד"ם סי' קבב

במקום שנתחדש דבר שלא ידעו הראשונים כגון דאיכא למיחז לקלוקל שלא
 היה לחוש בימים הראשונים דאי מותר לתקן דבר משום דאיכא למימר אדעתא
 דהכי לא התקינו ראשונים. שו"ת הרמ"א סי' פא [צ"ל כא]¹⁹

Now altho' the foregoing propositions, based on the authority of the most accredited Ritualists, prove either the illegality of the excommunication since its origin, or the extinction of its effect and validity in our days, by the [sic] which the two questions that suppose the said excommunication still in rigour would be found to be solved in principle, yet I consider it my duty to enter into the peculiarities of the case, and give both questions more specific answers. I will promise a few observations, that will throw some light on the Rules by which the Rabbinic Rituals govern the resolutions that are decreed in assemblies; this will open the way to a proper solution of the said question.

Any *Ascama* whatsoever, containing the clause 'upon penalty of *Herem*', does not produce the effect of rendering the transgressor of it excommunicated *de facto* and *per se* at the moment he has transgressed; but the clause is merely a threat, conveying the notion that any transgression of the *Ascama* would expose himself to the danger of being afterwards formally and explicitly excommunicated. In consequence, whenever a violation of the *Ascama* takes place, it would be absolutely necessary that its authors or their successors and representatives should assemble, and, constituted in a body, should pronounce the excommunication, with all the formalities prescribed before the transgressor could be said to be actually excommunicated. If the authors of the *Ascama*, or their representatives, should at any time, on account of important changes of circumstances, feel inclined to repeal and annul that which they had previously established, they *need not* have recourse to a *Bet-Din*, or other Rabbinical authority, in order to abrogate the penalty of *Herem*, for their case would not be one of releasing men from an excommunication already regularly pronounced (in which case the presence of one Rabbi would be necessary), but of exempting them from a commination of a future eventual excommunication. In consequence, the Chiefs of a Congregation have the full right of abrogating, of their own free will, and without reference to an ecclesiastical authority, all that they had formally enacted 'upon penalty of *Herem*', whenever the majority of its members is found to agree to it, the opposition of a minority being then of no value whatever. And to effectually accomplish that abrogation, nothing more is required than the following declaration of the members of the Congregation to be passed by a majority of votes²⁰:

'our will is that such *Ascama* shall no longer have the force of law, and we declare it null.' And so doing they are not obliged to adduce any reasons, it being sufficient for them to assert that such is their will.

All these dispositions of Law are registered in the code of Caro (כה' סעיף (שיע י"ד ס' רכח סעיף) where the words added by the *Sifte-Cohen* deserve special attention; they are also to be found in the *Bet Joseph*, and more amply they can be seen elucidated in the legal consultations of the celebrated Duran (תשב"ץ ח"א ס' קכ). The authoritative sentences of these Doctors, which prove the truth of what we have above asserted, are not themselves transcribed here in extenso, for brevity's sake, it being sufficient to refer to them; we will only quote two lines of the last mentioned author, because they can well sum up all our expositions.

וכיון שבטלו אותן הסכמות בגלוי דעתם אינם צריכים לשאלת חכם ואף לא
הפרה מפי עצמן אלא שיסכימו כולם או רובם לומר "אין אנו חפצים שיתקיימו
הסכמות אלו יותר"

And now applying those theories to the present case, and taking into consideration what has been narrated in the above mentioned memorandum, it follows:

In answer to the first question:

A) That the old *Ascama* in question having been emanated by the *Mahamad*²¹ can be revoked by the *Mahamad* and by it alone, without the intervention of any other authority.

B) That the assembly of Elders having in their Resolutions omitted altogether to mention the *Herem*, they gave it to understand that they did not approve of it, and as their disapprobation is sufficient to nullify it, it follows that as soon as the *Mahamad* declares his [sic] determination to abrogate the penalty of *Herem*, the leaders are released from its effects.

In answer to the second question:

A) That the assembly of Elders having already resolved, by a majority of votes, upon agreeing to the wish expressed by the *Yehidim*,²² and upon considering the continuation of the *Herem* as opposed to their will, this fact has precisely fulfilled the only condition, which, in accordance with the mentioned codes, is requisite to the extinction of the *Herem*.

B) That consequently the clause added to their Resolution: 'if approved of by the opinion of the Gentlemen of the *Bet-Din*', is altogether superfluous, for the said codes do not admit of the necessity

of the approbation of any ecclesiastical authority.

C) That no religious ceremony whatever is required to give effect and validity to the Resolutions of the assembly of the Elders.

D) That finally the two members of the *Bet-Din*, who pretend without exhibition of proofs, that the culprits themselves should apply for the remission of the *Herem*, are in open contradiction with the authoritative decision of the above cited Duran who expressly says:

מִן הַדִּין הַצְבוּר יְכוּלִין לְהַתִּיר חֲרָמִים בְּלִי שְׂאֵלַת חֲכָמִים

Therefore, the opinion of the third member of the *Bet-Din*, who maintains that the congregation itself can, of its own authority, and without reference to any other tribunal, abrogate that *Herem* is correct, because sanctioned by the Ritual authorities.

If I now were allowed to depart for one instant from the Talmudic ground, and add a few words in regard to the question as considered in its biblical and rational point of view, I would say that the penalty of *Herem*, as has been practised by the Rabbins after the extinction of the political nationality of Israel, is not compatible either with the purity of the Biblical spirit, or with the sanctity of our religious principles. It has been invented in posterior times as a substitute in the place of the lost civil authority, of which the Rabbins have been divested, both by the unanimous consent of the nation itself and the will of the sovereigns who received us into their own states. It has been used in the middle ages, after the example of others, to stifle the voice of reason, to destroy the freedom of thought, to extinguish every spark of good sense which, from time to time, attempted to clear the darkness of ignorance, and finally to fetter all intellectual progress. But the times have changed, and new requirements have manifested themselves. Civilization, in which enlightened Europe is gloriously progressing, has found its way among the children of Israel too. Arrived, as we are, at the knowledge and understanding of our sublime dogmas, and at the sense of our own dignity, it behoves us to repulse with both hands such arbitrary and tyrannical measures as would seek to obtain, through the terror of anathema, that which is the privilege of mild persuasion alone.

The universal cry of the intelligent demands the abolition of such a penalty.

(signed) Isaac Reggio
Rabbi

Gorizia, October the 5th 1847²³

NOTES

1. See Jacob Katz, *Tradition and Crisis*, trans. by Bernard Dov Cooperman (New York: New York University Press, 1993), pp. 84–6.
2. See *ibid.*, pp. 217–18.
3. 'Introduction', *Jerusalem*, ed. by Alexander Altmann and Allan Arkush (Hanover, New Hampshire: Brandeis University Press, 1983), p. 16.
4. See Meir Benayahu, *Tiglahat be-Holo shel Moed* (Jerusalem: Yad ha-Rav Nissim, 1995).
5. For further biographical information, see the entry on Reggio in the *Jewish Encyclopedia* (with large bibliography).
6. Isaac Reggio, *Mazkeret Yashar* (Vienna: Franz Edlen von Schmid, 1849), p. 20.
7. Michael Leigh, 'Reform Judaism in Britain (1840–1970)' in *Reform Judaism: Essays on Reform Judaism in Britain*, ed. by Dow Marmur (Oxford: Reform Synagogues of Great Britain, 1973), pp. 15ff.; Robert Liberles, 'The Origins of the Reform Movement in England', *AJS Review*, 1 (1976), 121–50; Michael Meyer, *Response to Modernity* (Oxford: Oxford University Press, 1988), pp. 171ff.; Anne J. Kershen and Jonathan A. Romain, *Tradition and Change: A History of Reform Judaism in Britain, 1840–1955* (London: Vallentine Mitchell, 1995), ch. 1.
8. See Albert Hyamson, *The Sephardim of England* (London: Methuen, 1951), p. 28. Regarding the *ascamot*, see Neville Laski, *The Laws and Charities of the Spanish and Portuguese Jews Congregation of London* (London: Cresset, 1952).
9. In their letter of 24 August 1841 to the community elders, these proto-reformers wrote as follows: 'It is not the intention of the body of which we form part to recognize as sacred days those which are evidently not ordained as such in Scripture; and they consequently appointed the service for holy convocations to be read on those days only thus designated.' Liberles (see note 7), p. 141. See also David Philipson, *The Reform Movement in Judaism* (New York: Macmillan, 1931), p. 99; Meyer (see note 7), p. 175; Kershen and Romain (see note 7), p. 16. Leigh (see note 7), p. 24, incorrectly asserts that the abolition of the second days was never actually carried out.
10. Philipson (see note 9), p. 92.
11. Kershen and Romain (see note 7), pp. 23ff.
12. A photographic reproduction of the original declaration is found in Kershen and Romain, p. 48.
13. Hyamson, (see note 8), p. 285.
14. *Ibid.*, p. 287.
15. *Ibid.*, p. 292.
16. That Reggio engaged in a good deal of plagiarism was established by Isaac Baer Levinsohn in his posthumously published *Yeboshafat* (Warsaw: M. Y. Halter, 1883).
17. In the Jerusalem, 1988 edition it is no. 180.
18. I have been unable to locate this passage.
19. In the Jerusalem, 1971 edition it is no. 19.
20. One word unclear.
21. The word *Mahamad* is here used to signify the governing body of the Congregation [note in original].
22. A *Yabid* was an admitted and assessed male member of the congregation, as opposed to one who merely frequented the synagogue, but did not have the status or the privileges of a *Yabid*. See Laski (note 8), p. 34, n. 203.
23. One word unclear.