

Appropriation and Differentiation: Jewish Identity in Medieval Ashkenaz

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“Torah is the tradition of our ancestors; a righteous man adheres to its path.”¹ (*Mahzor Vitry* (12th century compendium from northern France)

“Men resemble their times more than they do their fathers.”² (an Arab proverb, quoted by Marc Bloch, *The Historian’s Craft*)

The examination of the two citations above in tandem allows for reflection on one of the theoretical challenges that has occupied scholarship on the Jews of medieval northern Europe,³ over the past generations: analyzing the medieval Jewish process of integrating practices and beliefs from the surrounding Christian milieu or alternatively seeking far-reaching roots that link the Jewish present and past to explain novelties. The first quote, which opens a passage that introduces a festive meal held the night before the circumcision, appears in *Mahzor Vitry*, the

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¹ *Mahzor Vitry*, ed. S. Horowitz (Nürnberg, 1898), # 506; Eleazar b. Judah, *Sefer rokeah*, (Jerusalem, 1960), #296.

² Marc Bloch, *The Historian’s Craft*, trans. Peter Putnam, (New York, 1962), 35.

³ Often called Ashkenaz and broadly defined as an area that covers modern Germany, northern France, England and northern Italy. Most of my examples herein pertain to German lands.

French compendium on Jewish ritual composed by Rashi's student, R. Simha of Vitry.⁴ By recounting Jewish ancestors, this author casts a contemporaneous practice, unknown in earlier sources, in ancient terms, emphasizing age-old endurance. The second quotation is a familiar adage from an Arab proverb, as attributed by Marc Bloch, which emphasizes the role of *zeitgeist* over tradition. The tension between these ideas is a theme that has long been resonant in scholarship on Jewish societies at large, and specifically those of medieval Europe: finding the balance between reliance on ancient traditions and embeddedness in one's cultural environs.

Scholars today recognize that transfers of ideas and practices occur wherever different religious, ethnic or social groups come into contact,⁵ yet every culture exercises its own modes of integration and rejection. This article uses the lens of social history—as distinct from a history of *halakhah* (Jewish law) or a history of ideas⁶—to examine the ways such processes operated among the Jewish communities of medieval northern Europe in the twelfth and thirteenth centuries facilitating a revised understanding of the formation of Ashkenazic identity within the medieval Christian majority. The practice of Jewish penitential fasting serves a case study for outlining the ways medieval Jews (and Christians) viewed the similarities and differences in their

⁴ Another example can be seen in explanations regarding *ma'aser kesafim* (monetary tithes) in the writings of Asher b. Yehiel, Judah D. Galinsky, "Custom, Ordinance or Commandment?: The Evolution of the Medieval Monetary-tithe in Ashkenaz," *Journal of Jewish Studies* 62 (2011), 214-17.

⁵ Contemporary research often treats "ethnicity" as a term that designates a distinctive group; however, in the medieval Jewish-Christian context I understand religious difference to denote a more precise division.

⁶ As opposed to the distinction between history of ideas and social history, which is often a history of practice, *halakhah* contains both idea and practice. Historians of *halakhah* often focus on the way an "ideal-practice" functioned and changed and one who did not adhere to the prescriptive action is considered deviant.

religious lives. Concentrating on practice rather than belief systems allows to extend current discourse beyond the rabbinic circle into the wider Ashkenazic community.

I employ the term “appropriation” over the language of “exchange,” or (the nearly obsolete) “influence” to describe the inclusion and adaptation of tenets and practices that originated in another culture.⁷ The closest term used to date was coined by Ivan Marcus over two decades ago, “inward acculturation”. Marcus defined acculturation within the medieval Ashkenazic context as:

internalizing and transforming various genres, motifs, terms, institutions, or rituals of the majority culture in a polemical, parodic or neutralized manner."...Jews absorbed into their Judaism aspects of majority culture and understood the products to be part and parcel of their Judaism, and they continued to think of themselves as being completely Jewish.⁸

In this article "appropriation" stands for Marcus' "inward acculturation". This suggestion follows a shift in scholarship on the meaning of culture over the past decades as culture has been redefined as a flexible repertoire of practices and discourses rather than as a fixed and stable set

⁷ The term “influence” has been used by Isaac (Fritz) Baer, “Ha-megamah ha-datit hevratit shel sefer ḥasidim” *Zion* 3 (1938): 1-50 at 18-20 and others. For a discussion of the term and its problems see: Michael Satlow, “Beyond Influence: Toward a New Historiographic Paradigm.” In *Jewish Literatures and Cultures: Context and Intertext*, ed. Anita Norich and Yaron Z. Eliav (Providence, 2008), 37-54. Ivan Marcus introduced the phrase “inward acculturation” in his groundbreaking *Rituals of Childhood: Jewish Acculturation in Medieval Europe* (New Haven, 1996). While I consider “appropriation” a more useful term as I explain below, I am following Marcus’s lead, see below p. 17. For significant discussions of this process see also: Elka Klein, *Jews, Christian Society and Royal Power in Medieval Barcelona* (Ann Arbor, 2006), 8-25;

⁸ Marcus, *Rituals*, 11-12.

of beliefs, values and institutions,⁹ a redefinition that has left its mark in Jewish Studies as well.¹⁰

The meaning conveyed by the verb “to appropriate” as “to make one’s own”, and the idea that this appropriation can be performed on multiple levels and is an ongoing process are of import in my eyes.¹¹ As Claire Sponsler notes in her discussion of medieval appropriation, the word is derived from the Latin *proprius* “personal” or “own” and by extension *proper*” and *appropriare* meaning to take as one’s own property or to appropriate, terms that denote a system in which valued artifacts circulate and are assigned meanings. These related terms also underscore appropriation as an act of possession—taking ownership of ideas, objects, texts, beliefs and practices,¹² since in the act of making something one’s own, distinction is required.¹³ Moreover

⁹ For a useful though somewhat dated survey of some of the changes in anthropological conceptions of culture specifically reflecting on processes of appropriation see Sally Engle Merry, “Law, Culture and Appropriation,” *Yale Journal of Law and the Humanities* 10 (1998): 575-603 as well as the essays in Bruce H. Ziff and Pratima V. Rao (eds.), *Borrowed Power: Essays on Cultural Appropriation* (New Brunswick, 1997). Mary Louise Pratt’s influential term “contact zone” is also helpful. See her “Arts of the Contact Zone,” *Profession* (1991), 33-40. More recently see Arnd Schneider, “On ‘Appropriation.’ A Critical Reappraisal of the Concept and Its Application in Global Art Practices,” *Social Anthropology* 11 (2003): 215-29. Schneider usefully discusses how holistic concepts of bounded cultures have changed using examples from art. Hans Peter Hahn, “Diffusionism, Appropriation, and Globalization. Some Remarks on Current Debates in Anthropology,” *Anthropos*, 103 (2008): 195-97 outlines other aspects of current debates.

¹⁰ See Ra’anan S. Boustan, Oren Kosansky and Marina Rustow, “Introduction: Anthropology, History and the remaking of Jewish Studies,” in their *Jewish Studies at the Crossroads of Anthropology and History* (Philadelphia, 2011), 9-22. See especially their comments on 13-14.

¹¹ See Kathleen Ashley and Véronique Plesch, “The Cultural Process of Appropriation,” *Journal of Medieval and Early Modern Studies* 32 (2002): 1-15; Claire Sponsler, “In Transit: Theorizing Cultural Appropriation in Medieval Europe,” *Journal of Medieval and Early Modern Studies* 32 (2002): 17–39.

¹² Sponsler, “In Transit,” 18; Ashley and Plesch, “Cultural Process,” 1-3.

the act of appropriation is a continuous process much like culture is continuously produced and reproduced.

The term appropriation is also useful because it does not include the word culture (acculturation) nor a direction (such as inward) to avoid a conception of culture that is dichotomous and does not allow nuances or change. It allows the circumvention of the term "cultural appropriation". In post-colonial studies "cultural appropriation" has become a catch-all phrase for "misappropriation" and a way of expressing privilege and exploiting marginal cultures.¹⁴ In the medieval Ashkenazic case these debates regarding privilege and hierarchy in the modern world are anachronistic. The religious competition between Jews and Christians and the open competition between them are not commensurate with current post-colonial discourse. The term appropriation, like the term exchange, allows multi directionality whereas "inward acculturation" represents only one path of movement. Unlike the term "exchange", appropriation contains the sense of taking possession.¹⁵

The first two sections of this paper briefly present some aspects of medieval Ashkenazic penitential fasting practices that had become widespread by the early thirteenth century, and provide a synopsis of scholarly approaches to studying how (and whether) conceptual and practical components from Christian society were incorporated into existing Jewish ritual. I then turn to medieval Jewish authors' comparisons of Jewish and Christian fasting and confession

¹³ The word appropriation also contains an element of taking away, often without permission. This is particularly meaningful in the context under discussion as each religion sought to make the specific elements or practices in question its own. This is another reason I find the term "appropriation" more suitable than acculturation since acculturation implies a shared sense of culture.

¹⁴ See for example Hahn, "Diffusionism, Appropriation, and Globalization," 195-97.

¹⁵ For recent use of the term exchange see Joseph Shatzmiller, *Cultural Exchange: Jews, Christians, and Art in the Medieval Marketplace* (Princeton, N.J., 2013).

practices and propose that, alongside whatever role the rabbinic elite played in appropriation, another mechanism in play may be found in the contours of everyday contact between Jews and Christians who were not necessarily versed in the theology of the practices they performed.

Daily practice has often been overlooked by scholars or characterized as a “neutral”, “basic” or “common” aspect of medieval culture that is accorded lesser significance in the study of religious distinctiveness.¹⁶ To the contrary, domestic and routine activities represent the locus not only of appropriation but also of the consolidation of religious identity.¹⁷ The dynamics of appropriation and differentiation centered on community members’ daily experiences as well as a shared calendar and geography, that framed their activities, shaped familiar objects and informed their language. These tangible factors often signaled difference more saliently than did stated beliefs or formal definitions.

Medieval Jewish Penitential Fasting

¹⁶ For this formulation of shared elements as “neutral”, see Elisheva Baumgarten, *Mothers and Children: Jewish Family Life in Medieval Europe* (Princeton, 2004), 7-9; 188-89; Shatzmiller, *Cultural Exchange*, 164-66. Klein called this “common culture”, *Jews, Christian Society*, 8. See also Emese Kozma's summary of the way scholars have treated this debate: *Practice of Teshuvah in the Medieval Ashkenazi Jewish Communities*, Ph.D Eötvös Loránd University Budapest 2012, 308-12. While I agree with much of her analysis I find the dichotomies she draws too rigid to be useful for understanding processes rather than static fixed examples.

¹⁷ Literature on ethnicity and difference is useful in this context, See Roger Brubaker, *Ethnicity Without Groups* (Cambridge, Mass; London, 2004), 118-20; Walter Pohl, “Telling the Difference: Signs of Ethnic Identity” in *Strategies of Distinction. The Construction of Ethnic Communities, 300-800*, eds. Walter Pohl with Helmut Reimitz (Leiden, 1998), 18-70 and especially 65-67 on the importance of outward identifiers. See also Michel de Certeau, *The Practice of Everyday Life*, trans. Steven Rendall (Berkeley, 1984), 177-81.

Ashkenazic Jews during the High Middle Ages assumed both private fasts and communal ones far more frequently than Jews in other diasporas.¹⁸ Their schedule of fasts included: well-established fast days that commemorated the destruction of the Temple; Mondays and Thursdays during specific times of year; fasts that memorialized events and individuals, extended periods such as the month prior to the High Holidays; designated times in the Spring (in the month of ‘Adar and, sometimes, ‘Iyar); and dates that related to communal peril.¹⁹

Although it would be an overstatement to claim that all these fasts were universally observed, medieval sources suggest that fasting was a normative practice throughout Ashkenazic society.²⁰ In addition to communal fasts, medieval Jews fasted on an individual basis to expedite the healing of sick children, to honor deceased relatives and to ward off the evil omens in bad dreams (*ta’anit halom*).²¹ Thus medieval Ashkenazic life was punctuated by community-wide

¹⁸ Fasting plays a central role in many religions, including pre-medieval Judaism thus the fasts discussed here were not remarkable in and of themselves and it is specific modes of fasting that merit attention. For comparison with Islam, see Shlomo Dov Goitein, "Ramadan the Muslim Month of Fasting," in *The Development of Islamic Ritual*, ed. Gerald Hawting (Aldershot, 2006), 151-71 and Georges Vajda, "Fasting in Islam and Judaism," in *The Development of Islamic Ritual*, 133–49.

¹⁹ For a list of fasts known in medieval Ashkenaz, see Shulamith Elizur, *Lama zamnu? Megilat ta’nit batra u-reshimot zomot ha-kerovot lah* (Jerusalem, 2007), 276-89, these originated in medieval Babylonia. For an overview of practices see Elisheva Baumgarten, *Practicing Piety in Medieval Ashkenaz: Men, Women and Everyday Religious Observance* (Philadelphia, 2014), 60-69; 72-85. A recent publication of three sermons by an anonymous fourteenth-century German rabbi, includes additional examples, Israel Stal (ed.), *Derashot le-yemei ha-teshuvah mi-beit midrasham shel Ḥasidei Ashkenaz* (Jerusalem, 2014), 10, 23-24, 41-43.

²⁰ For example, the late thirteenth-century memorbuch from Nürnberg records a blessing for community members who fast on Monday-Thursday-Monday cycles, MS Mainz 19, fol. 44b.

²¹ For multiple references to fasting in return for health, prevention of danger and fending off foreboding omens: Judah b. Samuel, *Sefer Ḥasidim according to MS Parma H3280*, Introduction by Ivan G. Marcus (Jerusalem, 1985) - hereafter *SHP*. Also accessible at Princeton University Sefer ḥasidim database

and individual fasts for penitential and other intentions.²² As most of the sources that have survived can be dated from the twelfth century and later, little is known of the fasts observed before the First Crusade, aside from the references to fasting in the Crusade chronicles, which suggest that fasting as a penitential practice was widespread then as well.²³

Penitential fasting appears in medieval responsa frequently. In some cases, it was self prescribed, in others religious leaders were consulted by the sinner—directly or via a representative—who outlined the incident and requested guidance for corrective action; in turn, that authority provided instructions for fasting that detailed the food and drink whose consumption would be curtailed and a schedule.

For example, in a responsum, attributed to Elhanan b. Samuel of Magdeburg (late thirteenth century), a woman whose infant died in her bed, having been inadvertently smothered or crushed by the mother during sleep or perhaps due to crib-death, requests instructions. This mother is instructed to fast on Mondays and Thursdays for one full year after her baby's death, twice each week excluding holidays and new moons, with these exemptions being rolled into the next year. He also details a tracking procedure:

(PUSHD) https://etc.princeton.edu/sefer_hasidim. *SHP*, #289, #343, #942, #1283, #1284, #1357, #1722; See also: Tosafot, BT Nazir 28b, s.v. "b'no,"; Tosafot, BT Avodah Zarah 34a, s.v. "mit'anin le-sha'ot"; Jacob b. Judah of London, *Sefer 'etz hayim*, ed. Israel Brodie (Jerusalem, 1962–64), Hilkhhot ta'anivot, 371; *Mordekhai*, Shabbat, "Yetzi'ot ha-shabbat," Remez 229; Shalom b. Isaac of Neustadt, *Psakim u-minhagim*, ed. Shlomoh Spitzer (Jerusalem, 1977), #456. Kozma's these details multiple examples, above n. 14.

²² For one example, see Yitzhak D. Gilat, "Shte'i bakashot shel Rabbi Moshe mi-Coucy" *Tarbiz* 28 (1959): 54–58.

²³ Eva Haverkamp, *Hebräische Berichte über die Judenverfolgungen während des Ersten Kreuzzugs* (Hannover, 2005), 255, 259, 261, 267, 407, 431, 433, 435, 473, 483.

For each Monday and Thursday that she does not fast, she must compensate during the following year. It is recommended that she have a small piece of wood (a tablet or stick) on which she would mark each Monday and Thursday when she does not fast; at the end of the year, she should tally up those marks. She should make up for that number of missed Monday and Thursday fasts, recording them on a second piece of wood. Each time she fasts [during that second year], she should mark the [second piece of] wood until it has same number of marks as the first [piece of wood].²⁴

When an individual took on a fast, that commitment would be formally articulated during the afternoon service immediately prior, by reciting a prayer that included an admission of the sin that had been committed and the vow to fast.²⁵ This confession to God (*vidui*) is not a medieval innovation; rather, it is a component of atonement that dates from the Bible—when a confession was whispered over the head of an animal before it was sacrificed—which was later incorporated into the liturgy and further elaborated in medieval Judaism.²⁶ Fellow Jews were aware of the voluntary fasts that were accepted during afternoon prayers; that is to say, personal fasts were not a strictly private matter.²⁷ External aspects of fasting would also signal

²⁴ See *Teshuvot Maharam me-Rothenburg ve-ḥaverav*, ed. Simcha Emanuel (Jerusalem, 2012), #375. See also *ibid*, responsum # 739.

²⁵ Jacob b. Judah of London, *Sefer 'etz ḥayim*, *Hilkhot ta'aniyot*, 371; MS Paris héb. 644, fol. 21a provides a richly detailed example of this ritual; see also MS Jerusalem, National Library, 34P 1114, fol. 23a-b. Kozma, *The Practice of Teshuvah* has collected many of these sources.

²⁶ See, Ismar Elbogen, *Jewish Liturgy. A Comprehensive History*, trans. Raymond P. Scheindlin (Philadelphia and Jerusalem, 1993), 125-26; 181, 197, 209. Confessional prayers, like fasting, became further embellished in medieval Europe.

²⁷ For example, Peretz b. Elijah, “Piskei Rabbenu Peretz,” ed. Haim Sha’an. *Mori’ah* 17 (9–10) (1991): 10, #3 (late 13th-century France) is asked whether a community member who does not observe Monday-

individuals observing this ritual. Men and women were often instructed to wear black clothes while performing penance for certain sins;²⁸ fasting precluded participation in communal meals; some penitents were dissuaded from attending weddings; and in cases of grave transgressions, such as murder, a sinner was told to lie across synagogue doorway so that all who entered and left would step on him.²⁹

Modern scholars of medieval German Jewry have long struggled to explain these prescriptions for penitential fasts and the mindset that accompanied them since they seem to reflect northern European Christian norms more closely than previously established Jewish customs.³⁰ These frequent fasts have been minimized in scholarly analyses of medieval Jewry perhaps as a result of unease with their “Christian” character. Another approach for contending with the centrality of penitential fasting and its significance in medieval Ashkenaz is by relegating their observance to a small exceptional circle, that of *Ḥasidei Ashkenaz* (German Pietists). The central compositions from the late twelfth or early thirteenth centuries identified with their leaders—*Sefer ḥasidim* (Book of the Pious), by Judah b. Samuel (d. 1217), followed

Thursday fasts could be called to the Torah; Peretz affirms on the condition that this individual commit to make up all missed fasts.

²⁸ Eleazar b. Judah, *Sefer rokeah* (Jerusalem, 1960), #6, 10, 24; *Darkhei teshuva*, a later version of this manual, printed in Meir b. Barukh of Rothenburg, *Shu”t Maharam me-Rothenburg* (Prague), ed. Moshe Blach (Budapest, 1895; repr. Tel Aviv and Bnei Brak, 1985) 160b; *Teshuvot rabenu Ele’azar me-Wormeisa*, ed. Jacob Israel Stal (Jerusalem, 2014), 19-20, 51-53. For a concise survey of texts see Kozma, *Practice of Teshuva*, Appendices.

²⁹ *Darkhei teshuvah*, in Meir b. Barukh, *Shut Maharam me-Rothenburg* (Prague), 160b; 161a.

³⁰ Baer, “Megama ha-datit-ḥevratit”, 18; Asher Rubin, “The Concept of Repentance Among Hasidey Ashkenaz” *Journal of Jewish Studies* 16 (1965): 161–76; Moshe Beer, “Al ma’sei kaparah shel ba’alei teshuva be-sifrut ḥazal” *Zion* 46 (1981): 159–81; Israel Abrahams, *Jewish Life in the Middle Ages* (Philadelphia, 1896), 141; Elizur, *Lama zamnu*, 257-58.

by the *Hilkhot teshuvah* (Laws of Atonement) section of *Sefer rokeah* (Book of the Perfumer), composed by his student Eleazar b. Judah of Worms (d. circa 1238)—are often identified as the primary records of these practices. Passages from *Sefer ḥasidim* have also been attributed to Judah’s father, Samuel b. Judah.³¹

Almost a century ago, Isaac (Fritz) Baer suggested that, although Eleazar prefaces his penitential guidelines with an attribution that he received them from his teacher Judah, who had received them from his predecessors, and that “they were received from rabbi to rabbi, ga’on to ga’on, sage to sage, as [part of the] Torah [given] to Moses at Sinai,” this material represents an innovation, “a novelty for the Jews that was the result of Christian influence.”³² Here Baer refers both to penitential fasting and to the mode of confession that Judah promoted, which entailed voicing one’s transgressions to a spiritual advisor who would assign penitential practices. Baer’s observation highlights the challenge with which I began: if this moral arithmetic of fasting and repentance were unprecedented among Jews, how might we understand its appearance in medieval Jewish practice? Baer’s assertions of “influence” aroused strong criticism,³³ alongside

³¹ See Ivan G. Marcus, *Piety and Society. The Jewish Pietists of Medieval Germany* (Leiden, 1981) and Idem (ed.), *Dat ve-ḥevra be-mishnatam shel ḥasidei Ashkenaz: Leket ma’amarim* (Jerusalem, 1986). For a more recent discussion, see Haym Soloveitchik, “Piety, Pietism and German Pietism. ‘Sefer Hasidim I’ and the Influence of ‘Hasidei Ashkenaz,’” *Jewish Quarterly Review* 92 (2002): 455-93 and the forum that followed in *Jewish Quarterly Review* 96 (2006).

³² Baer, “Megamah datit-ḥevratit,” 18.

³³ Baer attributed these practices to the influence of Francis of Assisi, a claim that sparked criticism on chronological and geographical grounds because of the disparity between Judah’s and Francis’s lifetimes. A famous example of the response to Baer can be seen in Ephraim E. Urbach’s oeuvre, *Arugat ha-bosem* (Jerusalem, 1939), 12-13, n. 1. This book, published in Sept. 1939 was removed from circulation immediately and a new edition was published omitting the first foot note which originally argued against

others who followed his lead. As early as 1956, Asher Rubin presented parallels between medieval Jewish and Christian texts that reveal common thinking about penance, suggesting that the German word *Busse* (“penance” or “penitence”) provides a rough equivalent for the medieval sense of the Hebrew word *teshuvah* (“atonement” or “repentance”).³⁴ Three decades later, Talya Fishman continues this thread in her comparison of the types of penances articulated by Ḥasidei Ashkenaz, early medieval Irish penitentials, and Burchard of Worms in *Corrector*.³⁵ Rubin and Fishman share an interest in the sources for and systemization of penitential *thought* among the Jews in medieval Germany, specifically among Ḥasidei Ashkenaz, over fasting as a practice.³⁶ Most recently Emese Kozma has prepared a comprehensive catalogue of all the different penances in the writings of Eleazar and has sought to compare them to known Christian acts and instructions for penitents.³⁷

The nature of Ḥasidei Ashkenaz has also been contested: some have argued that Ḥasidei Ashkenaz were a select group of pious men that endured only until the mid-thirteenth century, whereas others assert that *Sefer ḥasidim* influenced a wider audience over a longer period.³⁸

Baer who “exaggerated and overstated the Christian surroundings on Jews”. Urbach provides multiple examples of earlier prooftexts for medieval Jewish novelties. See also Marcus, *Piety*, 6-10.

³⁴ Rubin, “Concept of Repentance,” 169-70. See also Haym Soloveitchik, “Three Themes in Sefer Hasidim,” *AJS Review* 1 (1976), 321.

³⁵ Talya Fishman, “The Penitential System of Hasidei Ashkenaz and the Problem of Cultural Boundaries” *Journal of Jewish Thought and Philosophy* 8 (1999): 201–29.

³⁶ For a comparison between Judah and contemporary Christians in theological rather than social terms, see David Shyovitz, “‘He Has Created A Remembrance Of His Wonders’: Nature And Embodiment In The Thought Of The *Hasidei Ashkenaz*” Ph.D Dissertation, University of Pennsylvania, (2011), 5-11.

³⁷ Kozma, *Practice of Teshuvah*.

³⁸ Most recently, see Soloveitchik, “Piety, Pietism” and see also Joseph Dan, who suggests that *Sefer Hasidim* and *Sefer rokeah* reflect individuals’ ideas, lacking any connection to a group context, “Le-toldot

With regard to penitential fasting, even scholars who posit that the impact of their ideas was restricted, concede that penitential fasting was widely adopted throughout Ashkenaz and then in Poland in the fourteenth and fifteenth centuries.³⁹ As Elhanan b. Samuel's responsum quoted above documents, during the late thirteenth century, when Pietist influence had purportedly declined, average Jews were consulting rabbis requesting that they assign penance.⁴⁰ These directives often required the sinner to proclaim his transgression publicly, as per this response attributed to Isaac b. Moses of Vienna: "Someone who reneged on a vow and did not atone for his sin in the place where it was committed should announce (*yodi'a*) his sin in a different place and repent."⁴¹ For the purposes of this article, as is evident from the description above, I would

torat ha-teshuvah shel ḥasidei Ashkenaz," in *Yovel Orot*, ed. Benjamin Ish-Shalom (Jerusalem, 1998), 221–28. Ephraim Kanarfogel depicts Ḥasidei Ashkenaz as far less removed from the mainstream community, see his "R. Judah heHasid and the Rabbinic Scholars of Regensburg: Interactions, Influences and Implications," *Jewish Quarterly Review* 96 (2006), 17-37. For the purpose of this paper, I sidestep questions regarding the impact of Judah and Eleazar's teachings although some of my conclusions may pertain to them. Neither do I discuss the mystical aspects of their works, a strategy which stems from my conviction that few Jews would have been familiar with such esoteric beliefs; thus those notions would not typically have determined decisions about fasting.

³⁹ Marcus points to the absence of a lasting impact, *Piety*, 126-29 but, in my opinion, he underestimates the significance of this system. See his "Ḥasidei Ashkenaz Private Penitentials: An Introduction and Descriptive Catalogue of Their Manuscripts and Early Editions." in *Studies in Jewish Mysticism*, ed. Joseph Dan and Frank Talmadge, (Cambridge, 1982), 57–83; See Edward Fram, "German Pietism and Sixteenth and Early Seventeenth Century Polish Rabbinic Culture," *JQR* 96 (2006): 50-59.

⁴⁰ For thirteenth century impact of Judah and Eleazar's directives, see the editions published by Stal, n. **Error! Bookmark not defined.** and 28.

⁴¹ Isaac b. Moses as quoted by Meir b. Barukh of Rothenburg, see *Teshuvot Maharam*, ed. Emanuel #156. Announcing a sin appears in additional sources from Germany, Eleazar b. Judah, *Sefer rokeah*, #27, #28) and northern France, Isaac b. Joseph, *Sefer 'amudei golah ha-nikra sefer mitzvot katan (Semak)*, (repr. Jerusalem, 1979), #53.

posit that although Judah he-ḥasid and his student Eleazar had an important role in the prescription and absorption of fasting practices within Jewish society, many of these had a firm foundation in pre-Crusade Jewish culture as well. Moreover, as noted above, and as outlined further in the recent work of Emese Kozma, confession and penance were prevalent in fourteenth and fifteenth century Ashkenazic culture as well.⁴²

“Influence,” “Inward Acculturation” and “Polemic”: Scholarly Understandings of Jewish Appropriation of Christian Custom

Historians have been particularly challenged by signs of appropriation of Christian custom by the Jews of medieval Ashkenaz who have often been portrayed as the most insular of medieval Jewish communities.⁴³ The pendulum has swung back and forth on this matter and understandings of how Ashkenazic Jews preserved and reinforced their communal identity have been drastically revised.⁴⁴ David Berger aptly summarized this dilemma a decade ago:

⁴² Kozma, *Practice of Teshuvah*, 33-34.

⁴³ Especially relative to the Jews of Provence, Iberia or those under Muslim rule. See the formulation suggested by Simon Dubnov and subsequently by others: “The spiritual life of the Jews in France and Germany...narrowed even more after the dreadful experiences of the crusades...Living conditions required living along a tested expedient direction: to raise the ever higher ‘Fence around the Torah’; to reinforce the religious-ritual discipline through augmenting the laws which separate Jews from the surrounding population...The horrors they had experienced drove the soul into the gloomy abyss of asceticism and mysticism.” Simon Dubnov, *History of the Jews. From the Roman to the Early Medieval Period*, trans. Moshe Spiegel (New York; London, 1968), 669. Also see Haym Soloveitchik, “The Halakhic Isolation of the Ashkenazic Community,” in his *Collected Essays* (Oxford; Portland, OR, 2013), 31-38.

⁴⁴ See: Ivan G. Marcus, “A Jewish-Christian Symbiosis: The Culture of Early Ashkenaz,” in *Cultures of the Jews: A New History*, ed. David Biale (New York, 2002), 449–516; Jonathan Elukin, *Living Together, Living Apart: Rethinking Jewish-Christian Relations in the Middle Ages* (Princeton, 2007); David

To return to northern European Jews we can now take it for granted that they were acutely aware of many Christian ceremonies and symbols...Is the practice or belief or symbol or exegetical approach likely to have been known to Jews? How evident was it to an outsider? How clear would its religious, i.e., its specifically Christian, character be? In this particular instance, can we plausibly posit unconscious influence? Would this practice be expected to trigger reflexive Jewish aversion if its Christian character were understood? If the religious character of the practice is evident, do classic Jewish texts nonetheless provide enough basis for adopting it that a Jew attracted by it could persuade himself and others that it is really Jewish after all? Perhaps a Jewish text weighs so powerfully in favor of this practice or belief that Jews really affirmed it for internal reasons—not through Christian influence but *despite* full awareness of its Christian resonance. Does a Jewish practice change the Christian original sufficiently that intentional religious competition or symbolic inversion can plausibly be proposed?⁴⁵

Berger points to one way that descriptions of appropriation have been countered or, at least, mitigated: the presentation of authoritative proof-texts as countervailing evidence. If medieval Jews cited earlier Hebrew sources—the Bible, the Talmud or other sources—to validate beliefs and practices that were seemingly innovative, perhaps they were indeed spurred by Jewish precedents.⁴⁶ While this prioritization of textual precedents might be effective in a study

Malkiel, *Reconstructing Ashkenaz. The Human Face of Franco-German Jewry* (Stanford, 2009), 30-43; David Berger, "A Generation of Scholarship on Jewish-Christian Interaction in the Medieval World" *Tradition* 38 (2004): 4-14.

⁴⁵ Berger, *Ibid*, 6-7.

⁴⁶ This is a central thesis explored by Fishman, "Penitential," 201-204. The search for origins exemplifies what Bloch called the "idol of origins" *The Historian's Craft*, 29-35.

of the history of ideas or a diachronic inquiry where the question “Who was first?” has primacy, what is its place in a synchronic evaluation? Returning to the example of fasting as penance one can see an exemplification of the question of textual origins. Already in the Biblical description of Yom Kippur (Day of Atonement), fasting is a practice of “self-denial”,⁴⁷ and thus need not be viewed as a ritual that Jews appropriated from Christians. Yet, assuming this position ignores the medieval additions of confession and penance and over simplifies medieval practice.

Other scholars have acknowledged the innovative nature of certain medieval beliefs and practices while positing that Jewish catalysts were instrumental in their creation. When applied to the Jews of medieval Ashkenaz, this reasoning commonly refers to the reintroduction of texts from late antique Palestine (known as “the customs of Eretz Yisrael”) throughout the twelfth century. Developments within Judaism that might otherwise be linked to contemporaneous Christian practices are attributed to the impressions made by the mystical *Hekhalot* literature and other treatises that scholars were gradually encountering.⁴⁸ In this scheme, new rituals are ascribed to the grafting of customs transmitted in older Palestinian Jewish sources rather than to Christian society.⁴⁹

⁴⁷ Lev. 16:30; 23:28.

⁴⁸ Ephraim Kanarfogel, *Peering Through the Lattices”: Mystical, Magical and Pietistic Dimensions in the Tosafist Period* (Detroit, 2000), 126-30; 235-57. Some scholars complicate this by suggesting that perhaps an ancient practice survived and later generations reattributed texts to them as they became familiarized with them. See for example, Avraham Grossman, *Hakhmei Ashkenaz ha-rishonim* (Jerusalem, 2001³), 434. This approach does not preclude local contemporary traditions becoming absorbed in the more ancient traditions simultaneously but over-privileges the text in my eyes.

⁴⁹ Israel Ta-Shma consistently suggested the importance of Palestinian custom, *Minhag Ashkenaz ha-kadmon* (Jerusalem, 1992), 61-85. On this theme, see Talya Fishman, *Becoming the People of the Talmud* (Philadelphia, 2011), 176-81; and Haym Soloveitchik, *Ha-yayin be-yemei ha-benayim. Yein nesekh. Perek be-toldot ha-halakha be-Ashkenaz* (Jerusalem, 2008), 321-27.

An additional approach—the one that most strongly guides this study—was proposed two decades ago by Ivan Marcus, centering on the process that he terms “inward acculturation.” Marcus’s recognition that adapting a common belief or practice from Christian society did not make Jews less Jewish is a crucial contribution to the field. Another key element in his theory is his modified understanding of “influence”: Marcus proposes that the absorption of outside concepts or customs be viewed as a filtered process, whether conscious or unconscious, and that scholars must search for the element that provided the polemic edge for their adaptation. Following ritual theories, Marcus endeavored to define how Jews adapted Christian themes, in inverted or parodic ways, into their culture.⁵⁰ In a similar vein, Israel Yuval investigates the misunderstandings that characterized one group’s perception of the other. According to this approach, the study of a practice or belief that Jews derived from a neighboring culture should incorporate research into which fundamental beliefs from the original religion were negated in the process of “Judaization.”⁵¹

This theory of “inward acculturation” can be applied in explanations of penitential fasting with respect to a number of elements, among them the presence (or absence) of a confessor who would set the course of penance. One of the most cogent arguments on the difference between Jewish and Christian penance systems relates to confession: Both Judaism and Christianity attach great importance to confession (*vidui*), basing themselves on the same biblical proof-texts (Psalms 32, for example). Jewish Studies scholars have argued that, in contrast to Christians,

⁵⁰ Marcus, *Rituals*, 10-13

⁵¹ Israel J. Yuval, *Two Nations in Your Womb, Perceptions of Jews and Christians in Late Antiquity and the Middle Ages*, trans. Barbara Harshav and Jonathan Chipman (Berkeley, 2006), 135-256.

medieval Jews did not confess to humans.⁵² This difference increased in significance throughout the High Middle Ages, as the role of the Christian confessor and confession became paramount as a sacrament, especially after 1215.⁵³

Despite the undeniable differences between these religions, viewed in historical perspective, this assertion requires qualification. Not only was the belief in the need for confession shared, a human confessor, albeit not a carbon-copy of a Christian confessor existed in medieval Ashkenazic. Although Eleazar of Worms countered his teacher's instruction that transgressors seek advice from a sage who would recommend a protocol for penance and promoted individual penance prescribed independently with the help of his penance manual, this innovation of Eleazar's did not eliminate the role rabbis played as prescribers of penance.⁵⁴

Within the context of medieval Christianity, the study of Christian confession and penance has recently undergone tremendous revision that can help elucidate the process of appropriation among medieval Jews. Whereas previous generations of scholars argued that until the Fourth Lateran council few Christians confessed regularly, recent research has attributed more agency and activity to the laity, demonstrating that confession whether once a year on Ash

⁵² Marcus, *Piety*, 121-26; Fishman, "Penitential System".

⁵³ For a classic presentation of medieval penance, see Alexander Murray, "Confession before 1215" in *Transactions of the Royal Historical Society*, Sixth Series, 3, (1993): 51-81; for recent revisions, see Mary C. Mansfield, *Humiliation of Sinners: Public Penance in Thirteenth-Century France* (Ithaca, 1995), 132, 155; Mayke De Jong, "What Was Public About Public Penance, Paenitentia Publica and Justice in the Carolingian World" in *La Giustizia nel'alto medioevo* (secolo ix-xi) (Rome, 1996), 863-902; Hamilton, *Practice of Penance*, 207-10; Abigail Firey ed., *A New History of Penance* (Leiden, 2008). See also Rob Meens, *Penance in Medieval Europe 600-1200* (Cambridge, 2014).

⁵⁴ Jacob Stal suggests that this may have been customary during the generation that preceded Judah, see *Derashot*, note 130. Marcus, *Piety*, 121-26.

Wednesday or on other occasions.⁵⁵ In addition, distinctions between private and public confessions, which were paramount in previous research, have been modified with scholars noting the extent to which different forms of confession and penance coexisted and diffusing the dichotomous distinctions that were previously accepted.⁵⁶ As a result of this revised thesis, some of the distinctions scholars have sought to draw between Jewish and Christian practices also become less pronounced especially since Christian understandings and practices related to confession underwent change over the medieval period. Much like the ongoing process of appropriation these changes were not static or a one-time event.

Over and above the parameters for comparison between the religions, cultural agency is also of import. Marcus like Baer and the other modern scholars noted above,⁵⁷ regarded the rabbis as what anthropologists would call “cultural brokers,” agents who transferred ideas from another religious group into their own and, more importantly, reshaped those notions into a form that could be embraced by their communities.⁵⁸ When assuming Christian society was a source

⁵⁵ Norman Tanner and Sethina Watson, “Least of the Laity: The Minimum Requirements for a Medieval Christian,” *Journal of Medieval History* 32 (2006) 403-409; Meens, *Penance*, 214-215.

⁵⁶ See n. 53

⁵⁷ Ibid. Marcus’s study of confession predates his work on inward acculturation but the same principle is apparent. I read his assessment of the elimination of a human confessor as a step toward his later methodology.

⁵⁸ The idea of cultural brokerage, was initially proposed in the 1950s and 1960s by Eric Wolf, “Aspects of Group Relations in a Complex Society,” *American Anthropologist* 58 (1956), 1065-1078, especially 1074-75 and Clifford Geertz, “The Javanese Kijaji: The Changing Role of a Cultural Broker,” *Comparative Studies in Society and History* 2 (1960), 228-249, esp. 242-49. It has been applied to examinations of ethnic identity, see Daniel K. Richter, “Cultural Brokers and Intercultural Politics: New York-Iroquois Relations, 1664-1701,” *Journal of American History*, 75 (1988), 40-67; Eric Hinderaker, “Translation and Cultural Brokerage,” in Neal Salisbury and Phil Deloria, editors, *The Blackwell Companion to Native American History* (Oxford and Cambridge, MA: Blackwell Publishers, 2001), 357-

for some aspects of new ideas, can a small group of learned men be credited as the driving force for medieval Jewish appropriations regarding confession and fasting? Might the texts themselves be steering us tautologically toward their authors, rather than providing a more nuanced view of societal operations and the means for appropriation?

Seeking social models of appropriation calls for a step back from the textual familiarity that prior generations of scholars considered indispensable, such as proof that rabbis read Latin treatises or conversed daily with Christian clergy. More broadly, this method seeks to distance itself from a “top-down” model that has dominated scholarly analyses of medieval Ashkenazic culture, with the assumption that rabbis read, thought and decreed, and that their communities then complied. In a corrective effort, scholars have turned shared living environments as common foundations or as neutral backdrops for religious differentiation. As Peter Schaefer explains in his work on the concept of Shekhinah:

It is as positivistic as it is naïve... to regard direct textual evidence as the only conceivable proof for any kind of religious exchange between Christians and Jews. The Jews certainly did not convene in their synagogues or schools to hatch out ideas that they had heard from their Christian neighbors, which they liked so much that they set out to imitate them consciously and purposefully. ... But Jews and Christians did live in the same world, rather than in two separate worlds rigorously sealed off one from the other. Jews could not avoid seeing and hearing their Christian fellow-countrymen, and even if

75; Helmut Reimitz, *History, Frankish Identity and the Framing of Western Ethnicity, 550-850* (Cambridge, forthcoming 2015), Introduction.

they did not report to us what they saw and heard, we can assume that they did see and hear a lot of what was happening on both sides.⁵⁹

Talya Fishman echoes this observation: “Influence, if it occurred, was more likely to have taken place by osmosis - through conversations in the marketplace and pawn shop or upon sighting Christians fulfilling their penances in outdoor public spaces.”⁶⁰ These formulations suggest an unconscious process much like Joseph Shatzmiller’s recent formulation of “exchange.”⁶¹ Rather than attributing appropriation to osmosis, whether conscious or unconscious, practice and visibility must be investigated and not just referenced as a means to explain both Jews’ exposure to and negotiation with their neighbors’ religious activities.⁶²

Every Day Practice: Appropriation and Differentiation

Shared Beliefs, Practical Differences

What did medieval Jews know of Christian confession and penitential fasting? In both instances we find, as this passage in the medieval polemic *Sefer Nizzahon Yashan* suggests that Jews were acutely aware of their Christian neighbors’ religious rituals:

The *minim* (Christians) criticize us in connection with the Beichte for not confessing the way they do, and they cite proof from the book of Proverbs: “He that covers his sins shall not prosper but he who confesses and forsakes them shall have mercy” (Prov. 28:13).

⁵⁹ Peter Schäfer, *Mirror of His Beauty: Feminine Images of God from the Bible to the Early Kabbalah* (Princeton, 2002), 238–39.

⁶⁰ Fishman, “Penitential System,” 215.

⁶¹ Shatzmiller, *Cultural Exchange*, 162-66.

⁶² For an early modern discussion, see Debra Kaplan, “Sharing Conversations: A Jewish Polemic against Martin Luther,” *Archiv für Reformationsgeschichte* 103 (2012): 41-63.

This is how you should answer him: On the contrary, one should conceal one's sins from another man and not tell him, "This is how I sinned," lest the listener be tempted to commit that sin. One should rather confess one's sins to god, as David said: "I acknowledge my sin to you and my iniquity I have not hidden. I said I will confess my transgressions unto the Lord and you have forgiven the iniquity of our sin. Selah." (Ps. 32:5)⁶³

The author of this polemic does not contest the validity of confession in theory or in practice,⁶⁴ he only disputes Christian practice. Most significantly, even the content of this critique is only implied.

The Jewish proponent in *Sefer Nizzahon Vetus* continues by presenting a three-fold argument against Christians. First he contends that the *minim* are sinners who do not confess their sins forthrightly.⁶⁵ He then launches into his second line of offense, claiming that confessing to another person only inspires sin:

It was because of the fact that they wallow in fornication and yet their Torah forbade them from marrying that they agreed to require men to come and tell their sin and publicize their adultery so they (the confessors) might know which women are having extra marital affairs. Then they tell these women that they would like to do the same, and the women cannot deny them because the adulterer has already identified them. This is certainly the explanation otherwise why doesn't the pope, who is regarded as the vicar of

⁶³ David Berger, *The Jewish-Christian Debate in the High Middle Ages, Sefer Nizahon Vetus* (Philadelphia, 1979), #236, 233.

⁶⁴ A key passage in BT Yoma 86b cites Prov. 28, attributed to the Christian polemicist to advocate admission of sins in public.

⁶⁵ *Jewish-Christian Debate*, #236, 233.

their god, give nuns the authority to hear the confession of women? It would clearly be more proper and acceptable for women to confess to women and men to men so they would not be seduced into fornication and adultery.⁶⁶

This argument is included in other polemical treatises and reflects debates that were held among medieval Christians regarding how the information gained in confession might be used and whether women were qualified to receive confession. As such, this passage reveals Jewish familiarity with the practice of confession along with some of the central issues that were raised in Christian critiques of confessors.⁶⁷ The Jewish interlocutor summarizes this point by explaining: “Neither alternative will really help for only God himself can pardon and forgive.”⁶⁸

If this passage ended here, it could be read as a reflection of the practical differences between Jewish and Christian repentance and confession despite shared notions of atonement. However, the argument continues:

We may therefore infer that it is not proper for a sinner to give an account of his deeds before anyone but God. If he will answer that Akhan confessed (Joshua 7: 20-21), tell him that he confessed before all of Israel because the occasion demanded it. One can also answer the general accusation by pointing out that we confess all our sins out loud every year on the Day of Atonement.⁶⁹

⁶⁶ Ibid.

⁶⁷ See above, n. 51.

⁶⁸ Berger, *Jewish-Christian Debate*, #236, 233-34.

⁶⁹ Ibid, #236, 234.

Part of this argument against Christian transgressions that result from confession before a priest who himself then sins, is found in other polemical treatises, but never with this ending.⁷⁰ Why would a polemicist choose to close his case with these last lines?

Perhaps the compiler of *Sefer Nizahon Yashan* was not fully satisfied by the claim that was already in circulation therefore he appended it with two additional points. The first adds a biblical reference that upholds the need for public confession in some instances, as in the case of Akhan (Joshua 7). The question of public confessions was neither theoretical nor esoteric; other medieval Jewish texts indicate that certain sins required public admission of guilt. Eleazar b. Judah of Worms mentioned transgressions that necessitated public confession, as did Isaac of Corbeil, who lived some decades later in northern France and wrote the popular *Sefer Mitzvot Katan*.⁷¹ Moreover *bushah* (humiliation) formed a key component of penance and this state was achieved by a confession, whether before an individual, by lashings or by donning garb that signified the transgression. For example, in a sermon for the month of Elul, an anonymous German preacher taught:

Repent Israel (*Shuva Yisrael*) these are the letters (s.v.b.h) of *bushah* (humiliation, b.v.s.h). You have to humiliate yourselves and confess your sins so that you will have complete penance. How? If he committed a severe sin, he should go to a respected sage (*gadol*) and humiliate himself and he will give him (*yiten lo*) penance.⁷²

⁷⁰ See Meir of Narbonne, *Milhemet mizvah*, Parma Manuscript 2749, fol. 85a-b. The Jewish practice of expunging vows is also featured in Yehiel of Paris, “The Disputation of Rabbi Yehiel of Paris”, in, *The Trial of the Talmud Paris, 1240*, John Friedman and Jean Connell Hoff, trans. (Toronto, 2012), 141.

⁷¹ See n.41.

⁷² *Derashot*, ed. Stal, 17-18 #24 and especially note 130. This idea is repeated *ibid*, 23-24. #34; see also Stal, *Teshuvot*, 16, #2; 19-20. #5; 51-53, #14 and introduction, 4-15.

The second angle of the refutation that concludes this passage from *Nizzahon Vetus* is even more striking. The author suggests that, like Christians, Jews confess aloud, specifically on the Day of Atonement, whose Ashkenazic prayer service was dominated by the copious additions that had no equivalent in other Jewish rites. Among the best known of these liturgical supplements is the prefatory line that was added by late thirteenth-century Ashkenazic communities to Kol Nidre, the late-antique opening prayer for Yom Kippur, which declares the dissolution of all vows. The addition reads:

By the authority of the Court on High and by authority of the earthly court, by the permission of One Who Is Everywhere and by the permission of this congregation, we hold it lawful to pray with sinners (*avaryanim*; singular, *avaryan*).⁷³

Who are these sinners? Medieval Jews used the word *avaryan* to describe one who failed to uphold communal statutes.⁷⁴ On Yom Kippur, such a person was allowed to pray without the required repealing of a ban of excommunication that would have been necessary at any other time of year.⁷⁵

The Yom Kippur liturgy provides additional support for the Ashkenazic preoccupation with confession in the various formulae for forgiveness that were recited throughout that day and

⁷³ Meir b. Barukh, *Teshuvot, pesakim u-minhagim*, ed. Isaac Ze'ev Cahana (Jerusalem, 1962), 1: #552; Samson b. Tzadok, *Sefer tashbez* (Warsaw, 1901), #131. About the prayer, see See Moshe Benovitz, *Kol Nidre: Studies in the Development of Rabbinic Votive Institutions* (Atlanta, 1998); Richard Steiner, "Kol Nidre: Past, Present and Future," *Jewish Studies Internet Journal* 12 (2013): <http://www.biu.ac.il/JS/JSIJ/12-2013/Steiner.pdf>

⁷⁴ Aviad Hacoen, <http://www.daat.ac.il/mishpat-ivri/skirot/300-2.htm>; see also Naftali Wieder, "Ha-heter le-hitpallel 'im ha'avaryanim," in *The Formation of Jewish Liturgy in the East and the West* (Jerusalem, 1992), 391-94. Wieder notes the similarities between this formula and those for excommunication ceremonies.

⁷⁵ Mordekhai, Yoma, #725.

in the insertion of *piyyutim* on themes of sin and atonement.⁷⁶ Above all, the prominence of Unetaneh Tokef—a liturgical poem from late antiquity that proclaims repentance, prayer and charity as keys to atonement—that was bolstered in medieval Ashkenaz by a thirteenth-century legend that this prayer’s inclusion fulfills the request of a fictitious martyr further attests to the importance of penance. While the message of this piyyut was far from new, the medieval understanding that *teshuvah* was synonymous with fasting and the elevation of Unetaneh Tokef as a liturgical centerpiece indicate a shared discourse between Christian practices and internal Jewish developments.⁷⁷ Returning to our selection from *Sefer Nizzahon Vetus*, despite its objection to Christian confession, Ashkenazic Jews were apparently somewhat dissatisfied with the custom of silent confession and interested in repenting aloud on some occasions. This vocal confession however, is not identical to confession to a confessor.

“Giving” Penance

Marcus sought to distance Jewish modes of penance from Christian ones by focusing on the role of the confessor. He argued that the large number of manuscripts of Eleazar’s *Hilkhot Teshuvah* suggests that many individuals had the ability to consult the text themselves, and

⁷⁶ The original ‘*Al het*’ prayer entered the liturgy in early medieval Babylonia and its Ashkenazic version was greatly expanded, see *Mahzor le-yamim Nora’im*, ed. Daniel Goldschmidt (Jerusalem, 1970), 2: 10-13; Naftali Wieder, “Ḥeker minhag Bavel ha-kadmon,” in Idem, *Formation*, 1: 141-42; 240-48; Wieder notes (136) the lengthy Ashkenazi prayer in comparison with the leaner version suggested by Maimonides and the quantitative difference between its 144-word version in Eastern sources versus the 632-word form in Ashkenazic liturgies.

⁷⁷ See Ivan G. Marcus, “Kiddush hashem be-Ashkenaz vesipur Rabbi Amnon mi-Magentza” in *Kedushat he-ḥayim veḥeruf ha-nefesh*, eds. Isaiah M. Gafni and Aviezer Ravitsky (Jerusalem, 1992), 131–48; Menachem H. Schmelzer, “Penitence, Prayer and (Charity?),” in *Minhah leNahum: Biblical and Other Studies Presented to Nahum M. Sarna in Honour of His 70th Birthday* (JSOT Supplement, 154), ed. Marc Brettler and Michael Fishbane (Sheffield, 1993), 291–99.

develop what he called “personal pietism”. The popularization of these instructions for “personal pietism” is further confirmed in a separate composition that has recently been attributed to Eleazar of Worms in which sins and their corresponding penances appear in rhyme, evidence of the need to allow access to these penances to a broad audience.⁷⁸ Yet, despite the high number of surviving manuscripts and evidence that such instructions were available, not all Jews who turned to Eleazar of Worms’s *Hilkhot Teshuvah* did so on their own, and confessor-rabbis did not disappear.⁷⁹

In a different responsum penned by one of Meir b. Barukh’s students, the act of seeking advice from a sage is compared to Christian confession. Two rabbis, Jonah and Shemaryah, ask Isaac b. Mordekhai (late-thirteenth century; a contemporary of Meir b. Barukh) about the permissibility of revealing information that was acquired in confidence as part of their congregational duties. They explain that Jacob, who apparently had a history of committing arson, made a confession on condition that it not be divulged. Their query addresses whether they could disclose the content of this “confession” since their community could be endangered by Jacob’s actions. In his discussion of the rabbis’ confidentiality, Isaac comments: "Though they are a thousand times removed (*ulehavdil elef alfei havdalot*), when a non-Jew confesses to a priest (*galah*) [who promises] that he will not reveal [the sin being confessed], he [the sinner] has no fear."⁸⁰ Isaac is sufficiently conversant in this Christian practice to compare the rabbis’

⁷⁸ See Stal (ed.), *Teshuvot*, in the examples, 3-69, for example #2 (18-20) a penance for sexual relations with a prostitute .

⁷⁹ Many of these cases involve women, see Elisheva Baumgarten, *Practicing Piety in Medieval Ashkenaz: Men, Women and Everyday Religious Observance* (Philadelphia, 2014), 67-69; 80-85; 91-94.

⁸⁰ *Shut Maharam*, ed. Emanuel, #394.

promise to Jacob with priestly confidentiality during confession, despite the “thousands of differences,” between these two religions’ rituals.

It appears that many Jews elected to reveal their misdeeds to their spiritual leaders.⁸¹ Moreover, when seeking directives for atonement from religious authorities, they expected instructions in accordance with a moral arithmetic that resembles Christian practice. The exchanges between Jews and their rabbis are recorded in instances of sins so commonly committed that they could even be dubbed “standard transgressions.”⁸² For example, fasting was typically assigned as penance for another category of Sabbath violation, relating to contact with Sabbath candles or their wax. Isaac b. Moses (1180-1250) noted that women would fast if they touched the wax of Sabbath candles on that holy day.⁸³ A century later this story was told about Meir ha-Levi of Vienna:

Once there was a wedding and the blessing for the marriage was recited late, after sunset and then the women went home and lit their [Sabbath] candles. When Meir haLevi heard of this, he charged them with fasts and said they should have instructed their servants to light the candles or [they should have] lit them themselves before going to the *huppah* (marriage celebration).⁸⁴

Here it seems that the rabbi issued an unsolicited ruling. Yet many other thirteenth- and fourteenth-century source follow the pattern that we saw earlier, where Jewish men and women

⁸¹ See Yaakov Elbaum, *Teshuvat ha-lev ve-kabbalat yisurin* (Jerusalem, 1993) and Kozma, *Practice of Teshuvah*.

⁸² See also *SHP* #1777. For a different form of penance, where the individual who desecrated the Sabbath is instructed to contribute money, see *SHP* #629.

⁸³ Isaac b. Moses, *Sefer or zaru'a*, *Hilkhot 'erev shabbat*, #34

⁸⁴ Shalom b. Isaac of Neustadt. *Pesakim u-minhagim*, #12, 193.

initiate this process by approaching rabbinic figures and requesting penance for their sins. Other examples of such rulings that I have found include Ḥaim Barukh who is said to have prescribed a three-day fast to a woman who had angered her husband⁸⁵ and Meir b. Barukh of Rothenburg instructed penance of fasting, self-flagellation and charity to a man who publicly insulted a well-respected community member.⁸⁶

R. Joseph b. Moses (ca 1390-1460), a student of the fifteenth-century scholar, Israel Isserlein, recounts case after case of confessions of sin and prescriptions of penance in his “Laws of Teshuvah”:

Once a bourgeois (*beinonit*, meaning neither rich nor poor) woman forgot (to remove) her purse, which contained 60 *peshitim*, from her belt on the eve of Rosh ha-shanah. He “gave” her as penance (*natan lah teshuvah*) a contribution of ten *peshitim* for candles and ten (more) *peshitim* to charity.⁸⁷

In other situations, Joseph directed transgressors to fast:

A man who inadvertently consumed forbidden wine (*yeyn nesekh*, wine that was handled by a gentile during preparation) was “given penance” (*natan lo teshuvah*) of a five-day fast. One who sinned sexually with his sister was instructed to fast for three continuous days and then a forty-day fast to extend over the following year.⁸⁸

The expression that Joseph used consistently “gave him/her penance” (*natan lo/lah teshuvah*) is echoed in other writings and seems to be accepted terminology for a rabbi dispensing such an instruction.

⁸⁵ *Sefer ha-niyar*, ed. Gershon Appel (New York, 1960) 166–67, *hagahah*.

⁸⁶ Meir b. Barukh, *Shut Maharam* (Prague), #132, see also # 485.

⁸⁷ Joseph b. Moses, *Sefer leket yosher*, ed. Yoel Katan (Sha'alavim, 2010), 2: Hilkhhot teshuva, 90, # 1.

⁸⁸ *Ibid.*

The extant textual evidence underscores that turning to a rabbinic figure for penance was common practice. The fifteenth-century authority Jacob Moellin (Maharil) is cited in a case brought by his niece after she forgot to light Sabbath candles one Friday evening. Maharil responded: “[On every Sabbath eve] for the rest of her life, she should assiduously add one candle beyond her customary number.”⁸⁹ He then continued:

When she fasts (*ukeshe'er'ah ta'anitah*), she should be sure to confess this sin. [Furthermore,] if she wishes to obligate herself [to] fasts and [other forms of] torment in order be granted atonement, may she be blessed.⁹⁰

This responsum integrates individual or private confession with normative fasting. Maharil's words imply that Jewish women and men would customarily assume fasts and other "torments" as components of repentance.

Discussions of fasting indicate that practice of fasting, even by individuals, was known within the community. If one was not eating, others would likely know. For example, one source tells of one woman who fasted once her husband left for a trip despite his admonition against such behavior. The rabbinic court in her town debated whether they could stop her from fasting during the husband's trip:

[In the case of] a woman who vowed not to eat on a particular day, whose husband could not annul her vow because he was traveling to another city though, before his departure, he had warned her against fasting, but without naming a specific day. Since her husband made clear that he did not wish her to fast, the rabbis may permit her (to annul her vow)

⁸⁹ Medieval Jews customarily lit more than two candles for the Sabbath.

⁹⁰ Jacob b. Moses Moellin, *Sefer Maharil: Minhagim*, ed. Shlomoh J. Spitzer (Jerusalem, 1989), Shabbat, #1.

without her husband [being present]. But had he not revealed (his opinion), I doubt that her vow could be annulled without her husband [being present].⁹¹

These readily discernible aspects of fasting were intended to draw attention and respect toward the person who took on this observance.⁹² As a result, much like the distinction between public and private aspects of penance were blurred among Christians,⁹³ so too among Jews penance and fasting straddled the public/private distinction and was most certainly not a completely private affair.

Modes of Differentiation

These external indications of fasting can provide insight on the modes of appropriation that were at work. The apparel of one who was fasting would have been recognizable to Christians and Jews in their respective communities.⁹⁴ But would the internal codes of one community have been apparent to members of the other religion? Christians and Jews came into regular contact with each other by chance and by design:⁹⁵ Mutual awareness was fostered by Christians entering Jewish homes, whether as servants or as business associates, and Jews frequenting Christian homes as well.⁹⁶

⁹¹ Peretz b. Elijah, "Piskei Rabbenu Peretz," #65 and see also #40.

⁹² Erving Goffman, "The Nature of Deference and Demeanor," *American Anthropologist* 58 (1956): esp. 496-99 and his idea of role playing, *The Presentation of Self in Everyday Life* (New York, 1959).

⁹³ Meens, *Practice of Penance*, 118-23.

⁹⁴ See, for example, *Sefer rokeah*, Hilkhhot teshuva, #6, #10, #24. These sections were repeatedly copied, Marcus, "Hasidei Ashkenaz Private Penitentials", 57-83.

⁹⁵ The concept "unfocused interactions" put forward by Goffman is particularly helpful, *Encounters* (New York, 1961) 7-15.

⁹⁶ Baumgarten, *Mothers and Children*, 134-44.

The memoir of a famous twelfth-century Jew who became Christian, Herman-Judah, offers further insight on how members of these groups viewed each other's praxis.⁹⁷ He relates the dilemmas that he encountered while contemplating conversion and how like the biblical Daniel, he fasted for three days in his quest for divine counsel:

I knew that Jews and Christians did not keep the same rule of fasting. Since Christians eat on fast days at the ninth hour, abstaining from flesh, while Jews, continuing until evening, are allowed to eat flesh and anything else. But I did not know which of these pleased God the more. I decided to keep both without distinction. And so according to the rite of Christianity I abstained from flesh and extending the fast until evening in the fashion of the Jews, I remained content with a little bread and water.⁹⁸

Herman's account mentions two features that demarcated Jewish and Christian fasting, the duration of the fast and the food eaten to mark its completion. Such distinctions underscore how nuances could cultivate meaningful differences. During Herman's lifetime, Christians fasted until midday; the gap between the length Jewish and Christian daily fasts grew over time, for the designated time for Christians to break fasts was scheduled ever earlier over the course of the Middle Ages.⁹⁹ Christian ascetics would exhibit the stringency of their practice not only by

⁹⁷ The veracity of Herman's autobiography has been doubted. See Karl F. Morrison in Herman-Judah, *A Short Account of His Own Conversion*, trans. Karl F. Morrison (Charlottesville, 1992), 39–75; Avrohom Saltman, "Hermann's *Opusculum de conversione sua*: Truth or Fiction," *REJ* 147 (1988): 31–56; and, most recently, Jean Claude Schmitt, *La conversion d'Herman le Juif. Autobiographie, histoire et fiction* (Paris, 2003), 25–61.

⁹⁸ Herman-Judah, *A Short Account*, 92, ll. 1128–29.

⁹⁹ P.M. J. Clancy, "Fast and Abstinence." *New Catholic Encyclopedia* (New York, 1967), 5:848–49; Henri Leclercq, "Jeunes" in *Dictionnaire d'archéologie chrétienne et de liturgie* (Paris, 1927), 2487.

fasting, but also via the foods they ate (and avoided) when concluding their fasts. In contrast, according to Herman, Jews fasted until evening.

This quotation from Herman’s autobiography is a reminder of the power of food as a social and cultural force, and of how ostensibly trivial variations in dietary norms can set communities apart.¹⁰⁰ The importance of such subtleties comes as no surprise when discussing the effects of Jewish dietary observance, but it may be less obvious that this pattern applies equally to fasting. Knowledge of this phenomenon was as accessible to Jews as it was to potential or actual converts, as documented by comments from several Ashkenazic rabbinic authorities about the custom of fasting on the day before Rosh ha-shanah. Both Meir b. Yekutiel Cohen (1260–1298; author of *Hagahot maimoniyot*) and Maharil note that some Jews were wary of this popular medieval custom lest its practitioners be misconstrued as “observing non-Jewish customs” (*mishum hukat hagoyim*). This hesitation stemmed from the widespread Christian practice of fasting on the day prior to a holiday; Jews wanted to avoid the perception that they might be imitating that practice. A practical compromise alleviated Jewish concerns: they would rise early and eat before sunrise on the day before Rosh ha-shanah to distinguish their observance from a Christian fast.¹⁰¹ This discussion of pre-Rosh ha-shanah fasting echoes other

¹⁰⁰ David Friedenreich, *Foreigners and Their Food: Constructing Otherness in Jewish, Christian and Islamic Law* (Berkeley, 2011); Irven M. Resnick, “Dietary Laws in Medieval Jewish-Christian Polemics: A Survey,” *Studies in Christian-Jewish Relations* 6, 1 (2011), <http://ejournals.bc.edu/ojs/index.php/scjr/article/view/1801/1689>.

¹⁰¹ Meir b. Yekutiel Cohen, *Hagahot maimoniyot*, in Maimonides, *Mishneh Torah*, ed. Shabtai Frankel. 7 vols. Jerusalem: Frankel, 2005, Hilkhot shofar, #1; Jacob Moellin, *Sefer Maharil: Minhagim*, 262. Daniel Sperber has explained this fast on the basis of the quarterly Ember Days, a Christian Wednesday-Friday-Saturday fasting cycle observed during December, March, June, and September. The eve of Rosh ha-

deliberations about fasting on Fridays, a day that was known for Christian fasts. In general, fasting on Friday was discouraged among Ashkenazic Jews; however, at times it was unavoidable. Thus a singular exception to the Jewish norm of fasting until nightfall applied to fasts that fell on Fridays¹⁰² As on the day preceding Rosh ha-shanah, some rabbinic leaders instructed their followers to break their fasts before evening (prior to leaving for synagogue or at sunset) to emphasize the holiness of the Sabbath, perhaps the result of their sensitivity to Christian custom.¹⁰³ In contrast, Friday fasts were observed until nightfall in Jewish communities beyond Ashkenaz.¹⁰⁴ Once again, northern European Jews appear to be responding to their similarity to Christians or, more precisely, the desire to distinguish themselves from the religious majority.

Medieval urban realities underline shared space as a factor for evaluating the lives of both Christians and Jews, leading to the question how the geography of city life contributed to distinctions between faith communities. For example, space emerges as primary distinguishing feature in the passages from *Nizzahon Vetus*. Christian confession took place in church whereas the declaration of a Jewish fast and its accompanying confession were pronounced in synagogue,

shanah would occasionally coincide with one of the Ember Day fasts. See, Daniel Sperber ed., *Minhagei Yisrael*, (Jerusalem, 1995), 2:41–42.

¹⁰² Meir Rafeld, "Ta'anit Esther," in *Minhagei yisrael*, ed. Sperber , 4: 204–20.

¹⁰³ For fasts that fell on Fridays, see Solomon b. Isaac, *Teshuvot Rashi*, #128; Eleazar b. Judah, *Sefer rokeah*, #36; Isaac b. Joseph, *Semak* #96 and Peretz's comments therein; Idem, "Piskei R"i me-Corbeil, #19.

¹⁰⁴ Rafeld, "Ta'anit Esther," 4:206, 218–20.

which allowed for a clear identification of each practice with its performers.¹⁰⁵ However, the enactment of penance was neither limited to the synagogue or church precinct. They were woven into penitents' daily routines in different venues, including the domestic realm. This is especially true of homes and courtyards, rather than structures designated for religious functions.

But it was time rather than space that served as the key factor and the demarcations of sacred time in these religious cultures; time was the most consequential factor to establishing shared yet distinct praxis. For example, the role of time as a distinguishing feature is explicit in the quotation (above) where Herman describes the customary times for fasting. Such differentiation was well established by late antiquity, when Christians chose to set themselves apart from Jews in late antiquity by fasting on Wednesdays and Fridays rather than on Mondays and Thursdays.¹⁰⁶ When the tables were turned and Jews became a minority, they too were concerned that their intentions would be misconstrued if, like the Christian majority, they fasted on a Friday or on the day before a holiday. In thirteenth-century Ashkenaz, Jews were keenly attuned to Christian time, not only to major holidays, such as Christmas, Easter and the Marian feasts, but to local and daily schedules.¹⁰⁷ As Philipp Nothaft has recently shown, Christians similarly recorded Jewish fast days and customs with comments that reflect close contact, such

¹⁰⁵ Language too was a distinguishing factor: Jews confessed in the vernacular and in Hebrew; Christians declared their misdeeds in the vernacular, complemented by rudimentary Latin. See, Kirsten Fudeman, *Vernacular Voices: Language and Identity in Medieval French Jewish Communities* (Philadelphia, 2010).

¹⁰⁶ See n. 99.

¹⁰⁷ C. Philipp E. Nothaft and Justine Isserles, "Calendars Beyond Borders: Exchange of Calendrical Knowledge Between Jews and Christians in Medieval Europe (12th-15th Century)," *Medieval Encounters* 20 (2014) 1-37; Sacha Stern, "Christian Calendars in Hebrew Medieval Manuscripts," *Medieval Encounters* 22 (2016): 236-65.

as “these are the days when the elderly ladies fast.”¹⁰⁸ We have no record of verbal exchanges between Jews and Christians, so we can only imagine their dialogues and exchanges of information, but their cognizance of each other’s customs was constantly reinforced via their residential proximity, ongoing commercial dealings and constant meeting of paths. Their sacred times were broadcast in the details of everyday living: the clothes they wore, the wares they sold and the foods they ate. For example, Jewish time made difference visible on the Day of Atonement when all members of the Jewish community wore white or, for that matter, the weekly distinctions of a community that did not fast on Friday and dressed on their Sabbath in garments reserved for that day. Christians would have noticed these behaviors much as Jews took note of Christian celebrations even if they weren’t versed in their details.

Time also factored significantly in the material culture shared by Jews and Christians. The commonalities applied to the physical instruments of their fasts, from the bread they ate and the sticks used to tally fasts observed or missed. Rather than assume that such artifacts, with the exception of specific foodstuffs (meat or wine) and holy articles found in church or synagogue, comprised common “neutral” elements, Herman-Judah’s discussion of fasting shows that food was imbued with meaning based on the time of its consumption, much as the significance of candles was dependent on whether they were kindled on the Sabbath or during the week.

Strategies of Appropriation and Differentiation

Daily practices and familiarity convey keys to understanding both appropriation and differentiation. Commonly held practices cannot be assumed to have automatically fostered a

¹⁰⁸ C. Philipp E. Nothaft, *Medieval Latin Christian Texts on the Jewish Calendar: A Study with Five Editions and Translations* (Leiden, 2014), 597-98. John of Pulchro Rivo (1298) records five such fasts.

sense of shared culture among medieval Jews and Christians; these seemingly overlapping customs contributed no less to the formation of distinctive identities. Rituals, even those shared, were ultimately reinforced by the theological differences and polemic contentions between these two religions. For example, the beliefs in the Eucharist and the Virgin Mary obviously separated Jews and Christians. They also have been at the heart of scholarly discussions over the past decades as illustrations of "inwardly acculturation" and polemic. But the foods eaten, clothing worn, and fasts undertaken were no less relevant to religious identification. Even when they were practically identical could reflect religious difference.

Thirteenth-century rabbinic authorities recognized the parallel practices and common precincts of Jews and Christians. Yehiel of Paris, one of the participants in the Talmud Trial in 1242, noted the physical proximity between Jews and Christians: "And every day we sell to non-Jews (even on days forbidden by Jewish law), we have [business] ventures with them, we are alone with them, we give them our babies to nurse in their homes, and we [even] teach our Torah to some of them, for there are monks who know how to read Jewish books...."¹⁰⁹ In such close quarters, where sharing ideas, space and artifacts was commonplace, sacred time was the determining factor that signified each religion's membership and praxis. Even if this distinction seems trivial over half a millenium later, their effect was no less potent than the doctrinal disputes that have been scrupulously pursued to date.

Research into quotidian strategies of appropriation and differentiation exercised by Jews and Christians, and investigations of daily exposure to one another's activities provides a view of the most basic levels of exchange, those yielded by contact between community members who

¹⁰⁹ Yehiel b. Judah of Paris, MS Moscow Günzberg 1390, fol 94b; and in the new translation, Friedman and Hoff, *The Trial of the Talmud Paris, 1240*, 151.

probably lacked deep knowledge of the other religion's theology or sacred writings. This information refines our understanding of how each group defined itself "a thousand times apart" while also living side by side and performing common modes of practice. Through this lens we see far more than "inward acculturation" with a polemic edge. This differentiation was possible because of the mechanism of appropriation which allowed for a complexity of social fields within the practical features of everyday activities.

Focusing on daily practice can make possible the study of community members who were not counted among rabbinic and learned circles. Examining everyday practices offers greater access to medieval Jewish society at large and importantly, can extend our discussion beyond the intellectual elite who authored texts that have reached us to a much broader circle. Rabbis surely objected at times to what their community members were doing but they also, at times, may have given the stamp of approval to a practice, providing proof texts from classic Jewish sources. In some cases, these ancient sources, whether biblical, talmudic or early medieval, may well have been cited to justify a practice that become accepted rather than providing its impetus.¹¹⁰ The medieval rhetoric of attributing a custom to inherited practices that were familiar to the "ancients" or "forefathers" is a classic feature of invented traditions¹¹¹ and could have been far more easily grasped by less educated Jews than the complexities of proof-texts.¹¹² This endorsement was also convincing and was certainly believed by those who called upon it. Thus alongside the importance of analyzing the textual explanations that articulate the embrace of new

¹¹⁰ Susan Starr Sered, *Women as Ritual Experts. The Religious Lives of Elderly Jewish Women in Jerusalem* (New York; Oxford, 1992), esp. 134-41.

¹¹¹ Eric Hobsbawm, "Introduction: Inventing Traditions," in *The Invention of Traditions*, eds. Eric Hobsbawm and Terence Ranger (Cambridge, 1983), 1-14.

¹¹² See Galinsky, "Custom," 414-17.

practices and mapping the history of ideas, attention must also be directed to the social environment in order to discern the place of religious practice beside—not beneath—theology, beliefs, law, and spirituality. From an experiential perspective, the Jewish character of a given action was reinforced by its repetitive nature. As such, appropriated practices would have buttressed religious identity rather than reducing religious distinctions, a specter against which modern scholars have been on guard.¹¹³

Appropriation generated not just similarity but also difference. Over the last decades, scholars have shown that Jews adapted (and refuted) Christian ideas and customs. Medieval sources underline that any two (or more) groups in close contact invariably exchange practices and beliefs while constantly recalibrating their identities vis-à-vis the other. This approach also invites inquiry into the orders of identity within medieval culture as they relate to a particular time and place.¹¹⁴ Furthermore it can reveal the degree to which religions, and medieval Jewish and Christian communities in particular, despite all the ties that bound them, held themselves as distinct entities, divided by first order boundaries in daily life and practice. In this reality, the expanse between religions can be vast even when communal life is conducted in close quarters. Perhaps paradoxically, these conditions allowed for shared practice in an economy of differences despite the ubiquitous presence of the fundamental distinctions between religions.

¹¹³ Alf Lüdtke, “What is the History of Everyday Life and Who are its Practitioners,” In *The History of Everyday Life*, ed. Alf Lüdtke, trans. William Templer (Princeton, 1995), 5-7.

¹¹⁴ See Niklas Luhmann on the orders of identity, *Gesellschaftsstruktur und Semantik* (Frankfurt a. Main, 1999), 31-54, esp. 32-35 and idem, “Deconstruction as Second Order Observing,” *New Literary History* 24 (1993), 763-82, esp. 777-80. Luhmann distinguishes between first and second orders of difference, where the former category describes contrasts so inherent that they may be assumed to be definitive while the latter characterizes observations that tend to be situational.