

# The Semikhah Controversy of the 1500's

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Formal ordination, *minnuy* or semikhah, claiming an uninterrupted chain of tradition back to Joshua ben Nun (who received his ordination from Moshe Rabbenu), was still in force during Tannaitic times, and continued into the Talmudic period, and perhaps even beyond. By virtue of ordination, the function of judges had been invested with religious sanction.<sup>2</sup> But this juridical authority was eventually lost.

Only a formally ordained person could become a member of the Sanhedrin (whether of 71 members or of 23), and only an ordained group of three judges could administer *dine kenassot* (fines prescribed by the Torah beyond the mere restitution of damages). When there was no fixed calendar, only ordained judges could investigate witnesses who had claimed to see the new moon, or to intercalate a thirteenth month needed to make up the difference between the lunar and solar years.

Now, the Sanhedrin ceased to function, at the latest, with the destruction of the Second Temple. As ordination was restricted to Palestine, a Jewish court could impose fines only if a scholar ordained in Palestine was present. Eventually, communities outside Israel learned how to live with this by the following technique: instead of directly imposing a fine, a person who was to be penalized would be placed in *herem* until he would “voluntarily pay his debt.”<sup>3</sup> Eventually, this practice became the case in Eretz Yisrael as well.

By the fourth century, the administration of the calendar system through the *ad hoc* system of witnesses, etc. was also replaced. The astronomical calendar, attributed on the authority of later

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<sup>2</sup> See Jacob Katz, “Rabbinical Authority and Authorization in the Middle Ages,” in I. Twersky (ed.), *Studies in Medieval Jewish History and Literature*, Vol. I (Cambridge, 1979), pp. 41-56. Sentences in this paragraph and the several following ones are taken from pp. 41-43.

<sup>3</sup> See Rambam, *Sefer Shofetim, Hilkhos Sanhedrin*, 5:17.

tradition to the fourth century patriarch Hillel II, was instituted. Thus, the lack of formal semikhah was no longer an impediment to the practical functioning of a Jewish calendar system.

However, although the practical problems arising from the discontinuation of semikhah were apparently solved, the absence of the Sanhedrin, the impossibility of formally applying *dine kenassot*, and even (from a formal point of view) the discontinuance of the ancient system of determining the new moon by witnesses and judges with semikhah were certainly seen as great deficiencies. Thus, when the 16<sup>th</sup>-century messianic speculation and anticipation arose, and a method to formally reintroduce semikhah was suggested, it was seen (by its proponents) as a way to rectify a great deficiency in Jewish life.

## The Life of R. Yaakov Beirav and his Project to Reconstitute Semikhah<sup>4</sup>

Jacob Berab (or Beirav) (c. 1474-1546) was born in Maqueda, near Toledo, Spain. After the expulsion of the Jews in 1492, he lived in Morocco, and he later claimed that he was appointed Rabbi of Fez at the age of eighteen. He later traveled to Egypt, Jerusalem and Safed (Tzefat) in Eretz Yisrael, and Syria, and became both a successful businessman and a teacher of Torah to many students. He wrote a commentary to those parts of Rambam's *Mishneh Torah* not dealt with by the *Maggid Mishneh* (R. Vidal Yom Tov of Tolosa), and a part of it was published by R. Yehudah Leib Maimon (Fishman).<sup>5</sup> He also published *teshuvot*, as well as *hiddushim* to *Massekhet Kiddushin*.<sup>6</sup> R. Joseph Caro, among others, reported various halakhic decisions of his.

The early 16<sup>th</sup> century was a period of intense messianic ferment, associated with the study of Kabbalah. (Scholars have debated the extent that the expulsion from Spain was the primary factor.) R. Beirav's expression of this wave of fervor consisted in his attempt to revive the institution of semikhah, the formal rabbinical ordination which had been dormant for many hundreds of years, and the reestablishment of which would give greater impetus to the messianic anticipation.

It appears that R. Beirav conceived of this idea while still residing in Egypt. Since 1524, he had been living at least periodically in Tzefat, the center of much messianic fervor. In 1538, he succeeded in convincing R. Joseph Caro, R. Moshe of Trani and other scholars that his interpretation of a passage in Rambam's *Commentary on the Mishnah* at the beginning of *Massekhet Sanhedrin* (to be discussed more fully below) was correct and should have practical implications. Rambam wrote:

*I deem it appropriate that when all the scholars and students in the Land of Israel agree to put forward one person as their*

ואני סבור שאם תהיה הסכמה מכל  
התלמידים והחכמים למנות איש בשיבה  
כלומר שיעשוהו ראש, ובתנאי שיהא זה

<sup>4</sup> This short account of R. Beirav's life is essentially taken from *Encyclopedia Judaica*, Second Edition, Volume Three s.v. *Berab*, pp. 397-98.

<sup>5</sup> *Sinai* 36 (1955), pp. 275-357.

<sup>6</sup> The *teshuvot* and *hiddushim* were first published together in 1663; the *hiddushim* were republished in an enlarged form by Michael Rabinowitz in the *Sefer Ha-Yovel* for R. Binyamin Menashe Levin (1939), edited by R. Yehudah Leib Maimon (Fishman), on pp. 196-299.

head... this person can convene the assembly, and he will be ordained himself and qualified to ordain whomever he desires afterwards.<sup>7</sup>

**Rambam, Commentary on the Mishnah, Sanhedrin 1:3**

בארץ ישראל כמו שהקדמנו, הרי אותו האיש תתקיים לו הישיבה ויהיה סמוך ויסמוך הוא אחר כך את מי שירצה.  
רמב"ם, פירוש המשנה, סנהדרין א:ג

R. Jacob Beirav maintained that this Maimonidean passage provided support for the contemporary renewal of ordination. He felt that he could reestablish a great *bet din* through the revival of the institution of semikhah, and formally mark an important prelude to the imminent arrival of the Messiah. The scholars of Tzefat then decided to renew semikhah, designating R. Beirav as the first *samukh* (who would then have the authority to ordain others). But after this point, R. Beirav's plans began to go awry.

R. Levi ben Habib (c. 1483-1543), known by his acronym *Ralbah*, was R. Beirav's principal opponent. He was born in Zamora, Spain, and in 1492 was taken to Portugal by his father (R. Jacob ibn Habib, the author of the collection of Talmudic legends called *Ein Ya'aqov*). In Portugal, he had been forcibly baptized. Afterward, he and his father escaped to Salonika.<sup>8</sup> Besides his Talmudic knowledge, he possessed much astronomical knowledge, and he published a commentary on Rambam's *Hilkhot Kiddush Ha-Hodesh*. In order to atone for his baptism, he went to Eretz Yisrael, settling first in Tzefat and later in Jerusalem, serving as rabbi there for 15 years.<sup>9</sup>

Ralbah's importance for our story consists of his fierce opposition to the project of R. Beirav. (Apparently, he had already disputed with R. Beirav concerning various matters previously.) He refused to accept the semikhah of R. Beirav and disagreed with R. Beirav's interpretation of the Maimonidean position, claiming that Rambam's view in the *Mishneh Torah* (*Hilkhot Sanhedrin* 4:11, to be quoted fully below) consisted of a *retraction* of his earlier statement regarding the possibility of reestablishment of semikhah, which in any event, he claimed, was originally offered as only an opinion, not as a legal decision. The rabbis of Tzefat (for semikhah) and the rabbis of Jerusalem (against semikhah) debated this issue for three months. Then, the Ottoman Turks, who at that time exercised political control over the Land of Israel, forced R. Beirav to leave the land! (R. Jacob Beirav had been involved in another controversy, and his enemies denounced him to the Turkish authorities in Tzefat.)<sup>10</sup>

R. Beirav certainly accepted the halakhah that formal semikhah could not be given outside of the Land of Israel. Fearing that because of his problems with the Turkish authorities, he might never

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<sup>7</sup> Rambam adds "otherwise, the restoration of the Supreme court will never be possible." That is, since the chain of semikhah has already been broken, it has to start again somewhere. See *Mishnah im Perush Rabbenu Moshe ben Maimon*, ed. R. Joseph Kafih (Jerusalem, 1964):Vol. 4 (*Seder Nezikin*), p. 148, for Rambam's original Judeo-Arabic formulation and Kafih's Hebrew translation.

<sup>8</sup>R. Beirav alluded to the baptism in his polemic with Ralbah. See Jacob Katz's article, cited below. We will not deal with this aspect of the dispute here.

<sup>9</sup> See *Encyclopedia Judaica*, 2<sup>nd</sup> edition, Vol. 12, s.v. *Levi ben Habib* (Ralbah), where more biographical information concerning Ralbah can be found.

<sup>10</sup> Jacob Katz, "The Dispute between Jacob Berab and Levi ben Habib over Renewing Ordination," in *Binah: Studies in Jewish History*, edited by Joseph Dan (1989), pp. 119-141, on p. 129, concludes that while R. Beirav's flight "was not a result of the ordination, it was still a turning point in its story. Until that time, each protagonist expressed disagreement with the other, with give-and-take on both sides; the dispute was not yet a polemic."

return to Israel and his entire project would fail, before he left Israel, he gave semikhah to four rabbis of Tzefat, including R. Josef Caro and R. Moshe of Trani. R. Levi ben Habib publically opposed this ordination. From Damascus, R. Beirav continued to advocate for his position, and back and forth attacks between R. Beirav and R. ben Habib continued.

R. Levi ben Habib was supported by an important ally: R. David ben Solomon Abi Zimra of Egypt (a celebrated Maimonidean commentator known by his acronym Radvaz). The Radvaz's opposition to R. Beirav's project helped tip the scales against him.<sup>11</sup> The Egyptian rabbis announced that R. ben Habib had halakhah on his side.<sup>12</sup> To be sure, the scholars ordained by R. Beirav ordained others until their death. R. Joseph Caro, for example, ordained R. Moshe Alsheikh, who in turn ordained R. Hayyim Vital. But eventually (certainly after R. Jacob Beirav's death), the ordainees themselves stopped giving their ordination halakhic sanction. That is, as Jacob Katz put it, they refrained from claiming for themselves any authority not universally recognized as legitimate. Moreover, although R. Beirav's grandson, R. Jacob ben Abraham (d. 1599), who had studied under R. Joseph Caro, gave semikhah to seven scholars of Tzefat in 1599, these seven scholars agreed not to grant semikhah to anyone else without his approval. As the younger R. Beirav died in that same year, this agreement meant that essentially, the project, even in an attenuated form, was allowed to die out.

## Historical and Halakhic Analysis of the Dispute

In 1951, the historian Jacob Katz (1904-1998) published a Hebrew article (*Zion*, Vol. 16 [1951], pp. 28-45) on the controversy, and subsequently published a revised Hebrew version in his collection of historical studies *Between Halakhah and Kabbalah* (1985). The journal *Binah*,

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<sup>11</sup> Jacob Katz, "Dispute over Renewing Ordination," in *Binah*, p. 130, notes that apparently R. ben Habib himself did not receive an answer from the Radvaz. Otherwise, he undoubtedly would have included it in his collection of materials about the controversy. See below. Moreover, at the time, even after they received the letter of the Radvaz opposing ordination, the scholars of Tzefat did not admit failure. The Radvaz's opposition, however, was certainly a strong blow to R. Beirav's hopes.

<sup>12</sup> In his commentary to *Mishneh Torah, Hilkhot Sanhedrin 4:11* (printed on the side of the Rambam in the Vilna, 1900, edition of the *Mishneh Torah* and subsequently in standard rabbinic editions of *Mishneh Torah, Hilkhot Sanhedrin*), Radvaz refers to his opposition to R. Beirav's project and summarizes his earlier *responsum* on the matter. (Since the printing of Radvaz's, comments, his words were the prime source from which rabbinic/yeshiva students who didn't study *Teshuvot Ralbah* gained their rudimentary knowledge of the controversy.) In his commentary on the Rambam, Radvaz reproduces some of his arguments against the project of reinstating semikhah. For example, he writes that even the proponents of the reinstatement must admit that the *samukh* would have to possess the ability to decide issues in *all* areas of Torah law. He does not believe that anyone in his generation (including R. Beirav!) possesses that ability. Moreover, he counters Rambam's rhetorical question in his *Commentary on the Mishnah*, to wit: if somehow, someway, semikhah cannot be automatically reestablished by the consent of all the scholars of Israel, how otherwise could the prophets' promise that God would "reestablish judges as in days of yore" (even before the arrival of the Messiah) be fulfilled? The new judges would lack semikhah! Radvaz counters that since according to the Prophet (Malachi) and Hazal, Elijah the prophet will appear *before* the Messiah, and *he* certainly was a *samukh*, *he* could be the one to reinstitute semikhah. Alternatively, aggadic statements that members of the formerly ten lost Tribes of Israel (such as Reuben) will rejoin the Jewish nation and fight on their behalf before the actual coming of the Messiah can be used to maintain that among those returnees will appear judges who are *samukh*. *They* could reinstitute semikhah! In any event, like Ralbah, Radvaz insists that Rambam retreated in the *Mishneh Torah* from his words in the *Commentary on the Mishnah*. See below.

edited by Joseph Dan, which published translations of Hebrew articles into English, published in its first volume (1989: “Studies in Jewish History,” pp. 119-141) a translation/adaptation of Katz’s revised article by Roberta Bell-Kligler. We will not reproduce the entire article, or even all its aspects here, but we shall use his reconstruction of the debate to highlight key themes in the dispute. (My citations of Katz’s article and of his analyses are from the *Binah* article.)<sup>13</sup>

Katz first mentioned the previous discussion of the topic by the 19<sup>th</sup> century Jewish historian Heinrich Graetz (1817-1891), in his *History of the Jews* (German edition, 1887). Graetz discerned the messianic tendencies in R. Beirav’s desire to revive rabbinic ordination, the wish of Spanish exiles to receive absolution by an “ordained court” of their sins, thereby escaping the Divine punishment of *karet*, and the fact that they felt that reestablishment of ordination could save the souls of these penitents and also help pave the way for the more speedy arrival of the Messiah. He blamed the actual eruption of the controversy, however, to personal motives: R. Beirav’s quest for status and R. ben Habib’s sense of insult.

Katz noted the irony that Graetz, as a strong opponent of any form of mysticism, should naturally have been an unequivocal opponent of R. Beirav’s position. Yet, his positive appraisal of central institutions for the Jewish people (and a *bet din samukh* would certainly have been one) made him look positively on the matter. Graetz also dismissed R. ben Habib’s haklakhic arguments against reestablishing ordination, and claimed that rabbinic literature supports both opinions; he declared that R. ben Habib’s arguments were merely a cover for his predispositions.

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<sup>13</sup>In his original article in *Zion*, on pp. 29-30, Katz listed 14 contemporaneous sources on the dispute. In the translation of his later version published in *Binah* (“Dispute over Renewing Ordination,” pp. 122-23, the translation that I shall be citing here), two more sources were added. Seeing a list of the sheer number of sources can help one appreciate the depth and bitterness of the controversy. Many sources can be found in the collection of documents published by Ralbah at the end of his responsa *Teshuvot Ralbah* (Venice, 1565). Others are mentioned in the controversy but are no longer extant. The documents are (in order of their appearance), as follows:

1. Declaration by the scholars of Tzefat on the revival of ordination, and the ordination of R. Jacob Beirav as the first ordaine ( *Teshuvot Ralbah*; p. 277 c-d).
2. R. Beirav’s Certificate of Ordination to R. ben Habib ( *ibid.*, p. 310c).
3. R. Moshe de Castro’s *responsum* annulling the ordination (published in *Sefunot* Vol. 10 [1966], pp. 146-92).
4. A letter of encouragement to Tzefat from Jerusalem scholars (no longer extant).
5. A letter from R. ben Habib to the scholars of Egypt (no longer extant).
6. Two court decisions of anonymous scholars of Tzefat, one approving and one invalidating ordination (no longer extant).
7. Protest of the court decision by the scholars of Tzefat, signed by R. Joseph Caro, countering the opposition of the scholars of Jerusalem (no longer extant).
8. R. Beirav’s comments on R. Moshe de Castro’s criticism ( *Sefunot*, pp. 146-92).
9. R. Beirav’s Ordination Epistle substantiating ordination ( *Teshuvot Ralbah*, pp. 285b-289a).
10. R. ben Habib’s first treatise annulling the ordination ( *ibid.*, pp. 278a-285b).
11. Letter from R. ben Habib to R. Joseph Caro (a response to #7 above; no longer extant).
12. R. Ben Habib’s second treatise (a response to #9 above; *Teshuvot Ralbah*, pp. 289a-298a).
13. R. Beirav’s second treatise (a response to #10 above; *ibid.*, pp. 298a-303b).
14. R. Beirav’s third treatise (a response to #13 above; pp. 303b-328d).
15. A query from the scholars of Tzefat to the scholars of Egypt (no longer extant).
16. R. David ibn Abi Zimra’s *responsum* regarding the revocation of the ordination (response to #15 above).

Graetz also maintained that the “intercity competition” between Jerusalem and Tzefat was the cause that lay behind the dispute between the two rabbis.

Countering Graetz, Jacob Katz maintained that it is unacceptable for a historian to only look at subjective, personal issues (or intercity rivalries) and to ignore the halakhic arguments involved in a search for the “real story” of a halakhic dispute. One must evaluate the two halakhic positions, extant in the sources, and evaluate them objectively on their own terms. As Katz put it, “the reason for the embroilment must be sought in the renewal of ordination itself.”<sup>14</sup>

There were three issues regarding halakhah and ordination upon which R. Beirav and R. ben Habib disagreed. There was also, according to R. ben Habib, a procedural flaw in the manner in which R. Beirav established the ordination. We will follow Katz’s presentation of the issues.

(1): Was there sufficient halakhic ground for renewing ordination? Basing himself on Rambam’s *Commentary on the Mishnah*, Sanhedrin 1:3, R. Beirav had claimed, Yes! R. ben Habib, on the other hand, countered that the words of the Rambam in *Mishneh Torah* counter that and are decisive. Rambam writes as follows:

*If there should be in all Palestine but one man competent to confer ordination, he could invite two others to sit with him and proceed to ordain seventy men, either en masse or one after the other. He and the seventy men would then constitute the Supreme Court and would thus be in a position to ordain other tribunals. It seems to me that if all the wise men in Palestine were to agree to appoint judges and to ordain them, the ordination would be valid, empowering the ordained to adjudicate cases involving fines and to ordain others. If what we have said is true, the question arises: Why were the Rabbis disturbed over the matter of ordination, apprehending the abolition of the laws involving fines? Because Israel is scattered and agreement on the part of all is impossible. If, however, there were one ordained by a man who had himself been ordained, no unanimity would be necessary. He would have the right to adjudicate cases involving fines because he would be an ordained judge. But this matter requires careful reflection.*<sup>15</sup>

**Rambam, Hilkhot Sanhedrin 4:11**

הרי שלא היה בארץ ישראל אלא  
סומך אחד מושיב שנים בצדו  
וסומך שבעים כאחד או זה אחר זה  
ואחר כך יעשה הוא והשבעים בית  
דין הגדול ויסמכו בתי דינים  
אחרים, נראין לי הדברים שאם  
הסכימו כל החכמים שבארץ  
ישראל למנות דיינים ולסמוך אותם  
הרי אלו סמוכים ויש להן לדון דיני  
קנסות ויש להן לסמוך לאחרים,  
אם כן למה היו החכמים מצטערים  
על הסמיכה כדי שלא יבטלו דיני  
קנסות מישׂראל, לפי שישׂראל  
מפוזרין ואי אפשר שיסכימו כולן  
ואם היה שם סמוך מפי סמוך אינו  
צריך דעת כולן אלא דן דיני קנסות  
לכל שהרי נסמך מפי בית דין,  
והדבר צריך הכרע.  
רמב"ם, הל' סנהדרין ד:יא

The Ralbah argued that as Rambam commences his discussion about renewal of ordination with the words “it seems to me” and ends it with “this matter requires careful reflection,” he clearly *retreated*

<sup>14</sup> “Dispute Concerning Ordination,” in *Binah*, p. 132.

<sup>15</sup> The English translation is taken from *The Code of Maimonides: The Book of Judges*, translated by Abraham Hershman (New Haven and London, 1949), *Sanhedrin* 4:11, p. 15. In the English translation of Katz’s Hebrew article in *Binah*, the phrase “the matter requires a decision” is used instead of “the matter requires careful reflection.” Hershman, *The Book of Judges*, Introduction, p. xviii, n. 2, notes the difference between the Rambam’s words in *Mishneh Torah* and in his *Commentary on the Mishnah*. Throughout this article, I will be using “this matter requires careful reflection.”

from his original unambiguous statement in his *Commentary on the Mishnah*. Thus, his words in *Mishneh Torah* cannot allow for an absolute decision allowing the reintroduction of semikhah.

Ralbah further claimed that the question of how one rules when the Rambam himself presents different views in his different works is relevant here. As the words of his later work *Mishneh Torah* demonstrate, Maimonides had *reconsidered* what he had written in his youth, and a halakhic rule (formulated by Rambam himself elsewhere) states that a *later* decision overrides an *earlier* decision; Rambam's statement in the *Mishneh Torah* certainly must override his statement in the *Commentary on the Mishnah*.

Interestingly, R. Beirav did not contradict these points. Rather, his strategy was to claim that the Maimonidean phrase "this matter requires careful reflection" only referred to an entirely *different* matter, namely, whether the *bet din* extending ordination must be composed of three ordained persons, or can just as well be composed of one previously ordained persons with two other unordained people (the point Rambam raised at the beginning of the halakhah). Ralbah, for his part, argued that the Rambam had clearly ruled (earlier in the same paragraph) on that matter, and hence the phrase "this matter requires careful reflection" can *only* refer to the reintroduction of semikhah itself. Thus, he rejects R. Beirav's reinterpretation of the phrase "this matter requires careful reflection."

(2): What would be the extent of the authority of the ordained *bet din*? R. Beirav argued that the *bet din* would possess two areas of authority that a *bet din* whose members did not possess formal semikhah would not have: the right to impose fines and penalties and to mete out *malqut* (lashes) to absolve one who otherwise would receive the fate of *karet* (being cut off; interpreted as deserving of an early death) from any further penalty.

Which of the two was more crucial? Interestingly, in the first Ordination Declaration issued by R. Jacob Beirav, the matter of lashes was prominent. R. Beirav argued that the renewal of ordination would allow penitent Marranos to receive lashes, and thereby exempt themselves from *karet*. R. Beirav later changed his mind and claimed that the issue of the fines was the main point, and the issue of the lashes was incidental.

Why did he shift his emphasis? Katz points out that this occurred because of R. ben Habib and R. Moshe de Castro (R. Beirav's own student but one who opposed his teacher and supported R. ben Habib) claimed that R. Beirav was overreaching, attempting to give his *bet din* an authority that, even in Mishnaic times, an ordained *bet din* did not possess! No *bet din* was empowered to give lashes to anyone unless he had been formally accused by two valid witnesses. Lashes that a penitent would receive are only rabbinic in nature and do not stem from Torah law. Someone who would receive lashes as the result of self-confession would not absolve the penitent of the punishment of *karet*. Thus, the penitent Marranos could *not* legally absolve themselves from punishment due to the new *bet din*.

In his response, R. Beirav "doubled down" and made the surprising claim that even a common *bet din* could impose upon penitents lashes that had been stipulated in the Torah. In his second treatise on the matter he added the point that *batei din* of his teachers in Spain acted in such a manner. But R. ben Habib responded as follows: even assuming R. Beirav's teachers were

correct concerning this matter, if so, a new *bet din*, with its reintroduction of *semikhah*, would not be necessary! Thus, R. Beirav retreated and maintained that the reestablishment of *fines* was the primary point of the ordination.

(3): Could this new *bet din* proclaim the new moon and intercalate the months? Until the establishment of the permanent pre-calculated calendar of Hebrew months, traditionally ascribed to Hillel the Second (fourth century C.E.), these matters were determined by an ordained *bet din*. Katz points out that somewhat paradoxically, R. Beirav held that the new ordained *bet din* would *not* be authorized to proclaim the new moon and intercalate the months.<sup>16</sup>

But R. Beirav's opponents claimed that a legally ordained *bet din* *could* effect changes in the Jewish calendar. R. Ben Habib, basing himself upon his understanding of Ramban, argued that a Sanhedrin was not necessary for that task, and that any legally ordained *bet din* has not just the right but the obligation to fix the calendar. For now, according to R. Beirav, with a *bet din samukh* in place, the new moon *must* be established by evidence of witnesses. Hence, he continued, R. Beirav could not escape the ramifications and repercussions of what he was attempting to do. The reestablishment of *semikhah* and a formal *bet din samukh* was tantamount to questioning the legitimacy of the current (Hillel II) pre-calculated Jewish calendar, without putting in place the alternate system of determining the dates of the calendar based upon evidence!

R. Beirav defended himself, claiming his new *bet din* would not possess the power to supersede the system installed by Hillel II and return to a system of proclaiming the new moon by evidence of witnesses. He quoted Isaac Israeli, the astronomer (fl. first half of the 14<sup>th</sup> century), author of the book *Yesod Olam*. Israeli had written that Hillel's calendar would remain in effect until the Messiah actually arrives. Although R. Beirav viewed the renewal of *semikhah*, and establishment of a *bet din samukh*, as necessary preludes to the Messiah's arrival, rules that would need to wait until the Messiah actually appeared would not change.

R. Ben Habib faulted R. Beirav on this point as well. When he commented on the invalidation of the declaration of the new moon by evidence, and the introduction of the pre-calculated system, Isaac Israeli was merely providing a historical description of events. Thus, he linked Hillel II's enactment to the need of the Jews not to become factionalized. But based on Rambam and Ramban, one would indeed conclude that halakhically, the establishment of a *bet din* of formal *musmakhim* would indeed lead to recognition that the system of Hillel II was now invalid and the (old) method of witnesses, with all the uncertainties that it entailed, would *have* to be followed—even before the actual arrival of the Messiah.

As for the procedural problem: the scholars of Tzefat contacted the scholars of Jerusalem only *after* R. Beirav had been ordained. But according to the Rambam, the authority upon whose words they based themselves, agreement of *all the scholars of in the Land of Israel* was certainly necessary *before* any ordination could take effect. It was procedurally illegal for the Tzefat

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<sup>16</sup> Katz, "Dispute Concerning Ordination," in *Binah*, p. 137, writes: "undoing the fixed calendar and the order of intercalation would constitute a revolution appropriate for the coming of the Messiah; in the mundane world though (and even R. Beirav admitted that the Messiah had not come yet) no one would think if it."

scholars to decide to grant ordination on the mere assumption that the Jerusalem scholars would agree after the fact! *Post facto* approval would be invalid in that case!

If this was the only problem with the ordination, then, theoretically, if the Jerusalem scholars such as R. de Castro and R. Habib would subsequently agree to the ordination, this procedural problem could be overcome. Although apparently, both R. de Castro and R. ben Habib raised this possibility, Jacob Katz understands that this was merely a gesture of appeasement. In reality, due to all their other reasons, they would not retract their negative opinion of what R. Beirav did, and indeed, he proceeded to publish treatises attempting to refute their claims. Apparently, R. Beirav felt that there was no need for negotiations between different scholars, such as those from Jerusalem. “Who would even think of something that would delay our redemption ... that all who hear of it would not come with drums and dancing to subscribe to it.”<sup>17</sup> But R. ben Habib felt that Maimonides’ interpretation predicated renewed ordination on the prior *unanimous consent of the scholars in the Land of Israel*, and hence there can be no effective agreement without prior negotiations.

Jacob Katz pointed out that both R. Jacob Beirav and R. Levi ben Habib were well-defined personalities. The former was “a dynamic and authoritarian individual, driven to action and initiative—all of which gives rise to a clear sense of superiority, to the point of demanding the right of way at all times and the power of decision in every instance.” On the other hand, R. ben Habib was a “passive, almost contemplative individual. His confidence results from the lack of a need for initiated activity; he does not reveal the energy contained within him except when presented with a specific outside challenge.”<sup>18</sup>

Jacob Katz makes a fascinating point at the conclusion of his essay on the ordination dispute. To wit, he remarks that to the extent that the historian understands the opponents’ personalities and motives, he might become unable to evaluate them objectively. The conflict between R. Beirav and R. ben Habib becomes almost “preordained.” He writes: “The dynamic activist R. Beirav is pitted against the contemplative ben-Habib and the historian does not make a value judgment as to who is right and who is not.”

“But in this case, the close scrutiny of R. Beirav’s words reveals signs of insecurity and embarrassment when contradictions in his claims were pointed out. His words reveal that it was indeed his messianic yearning that led him to use conflicting halakhic opinions in an attempt to achieve his goal.”<sup>19</sup> Thus, it does appear that whereas R. Beirav’s messianic yearning impelled him to make weaker halakhic arguments, objectively, the superior halakhic reasoning was that employed by R. ben Habib.”

*Klal Yisrael* still waits for the day when God will see to it that the judges of Israel will judge us as they did in days of yore, and the Temple will be rebuilt again. Amen.

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<sup>17</sup> Katz, “Dispute over Renewing Ordination,” in *Binah*, p. 139.

<sup>18</sup> Katz, “Dispute over Renewing Ordination,” in *Binah*, p. 140.

<sup>19</sup> Katz, “Dispute over Renewing Ordination,” in *Binah*, p. 141.