



## Mendelssohn and Josephus: A Necessary Terminological Difference

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**In several places in Part II of his *Jerusalem: Or On Religious Power and Judaism*,<sup>[1]</sup> Mendelssohn refers to “the Mosaic Constitution” (*die mosaische Verfassung*) to describe the ancient Jewish State.<sup>[2]</sup>**

It seems to me that this idea, calling the ancient state “the Mosaic Constitution” goes back to Josephus – although with one significant and necessary terminological difference. In essence, Mendelssohn apparently borrows an idea and one term from Josephus but avoids a different term used – and innovated – by Josephus.

In *Against Apion* II:16, 164-165 Josephus had written:

*Some peoples have entrusted the supreme political power to monarchies, others to oligarchies, yet others to the masses. Our lawgiver (nomothetes), however, was attracted by none of these forms of polity, but gave to his constitution (politeuma) the form of what . . . may be termed a “theocracy” (theokratia), placing all sovereignty (arche) and authority (kratos) in the hands of God.*<sup>[3]</sup>

Elsewhere Josephus uses a related term: “After the death of these kings, the constitution (*politeia*) became an aristocracy.”<sup>[4]</sup>

However, these terms – *politeuma* and *politeia* – may have been interchangeable for Josephus, as they were for Aristotle: “The government (*politeuma*) is everywhere sovereign in the state, and the constitution (*politeuma*) is in fact the government (*politeia*).”<sup>[5]</sup> “The words constitution (*politeia*) and government (*politeuma*) have the same meaning.”<sup>[6]</sup>

According to Alexander Altmann, Mendelssohn, encouraged by Christoph Friedrich Nicolai, had studied at least some Greek with the help of a dictionary,<sup>[7]</sup> and may also have helped Christian Wilhelm von Dohm with passages from Josephus, as he did with rabbinic sources.<sup>[8]</sup> However, it is no accident that Mendelssohn – assuming that his reference to “the Mosaic constitution” in fact was based on Josephus’ theory of Moses, the lawgiver, as the founder of the ancient state – could adopt Josephus’ term “constitution” while refusing to follow Josephus in calling that constitution a “theocracy.” As we shall see, where Josephus called the constitution established by Moses a “theocracy,” Mendelssohn rejects the politically loaded term “theocracy” (used, he says, by his “readers” who questioned his theory) and refers only to the unique “Mosaic constitution,” which, he argued, was not a dangerous theocratic union of two separate powers – religion and state – but in which religion and state were identical, since God was the ultimate ruler and lawgiver; therefore, loyalty to the state and loyalty to God were the same.

In the lines leading to the passage cited above, Mendelssohn explicitly rejects the term “theocracy” used by his critical “readers:”

*“But why,” I hear my readers, ask, “why all this wordy rambling merely to tell us something that is well known? The Jewish polity was a hierocracy, an ecclesiastical government, a priestly state, a*

*theocracy, if you will. We are quite aware of the presumptions which such a constitution permits itself.” Not so! All these technical terms throw a false light upon the matter, and this I had to avoid . . . This constitution existed only once; call it, if you will, by the name of its founder, the Mosaic constitution. It has disappeared, and only the Almighty knows among what people and in which century something similar may appear once again. . . I have said that the Mosaic constitution did not persist long in its original purity. Already by the time of the prophet Samuel, the edifice had developed a crack which continued to widen until the structure fell completely apart. The nation demanded a visible, bodily king for its ruler . . . In this way, the constitution was undermined, the unity of interests destroyed. State and religion were no longer the same, and a collision of duties was no longer impossible.[9]*

As Alexander Altmann noted in his commentary on this passage[10]:

*The term “theocracy,” which Flavius Josephus . . . had coined as an honorific designation of the Mosaic constitution, had been debased by the Deistic critics of the Old Testament through identifying it with fraudulent priestly rule . . . Hobbes does not use the term theocracy [but] his view concerning the nature of this kingdom wavers between the notions of theocracy and hierocracy . . . Spinoza . . . justifies the term theocracy . . . Locke . . . designates the Jewish state “an absolute theocracy.”*

Josephus’ term “theocracy,” then, which Mendelssohn only uses when citing the objections of his “readers,” cannot possibly apply to his understanding of “the Mosaic constitution,” because of its clear implication in subsequent and contemporary usage, of the kind of tyrannical ecclesiastical power to which Mendelssohn so strenuously objected. As he stated at the outset of *Jerusalem*[11]:

*State and religion, human and divine legislation, secular and ecclesiastical authorities – to establish a balance between these forces so that they will support the structure of society rather than crush its foundations, has for centuries been one of the most difficult tasks in political life . . . Enormous evil has resulted from the clash of these forces; more threatens yet to come. Whenever there is a conflict between these forces, mankind becomes the victim of their quarrels. But even when they are in agreement, the most precious jewel of human happiness is in danger of being lost, for their agreement rarely serves any other purpose than to ban from their realm a third moral force, freedom of conscience.[12]*

Did Mendelssohn literally believe that “the Mosaic constitution,” in which religion and state were uniquely identical, was a historic fact? Or was it merely a theoretical construct in order to undermine any claim that the ancient Jewish state of the Bible provides a precedent and justification for contemporary theocracy? Alexander Altmann in his commentary on this passage observed[13]:

*The kingdom of God that had been embodied in ancient Judaism had to be regarded as the idea of a celestial politics as it were,[14] as an allegory rather than historical fact – as which, indeed, it could not maintain itself for any length of time. This exalted idea was not to be confounded with the various hierocracies met with as a general phenomenon of history. Yet Mendelssohn, it seems, did not want to see in biblical theocracy a model to be followed by modern states . . . His liberal outlook, which bade him plead for the separation of state and church, was hardly in tune with any such tendency. Hence his insistence on the uniqueness of the Mosaic constitution. Being unique, it was unrepeatable.*

However, the fact that Mendelssohn thought that the Mosaic constitution in its pure form could not exist for long, indeed it essentially only lasted during the period of the Judges until Samuel, need not necessary mean that “the kingdom of God” was for him “an allegory rather than historical fact.” Even an ideal and theoretical construct can have a basis, however tenuous, in one’s reading, however romanticized of history, as opposed to an ahistorical “allegory.” Mendelssohn’s

language seems to imply that he did take seriously the notion that, in the absence of a centralized monarchy, there was no competition to God as sovereign and ultimate lawgiver, since the judges were generally temporary military leaders in times of crisis, not established lawgivers.<sup>[15]</sup>

In conclusion, Mendelssohn, while adopting Josephus' term "constitution" for the ancient state founded by Moses the "lawgiver," had to reject Josephus' term "theocracy," which he employs only in referring to those of his "readers" who were opposed to his theory,<sup>[16]</sup> given the inevitable and unacceptable connotations of the term "theocracy."

## Fussnoten

- [1] The book was published in May, 1783. Citations are from Alfred Jospe (ed. and trans.), *Jerusalem and Other Jewish Writings by Moses Mendelssohn* (New York: Schocken Books, 1969), compared with the translation by Allan Arkush, with Introduction and Commentary by Alexander Altmann (Hanover & London: Brandeis University Press, 1983), with reference to the German edition in *Moses Mendelssohn's Sämtliche Werke* (Vienna, 1838).
- [2] In the German, pp. 285-286; in the Alfred Jospe translation, pp. 102-103; in the Allan Arkush translation, pp. 131-132.
- [3] Translation by H. St. J. Thackeray, in the Loeb Classical Library (Cambridge: Harvard University Press, 1926/1976), Vol. 1, p. 359. Thackeray notes here: "The word [theocracy] was apparently coined by Josephus." Josephus had already employed the same term in II:14, 145, p. 351.
- [4] *Jewish Antiquities* XX:251. Translation by Louis Feldman in Loeb Classical Library, Vol. 10, p. 135.
- [5] Aristotle, *Politics*, Book III, ch. 6, 1278b, line 11; translation by W.D. Ross in Richard McKeon [ed.], *The Basic Works of Aristotle* [New York: Random House, 1941], p. 1184.
- [6] *Politics*, Book III, ch. 7, 1279a, line 25; translation, p. 1185.
- [7] Alexander Altmann, *Moses Mendelssohn: A Biographical Study* [University of Alabama Press, 1973], p. 24 and p. 767 note 54.
- [8] Altmann, *ibid.*, p. 455. It should be noted that Mendelssohn, whatever the extent of his knowledge of Greek, could have read Josephus in German. In 1569 Conrad Lautenbach (1534-1595) published a German translation of Josephus.
- [9] See note 2, above.
- [10] Altmann, commentary to *Jerusalem* (*op. cit.*), pp. 232-233.
- [11] Alfred Jospe trans. p. 11; German pp. 217-218; Allan Arkush trans. p. 33.
- [12] Regarding the relationship of the church to the coercive political power of the state, Allan Arkush (*Moses Mendelssohn and the Enlightenment* [Albany: S.U.N.Y. Press, 1994], p. 124, stated that Mendelssohn never addresses the question "in *Jerusalem* or in any of his other published writings" of what the churches should do when their country is clearly wrong or a law is clearly immoral. Arkush overlooked Mendelssohn's clear statement in the Preface to *Vindiciae Judaeorum* (1782) – long before Henry David Thoreau's "On the Duty of Civil Disobedience" (1849) – that immoral laws must be deliberately disobeyed: "That barbarous laws are of the most terrible consequences the more legally the proceedings are conducted, and the more rigidly the judge pronounces after the letter, is an important truth which cannot be too often inculcated. The only way of amending unwise laws, is by deviating from them; as one would correct mistakes in calculation by other willful mistakes." (Preface to *Vindiciae Judaeorum* [trans. M. Samuels, London: 1838], in *Jerusalem*, vol. 1, p. 89); cf. German p. 686.
- [13] In Arkush and Altmann, *op. cit.*, p. 234.
- [14] On the "kingdom of God" and "celestial politics" cf. Zeev Warren Harvey, "Mendelssohn's Heavenly Politics" in Alfred Ivry, Elliot Wolfson, Allan Arkush (eds.), *Perspectives on Jewish Thought and Mysticism* (Amsterdam, 1998), p. 405. Harvey showed that Mendelssohn, in the *Be'ur*, regarded "set a king over yourselves" (Deuteronomy 17:15) not as a commandment to the people, whose desire for a mortal king was a rebellion against God's kingship, but as a commandment to the people's leaders to respect the people's wish – what he called *mishpat he-hamon*, "the way of the multitude." Harvey observes: "In truth, Deuteronomy 17:15, as interpreted by Mendelssohn, is not a commandment of monarchy, but rather a *commandment of democracy*: the people must be free to accept or reject their government, even if they choose to reject the government of God!" Harvey also notes that Mendelssohn's phrase "heavenly politics" (*himmlische Politik*) reflects the Hebrew *malkhut shamayim*, "the kingdom of heaven." Although the state, unlike religion, may need to resort to coercion, "a government is good to the extent that it rules by education, not by coercion" (*ibid.*, p. 409).
- [15] My thanks to Prof. Zeev Harvey for his insights in this regard. Regarding the question of the political structure of ancient Israel in the period of the Judges, Yehezkel Kaufmann in his monumental *Toledot Ha-Emunah Ha-Yisra'elit* ("History of the Israelite Religion") maintained that it was a "primitive democracy" led by successive tribal elders, who did not constitute an unbroken chain of leadership, and that this "primitive democracy itself had nothing in common with theocracy" (Vol. II, Book 1, p. 96). My thanks to Rabbi Dr. Nir Tibi for calling my attention to this passage (The volumes were published sequentially by Mosad Bialik [Jerusalem] 1937-1956). A one-volume abridged English translation, *The Religion of Israel*, was published by Moshe Greenberg (Chicago: University of Chicago Press, 1960). Martin Buber, on the other hand, referred to the period of the Judges as "an experiment in primitive theocracy" ("Biblical Leadership," originally a lecture in 1928, trans. G. Hort, in Buber, *Israel and the World: Essays in a Time of Crisis* [New York: Schocken Books, 1948/1963], pp.128-129; also in Nahum Glatzer [ed.], *On the Bible: Eighteen Studies by Martin Buber* [New York: Schocken Books, 1968], pp. 146-147; cf. p. 157).
- [16] Mendelssohn's eclectic use of his sources, accepting one aspect but not another of a theory, is also evident in his relationship to Spinoza from whom he differs sharply regarding the ancient Jewish state. Both regarded the destruction of the ancient Jewish State as a turning point in history. However, whereas for Spinoza the Torah was only authoritative in that ancient state, and since the state's destruction the Torah no longer has authority, for Mendelssohn the authority of the Torah was not nullified with the loss of that state, but only the possibility of state enforcement of the Torah's laws which otherwise remain in effect for Jews. The fact that the state no longer exists in no way frees the Jews from their obligations: "I cannot see how those who were born into the household of Jacob can in good conscience exempt themselves from the observance of the law" (Alfred Jospe trans., p. 104; Allan Arkush trans., p. 133; German, p. 286. Cf. the classic study by Julius Guttman, "Mendelssohn's *Jerusalem* and Spinoza's *Theologico-Political Treatise*" Alfred Jospe (ed.), *Studies in Jewish Thought: An Anthology of German Jewish Scholarship* (Detroit: Wayne State University Press, 1981), pp. 361-386.