

The Principle and Limits of the Protection of Life in Rabbinic Jurisprudence and Practice¹

This paper examines the interpretative framework within the principle of the protection of life in Jewish law since the Maccabean wars, has been put into practice. The principle, which covered not only the imminent danger to one's life but also the protection of health, provides insights into the internal hierarchical order of the commandments, the relationship between the written Torah and the oral Torah, the relationship of Jesus to the oral Doctrine, and the factors that shaped Jewish tradition in Jesus' era and in the centuries leading up to the compilation of the Talmud.

Keywords: *Judeo-Christian legal culture, written Torah, oral Torah, halakhah, rabbinic jurisprudence, qal va-chomer rule, piquach nefesh principle, imminent danger to one's life, protection of health, Shabbat*

1. Introduction – The relationship of Jesus to the oral Doctrine

The fact that Jesus did not want to be observe the oral Doctrine², the tradition, in the same way as he observed the written one³ – in other words, he did not join the movement of the Pharisees –, is already evident from the same mission statement he made in relation to the written Law: “Do not think that I have come to abolish the law or the prophets; I have come not to abolish but to fulfill. For truly I tell you, until heaven and earth pass away, not one letter, not one stroke of a letter, will pass from the law until all is accomplished. Therefore, whoever breaks one of the least of these commandments, and teaches others to do the same, will be called least in the kingdom of heaven; but whoever does them and teaches them will be called great in the kingdom of heaven. For I tell you,

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- 1 The study was conducted in the framework of the research project “Parallels between the Jewish-Christian and Roman Law Roots of our Legal Culture” (No. 138899).
- 2 Oral Doctrine: ‘Torah she-be-al-peh’ (Hebrew): the entire Jewish tradition from the earliest times to the present, which interprets the written Torah, i.e. the five books of Moses. Most of it, of course, has since been written down (the *Mishnah*, the *Talmud*, the *Midrashim*, etc.). See more: RUFF, The New Testament and the Torah 469.
- 3 Written Torah: ‘Torah she-bi-kbtav’ (Hebrew): The five books of Moses, the Law. Judaism prefers to call it Doctrine rather than Law, because the original meaning of the word is in fact ‘doctrine,’ ‘guidance,’ ‘teaching.’ It was first translated as Law (Greek: *nomos*) in the Septuagint (third–second century BCE), and from there this designation was taken over by the New Testament. In the Jewish understanding, there are two Torahs: the written Torah (the five books of Moses), and the oral Torah (all subsequent prophetic and rabbinic revelations interpreting the five books of Moses). See more: RUFF, The New Testament and the Torah 473.

*unless your righteousness exceeds that of the scribes and Pharisees, you will never enter the kingdom of heaven.*⁴ Thus, *Jesus* demands not less but more righteousness than the inherited oral Doctrine; and he seems to accuse, by implication, the Pharisees and the scribes of not fulfilling, but even abolishing certain laws of the written Doctrine. Therefore, *Jesus* seems to suggest an alternative, in a sense, stricter *halakhah*.⁵ In this overview, I would like to take a closer look at one of the cornerstones of this ‘alternative Judaism’, *Jesus*’ relationship to oral Doctrine, using the rabbinic interpretation of the principle of the protection of life (*piquach nefesh*) as an example.

2. Methodological objections to the distinction between ‘lesser’ and ‘greater’ and the *piquach nefesh*

Jesus openly and deliberately clashed with the Pharisees and the scribes on the issues of pre-meal hand washing as well as healing and working on the *Shabbat*. The washing of hands before meals is – even when contemplated in rabbinic literature – a provision that cannot be derived from the *Torah*; it is only *halakhah*, tradition. Specifically, it was its mandatory nature that *Jesus* described as a human ordinance, an overregulation laying an unnecessary burden on people. In this context, he expressed his general view on the traditions of the elders as sometimes leading to the “weakening” of the *Torah*. To be sure, he did so when this provision was being disputed even among the members of the Pharisees’ denomination, and there were a lot who did not accept it (not even from *Hillel* or *Shammai*). Thus, it is conceivable that *Jesus* was taking a stand in a debate within Pharisaism.

The prohibition on healing and working on Saturday raises problems of a different nature, as one could deduce them from the *Torah*, but *Jesus* seems to regard these deductions as either erroneous or non-compelling, or he shows exceptions from these. Thus, the possibility of healing on the *Shabbat* is regarded by *Jesus* as a wider extension of the rabbinical principle of ‘saving a life, a soul’ (*piquach nefesh*) applied since the *Maccabean* era,⁶ while he suspended the ban on working on the *Shabbat* – which is not a rabbinic, but a directly *Torahic* command – only in respect to the *Messiah*’s disciples and their activities as an exception (and not generally!), deducing his decision by applying the *Torahic* and rabbinic *qal va-chomer* rule to the *Torahic* commandment on the priests’ activities on the *Shabbat*.

Jesus also made general remarks on exegetical errors by the Pharisees and the scribes, which lay behind the halakhic decisions he was condemning. He seems to have seen the essence of these almost always in requiring the observance of the lesser commandments to the detriment of the greater ones. That is to say, when in any situation two *Torah* commandments are confronted with one another and the question arises as to which one to keep at the expense of violating the other,

4 Matthew 5:17–20, emphasis added. Note that the “kingdom of heaven” in New Testament texts does not mean Christian “heaven,” the afterlife, neither does it indicate the coming world (the ‘*Olam ha-ba*’), but it evoked *Daniel*’s meaning (Daniel 2:44, 7:27) to denote the world empire of the *Messiah* and his saints on earth at the end of history, in which the will of *God* is going to reign over the nations. The last sentence of the above quoted passage is a condition for entry into the kingdom.

5 *Halakhah*: ‘walking,’ ‘the way to walk’ (Hebrew). A course of action defined by rabbinic tradition to decide – in disputes over practical matters – how the Law is to be correctly observed and followed in particular circumstances. In Judaism, this is either determined by the tradition of the elders, or inferred from the Law (plus previous provisions) by means of specific rules. See more: RUFF, *The New Testament and the Torah* 468.

6 bYoma 85a, 1 Maccabees 2:31–41.

then we must decide which one is stronger, more important, as that will override the weaker one. If a wrong decision is made in this regard, that is to say, we are in the wrong as to which commandment is the greater one, and we invalidate the greater commandment with the lesser one, then we are in breach of the Law. This is the reason why *Jesus* reproaches the Pharisees in most of his disputes, both for specific cases and for the general problem.

He formulated the latter criticism in a passionate tone as follows: “*Woe to you, blind guides, who say, Whoever swears by the sanctuary is bound by nothing, but whoever swears by the gold of the sanctuary is bound by the oath. You blind fools! For which is greater, the gold or the sanctuary that has made the gold sacred? And you say, Whoever swears by the altar is bound by nothing, but whoever swears by the gift that is on the altar is bound by the oath. How blind you are! For which is greater, the gift or the altar that makes the gift sacred? So whoever swears by the altar, swears by it and by everything on it; and whoever swears by the sanctuary, swears by it and by the one who dwells in it; and whoever swears by heaven, swears by the throne of God and by the one who is seated upon it. Woe to you, scribes and Pharisees, hypocrites! For you tithe mint, dill, and cumin, and have neglected the weightier matters of the law: justice and mercy and faith. It is these you ought to have practiced without neglecting the others. You blind guides! You strain out a gnat but swallow a camel! Woe to you, scribes and Pharisees, hypocrites! For you clean the outside of the cup and of the plate, but inside they are full of greed and self-indulgence. You blind Pharisee! First clean the inside of the cup, so that the outside also may become clean.*”⁷ As can be easily seen, the whole line of reasoning calls for a proper distinction between greater and lesser, which is summed up in the absurdity of the hermeneutical mistake of “*swallowing a camel while straining out a gnat.*”

This is one of the most basic issues of all genuine ethics. Taking an example from a completely different era: *Raoul Wallenberg* is considered to be a moral hero, although his activities were specifically based on lies, bribery, corruption, forgery, prostitution, drunkenness, and the like – all of which were transformed into good deeds by his regard for the greater commandment, the protection of life; by his primary motivation for all this to save the lives of thousands from a rogue state.

In contrast, those who sought to abide by standard moral precepts – such as obedience to state laws – became accomplices in the massacres exactly by doing so: “*What is most difficult to forget is not this but the ambiguous perplexity and tone-deaf incomprehension with which decent men who continued to keep in touch with them, who pitied them and would perhaps not refuse them a helping hand, took note of their final defenselessness, huntedness, and agony and the inhumanity, bloodthirstiness, and moral nihilism of their pursuers. (...) Those who declared they would be willing to help those that ‘deserved it’; the priest who was glad and obliging to hear of their intention to convert but sharply rebuked them for not learning their catechism properly and for converting without conviction, out of pure ‘interest’ (...). These experiences gave persecuted Jews the unbearable feeling that apart from hatred and cowardliness, all they met with in this country was a wall of obtuseness that could not be torn down. (...) This was how, for all the heroism of certain priests, monasteries, and organizations, the churches manifested the same unevenness of conduct as all Hungarian society, ranging from compassionate help through distancing incomprehension to irritated animosity. (...) The trouble was not that the churches set down their theological positions—what else should they have done? – but that they kept away from the actual political and moral facts and formulated their stances in this way. (...) the country had become an ally of mass murderers; dithering, average, and middle-way men continued to fail to respond humanely and courageously partly because of their grave political miseducation and partly because of the disgracefully misleading conduct of the country’s leadership. As a result, they believed, for all their*

7 Matthew 23:16–26.

horror at the persecution of the Jews, that they had to obey official Hungarian state authority. (...) If they did pity and help Jews, they did so in spite of themselves, with a wavering, divided conscience.” – writes István Bibó, in his essay entitled “Jewish Predicament in Post-1944 Hungary,”⁸ a flawless observation on the ambiguous conscience created by ethical misguidedness.

One of the fundamental questions of any system of ethics is whether it perceives at all the dilemma and the burden of deciding between greater and lesser commandments; whether it gives a correct answer; whether it can determine how far one can go at transgressing the moral law so that it still remain morally correct and where the boundaries are (for example, the *piquach nefesh* principle may invalidate all commandments in rabbinic literature except the prohibitions of idolatry and the worship of foreign gods; murder; deadly sexual sins: these should not be violated even at the cost of a human life), etc. Ethically, the deepest essence of all religious bigotry, anti-life and anti-human abstract moralities and fanaticism is that these give poor guidance on these issues and force the less essential against the much more important. The Pharisees and scribes of his age seem to have fallen into this error, in *Jesus*’ view.

Returning to the problem of lesser and greater commandments it is confirmed by several other passages that *Jesus* distinguished between these, and he arranged the 613 commandments into a hierarchical system. He spoke of the greatest and second greatest commandments, on which “*all the Torah and the Prophets depend*,”⁹ and that not even the smallest commandments of the *Torah* can be violated or invalidated.¹⁰ He placed the moral commandments – among which the *Ten Commandments* were considered the greatest – above ritual commandments.¹¹ Based on his teachings, one could build a kind of primary hierarchical structure of the 613 commandments, which would not be fundamentally different from a similar system established in rabbinic literature. (This “hierarchized” conception of the *Torah* itself, which attributes to a stronger commandment the power to invalidate a weaker one, is also based in part on oral tradition.) A closer look at his specific debates with the Pharisees and the scribes reveals, in almost all cases, that these debates all revolve around a logic of distinction between greater and lesser commandments.¹²

In addition to the general primary problem of ethics illustrated above, this topic also raises another question pertaining to the philosophy of religion: the question of the relationship between ethics and religious law in *halakhah*. Classical, ‘orthodox’ halakhic arguments are generally not ethical but purely religious in nature; that is, they conduct purely logical, legal, ‘technical’ reasoning on the basis of controversial biblical passages and pre-existing rabbinical decisions. “*Such an analysis must be strictly logical, derived deductively or inductively from pre-existing rules and texts, free from social factors or ideal purposes (...) The philosophical meaning of biblical commandment is not relevant in this regard.*”¹³ Other views emphasize that ethical element must be given a greater role in decisions (in the modern era, for example, conservatism has strongly articulated this need, against orthodoxy). This too is exemplified in earlier tradition (for example, at the argu-

8 Bibó, Jewish Predicament in Post – 1944 Hungary 242–252.

9 Matthew 22:34–40. The greatest commandment was to love God with our whole personality, and the second greatest was to love our fellow men.

10 Matthew 5:18–19.

11 Mark 12:28–34, Matthew 15:4–5, Mark 7:10–13.

12 See the following passages: Matthew 9:9–13, 23:13–28, Mark 2:13–17, Lukas 5:27–32, John 7:21–24, and so on.

13 Encyclopaedia Judaica, entry “Halakhah,” chs. “Approaches to Halakhah, Orthodox, The Analytical Approach.”

mentation on behalf of the replacement of the eye-for-eye, tooth-for-tooth punishment with a monetary fine). Judging from the words of *Jesus* quoted above, he also seems to be missing this moral factor from halakhic decision-making and willing to strengthen it.

3. The rabbinical life protection practice and Jesus

In the following, will I briefly examine the relationship between *Jesus* and the *Torah* commandment to keep the *Sabbath* holy. I am going to discuss all the relevant passages in the gospels, which raise a total of four different questions: 1. healing; 2. carrying burdens; 3. ‘mud-making;’ and 4. plucking the ears of corn on the *Sabbath*, all of which are related to the issue of life protection.

3.1. The problem of healing on the Sabbath

There are several passages and stories related to this question.¹⁴ I will thoroughly discuss these below, and follow with parallel versions of each story.

“He left that place and entered their synagogue; a man was there with a withered hand, and they asked him, Is it lawful to cure on the sabbath?” so that they might accuse him. He said to them, Suppose one of you has only one sheep and it falls into a pit on the sabbath; will you not lay hold of it and lift it out? How much more valuable is a human being than a sheep! So it is lawful to do good on the sabbath. Then he said to the man, ‘Stretch out your hand. He stretched it out, and it was restored, as sound as the other. But the Pharisees went out and conspired against him, how to destroy him.’”¹⁵

“Again he entered the synagogue, and a man was there who had a withered hand. They watched him to see whether he would cure him on the sabbath, so that they might accuse him. And he said to the man who had the withered hand, Come forward. Then he said to them, Is it lawful to do good or to do harm on the sabbath, to save life or to kill?” But they were silent. He looked around at them with anger; he was grieved at their hardness of heart and said to the man, Stretch out your hand. He stretched it out, and his hand was restored. The Pharisees went out and immediately conspired with the Herodians against him, how to destroy him.”¹⁶

“On another sabbath he entered the synagogue and taught, and there was a man there whose right hand was withered. The scribes and the Pharisees watched him to see whether he would cure on the sabbath, so that they might find an accusation against him. Even though he knew what they were thinking, he said to the man who had the withered hand, Come and stand here. He got up and stood there. Then Jesus said to them, I ask you, is it lawful to do good or to do harm on the sabbath, to save life or to destroy it? After looking around at all of them, he said to him, Stretch out your hand. He did so, and his hand was restored. But they were filled with fury and discussed with one another what they might do to Jesus.”¹⁷

In short, the primary question of the halakhic debate is whether healing – in our case supernatural, miraculous healing – violates the *Torah*’s commandment of keeping the Sabbath holy, and specifically the commandment of abstinence from work. In the Gospel accounts, it is clearly understood as such by “the scribes and the Pharisees.” From the point of view of Jewish

14 VERMES, *The Religion of Jesus the Jew* 22–24; VERMES, *Jesus and the World of Judaism* 46–48; FLUSSER, *Jesus* 58, 61–62, KLAUSNER, *Jesus of Nazareth* 369 ff. etc.

15 Matthew 12:9–14.

16 Mark 3:1–6.

17 Lukas 6:6–11.

religious law, *Jesus'* argument consisted of two elements: 1. using the “*qal va-chomer*” (a *fortiori*) rule,¹⁸ he deduced the license to healing from an existing rabbinical license (to remove sheep from pits on the *Sabbath*):¹⁹ what applies to the lighter / smaller case, necessarily applies to more serious / major cases; and on the other hand, 2. he was referring to the principle of the protection of life (*piquach nefesh*),²⁰ which overrules the keeping of some commandments (including that of the *Sabbath*, traditionally. Both of these arguments are rabbinic in nature, meaning they are valid from the point of view of the oral Doctrine too, while both are expressed in the *Tanakh*: examples to the *qal va-chomer* principle are already found in the *Torah*; while the *piquach nefesh* is mentioned in the *Torah* only by reference, while it is evident in the *Tanakh*.²¹ As far as the oral *Torah* is concerned, the explicit recording of the *qal va-chomer* principle is attributed to *Hillel*, who was at the height of his activity in *Jesus'* childhood; whereas the *piquach nefesh* rule began to be applied after the *Maccabean* wars. Not only does the latter extend to an imminent danger to one's life (*sakkanat nefashot*) but also to the protection of health (*safeq sakkanat nefashot*);²² thus *Jesus'* argument could in principle be accepted from the viewpoint of oral Doctrine, and it is a rabbinical argument in all its elements. He does not for a moment question the validity of the *Torah* prohibition on doing work on the *Sabbath*, and his sentences suggest that he generally accepts it. In fact, the essence of the debate is what can be considered an exception, and it implicitly reinforces the commandment of the *Sabbath* rest. Thus, the written *Torah* itself is not at all breached here, and there is some debate over the oral tradition interpreting the *Torah*, with the debate going entirely within the usual framework of halakhic debates.

We find two further similar stories and arguments. “*Now he was teaching in one of the synagogues on the sabbath. And just then there appeared a woman with a spirit that had crippled her for eighteen years. She was bent over and was quite unable to stand up straight. When Jesus saw her, he called her over and said, Woman, you are set free from your ailment. When he laid his hands on her, immediately she stood up straight and began praising God. But the leader of the synagogue, indignant because Jesus had cured on the sabbath, kept saying to the crowd, There are six days on which work ought to be done; come on those days and be cured, and not on the sabbath day. But the Lord answered him and said, You hypocrites! Does not each of you on the sabbath untie his ox or his donkey from the manger, and lead it away to give it water? And ought not this woman, a daughter of Abraham whom Satan bound for eighteen long years, be set free from this bondage on the sabbath day? When he said this, all his opponents were put to shame; and the entire crowd was rejoicing at all the wonderful things that he was doing.*”²³

18 “Simple and complex”: if a principle is true in a case of lesser weight, it is more true in a case of greater weight (Genesis 44:8, Exodus 6:12, Numbers 12:14; Bereshit Rabbah 92:7, bBaba Qamma 25a etc.) In the age of *Jesus*, it was the first rule of rabbinic interpretation on Scripture. It is also applied in the *Torah* itself.

19 Pharisee rabbis allowed the animal to be rescued, citing the *Torah*'s ban on torturing animals, while the Qumran community forbade it: “*No man shall lift an animal which has fallen into water on the Sabbath day.*” See: The Damascus Document 11:14–15.

20 Pursuant to Leviticus 18:5, 19:16: bYoma 85a–b, bChullin 10a, bSanhedrin 74a and so on.

21 E.g., 1 Samuel 21:1–6. *Tanakh*: an acronym indicating the Hebrew Bible (which is identical to the Old Testament for Christianity), formed from the initials (T-NKh) of ‘Torah, Nebi’im u-Khetubim’ (= Law, Prophets, and Writings). See more: RUFF, *The New Testament and the Torah* 472.

22 See: Encyclopaedia Judaica, entry “Pikku’ah nefesh.”

23 Lukas 13:10–17.

*“On one occasion when Jesus was going to the house of a leader of the Pharisees to eat a meal on the sabbath, they were watching him closely. Just then, in front of him, there was a man who had dropsy. And Jesus asked the lawyers and Pharisees, Is it lawful to cure people on the sabbath, or not? But they were silent. So Jesus took him and healed him, and sent him away. Then he said to them, If one of you has a child or an ox that has fallen into a well, will you not immediately pull it out on a sabbath day? And they could not reply to this.”*²⁴

There is essentially no new argument from *Jesus* here compared to the above example, except that here rescuing and watering the oxen and the donkeys is also mentioned, in addition to it pulling the sheep out of the pit. It is true that the *Mishnah* actually permits the watering of animals that spend the night in the city and leading them out by their bridles on the *Sabbath*.²⁵ However, tying and untying a knot is not permitted, as these were among the thirty-nine “main work activities” (*avot ha-melachot*) to abstain from on the *Sabbath*.²⁶ There are two ways in which this gospel passage can be interpreted (since *Jesus* refers to a common practice also practiced by the Pharisee rabbis): either 1. this decree had not yet been adopted in the age of *Jesus*, meaning that the nature of the thirty-nine activities had not yet been so elaborated or made general; 2. or *Jesus* was not referring to knotted bridles (maybe people back then just wrapped the straps around a pole).

What is new, moreover, is that the healing here was not performed verbally, but by laying hands, which is even more problematic from the rabbinic point of view of violating the prohibition of labor. In this context, it is important to be aware that *Jesus* did not dispute anywhere that healing was a work activity, but his argument was based on the fact that healing – while indeed being work – overrules the commandment of the *Sabbath* rest. This is quite explicit in one passage where he was held accountable for healing on the *Sabbath*: “...The man went away and told the Jews that it was Jesus who had made him well. Therefore the Jews started persecuting Jesus, because he was doing such things on the sabbath. But Jesus answered them, My Father is still working, and I also am working. For this reason the Jews were seeking all the more to kill him, because he was not only breaking the sabbath, but was also calling God his own Father, thereby making himself equal to God. Jesus said to them, Very truly, I tell you, the Son can do nothing on his own, but only what he sees the Father doing; for whatever the Father does, the Son does likewise.”²⁷

Here *Jesus* makes it clear that healing is work that he can do on the *Sabbath* because actually it is *God* who performs it (because it is supernatural healing, not medical). The point of his argument is that if *God* himself “works” on the *Sabbath* for this reason, he can “work” too to do the same. *Jesus*’ argument is not unprecedented in rabbinical sources. *Shammai*’s school forbade patient visitation on the *Sabbath*, but *Hillel*’s allowed it, and the detailed provisions thereon (the visitor must cover himself and must not sit on the bed, nor on the chair, but on the ground, before the sick person below him) were justified by stating that the *Divine Presence* (*shechinah*) is above the head of the sick person, as it is stated: “God will support him on the bed of illness,”²⁸ and he must treat the *Divine Presence* with deference. On a similar note, *Ravin* said: “From where

24 Lukas 14:1–6. They differ from the above case inasmuch as *Jesus* does not heal here only verbally, but also by laying on his hands, which raises the issue of the violation of the prohibition of work somewhat more emphatically.

25 mShabbat 5:1,3,4, mBetsa 5:7, bEruvin 20b–21a.

26 mShabbat 7:5, bShabbat 74b.

27 John 5:15–19. *Vermes* and *Flusser* do not even discuss this passage thoroughly as they do not consider *John*’s Gospel historically credible at all. See, for example, FLUSSER, *Jesus* 19.

28 Psalm 41:3.

is it derived that the Holy One, Blessed be He, feeds the sick person during his illness? As it is stated: God will support him on the bed of illness.”²⁹ Therefore, visitors on the *Sabbath* had to greet the sick with the following formulae: “It is *Shabbat* when one is prohibited to cry out, and healing is soon to come;” “His compassion is abundant, and rest on *Shabbat* in peace;” “may the Omnipresent have compassion upon you and upon all the sick people of Israel.” This was not only true for immediate dangers to life. So if we wish these for the sick on the *Sabbath*, when the *Divine Presence* is hovering above their beds; if the *Eternal* sustains them on their sickbed on the *Sabbath*; and if *Jesus* was not healing by some physical/medical or magical practice, but, as the New Testament emphasizes, by faith in the *God* who heals on the *Sabbath* too, by the same faith the prophets had had, then the halakhic rejection of his healings was not justified.

I will now briefly summarize³⁰ what specific points of view clashed in these debates. The decisive difference from the Pharisees’ rabbinical position was probably that the latter were willing to accept healing on the *Sabbath* only in the case of danger to one’s life (or the slightest possibility of it),³¹ otherwise they did not accept it by any means – and in these gospel narratives this was not necessarily the case. In bYomah 83a, in connection with this *Misna* principle, the Amoraim (centuries after *Jesus*) were engaged in an in-depth debate about which diseases fall into the category of healing on the *Sabbath* and which do not. The decisive counterargument against *Jesus* seems to have been based on the fact that neither paralyzed („withered”) hands, nor being bent over, or dropsy posed the least threat to life. However, *Jesus* expressly uses the term „to save life / the soul” (*psykhen sōsai*), which virtually seems to be a translation of the words *piquach nefesh*; so, he either interpreted the situation as such, or wanted to refer to something more: to save one’s psyche and spiritual life through physical healing. So here we are really experiencing some difference from the *halakhah* about which we read in rabbinical documents.

The other argument of *Jesus* is a *qal va-chomer* type conclusion inferred from the licence to rescue an animal from a pit on the *Sabbath*. Although in bShabbat 128b we read that there were rabbinical restrictions on this, the biblical passage,³² which contains a prohibition on animal torture, was also interpreted in the *Talmud* as a suspension of the rabbis’ rulings and justified the rescue of animals on the *Sabbath*. Strack-Billerbeck notes that the gospels seem to indicate that this was the dominating view in the age of *Jesus*.³³ If so, the inference from the lesser to the greater is a sufficiently strong argument,³⁴ though it contradicts the then-accepted tradition.

29 bShabbat 12b.

30 Only briefly, because this is not closely related to my subject matter and because Strack and Billerbeck give a detailed overview of the problem together with all the relevant passages. See: STRACK – BILLERBECK, Kommentar zum Neuen Testament aus Talmud und Midrasch I, 622–630.

31 “Is it allowed for a Jew whose ears ache to heal them on the Sabbath? The Wise Men taught: Where only the slightest possibility of life-threatening danger is at stake, the law of the Sabbath is suspended. So, in the case of earache, if it is dangerous, it should be cured on the Sabbath.” (Devarim Rabbah 10:1) “[With regard to] one who suffers pain in his throat, one may place medicine inside his mouth on Shabbat, [although administering a remedy is prohibited on Shabbat. This is] because there is uncertainty whether or not it is a life-threatening [situation for him, as it is difficult to ascertain the severity of internal pain]. And a case of uncertainty concerning a life-threatening situation overrides Shabbat.” (bYoma 83a, with the subsequent pages containing the detailed debates on which diseases qualify and which ones do not.)

32 Exodus 23:5.

33 bYoma 83a.

34 It should be noted here that the applicability of the *qal va-chomer* rule to a law passed by tradition – not written in the *Torah* or derived from it – was disputed (bShabbat 132a). This, however, is the

In the end, *Jesus* concludes, „it is lawful to do good on the sabbath.” By saying so, he frees the *Sabbath* in general for good deeds, even if these good deeds are otherwise considered to be work. We can find rabbinical parallels to this as well. Around 90 CE *Rabbi Eliezer ben Hyrcanus* – who, on the one hand, was famous for never teaching anything he had not learnt from his masters, that is, he always represented an older tradition; and on the other, was brought to trial with the charge of being sympathetic to Christianity³⁵ – was of the opinion that any action performed in preparation of (that is, enabling) the fulfillment of a commandment suspends the *Sabbath*.³⁶ His position did not become dominant, and *halakhah* follows the opinion of *Rabbi Akiva*, who severely restricted this possibility. In any event, in the age of *Jesus*, the question may well have still been open.

In connection with this we can also mention the frequently occurring *Talmudic* principle that positive (active) commandments overrule negative (prohibitive) commandments when they conflict because the former are stronger than the latter. In this case, doing good to one person may be interpreted as stronger than the prohibition on the *Sabbath* work because „love your fellow man as yourself” is positive (and is highlighted by both *Hillel* and *Jesus* as the essence of the *Torah*!) as opposed to the prohibition.

All in all, we can conclude that *Jesus*’ healings on the *Sabbath* did not deny or invalidate the written *Torah* itself; however, they denied or invalidated, to varying degrees, its interpretation by the Pharisees, accepted then and later and found in the oral tradition (while the nature of *Jesus*’ argument was otherwise organically embedded in the world of oral Doctrine and even based on it), thus representing an alternative *halakhah* to that of the Pharisees. In fact, *Jesus* considered the Pharisees’ decision to be flawed, and challenged and tried to debate and refute it publicly.

3.2. The problem of carrying on the Sabbath

This problem is documented in a single passage, again, in connection with a healing performed on the *Sabbath*: “One man was there who had been ill for thirty-eight years. When *Jesus* saw him lying there and knew that he had been there a long time, he said to him, Do you want to be made well? The sick man answered him, Sir, I have no one to put me into the pool when the water is stirred up; and while I am making my way, someone else steps down ahead of me. *Jesus* said to him, Stand up, take your mat and walk (*peripatei*: walk around, to and fro). At once the man was made well, and he took up his mat and began to walk [around]. Now that day was a sabbath. So the Jews said to the man who had been cured, It is the sabbath; it is not lawful for you to carry your mat. But he answered them, The man who made me well said to me, Take up your mat and walk [around].”³⁷

Although the *Torah* does not expressly oppose carrying a load on the *Sabbath*, the *Tanakh*, as a whole, does: *Jeremiah*,³⁸ and in his footsteps, *Nehemiah*,³⁹ forbade such activities (at least the carrying of merchandize, burdens related to commerce, on animals to Jerusalem). Rabbinic literature forbids virtually all carrying for the *Sabbath* (though there are exceptions⁴⁰), unless we assume

law that strictly and exclusively applies, from the *Torah* (bShabbat 128b, Exodus 23:5).

35 bYoma 66b, tChullin 2:24, tYevamot 3:3-4, bAvodah Zarah 16a-b, 27b, Qohelet Rabbah 1:8.

36 bShabbat 131a-b.

37 John 5:5-11.

38 Jeremiah 17:19-27.

39 Nehemiah 13:15-21.

40 For example, “*Abaye* said: In all halakhic matters of the Master, *Rabba*, he conducted himself in accordance

that the act described as “*walking around, to and fro*” (*peripateuo*) was within the 4 x 4 *amot* area allowed to move objects on the Sabbath,⁴¹ which does not make much sense and is rather unlikely.

So once again, we must face the fact that *Jesus* did not follow a rabbinical rule. According to some Christian commentators, raising the bed and walking to and fro was part of the healing process (like ‘running in’ the healing body by faith); if this is so, *Jesus*’ instruction is more understandable and can be explained as a more liberal approach to the *piquach nefesh* principle; a suspension of the *Sabbath* rest for the sake of healing. Or, alternatively, the mat (presumably a bulrush mat or a blanket) was not a burden in *Jesus*’ view,⁴² that is, it departed from rabbinical regulation, but it did not breach the written *Torah* (which does not prohibit the carrying of one’s personal burden on the *Sabbath*).

The same event is later commented upon and interpreted by *Jesus* concerning his own act of healing (not carrying): “*Jesus answered them, I performed one work, and all of you are astonished. Moses gave you circumcision (it is, of course, not from Moses, but from the patriarchs), and you circumcise a man on the sabbath. If a man receives circumcision on the sabbath in order that the law of Moses may not be broken, are you angry with me because I healed a man’s whole body on the sabbath? Do not judge by appearances, but judge with right judgment.*”⁴³

Jesus’ position is clear. There is a rabbinical consensus that circumcision on the eighth day after birth – with all its preparatory work, according to Rabbi *Elazar* (unfollowed on this point by *halakhah*) – is to be performed on the *Sabbath*, even though it is considered work.⁴⁴ In this process, the wound can also be treated, in order to prevent further deterioration of health. To the question of why the prohibition on work on the *Sabbath* is suspended by the commandment of circumcision on the eighth day, two rabbis (*Ulla* and Rabbi *Yitzhak*) answer, “*This is a halakhah,*”⁴⁵ meaning they are not deducing it from the *Torah*. At the same point, the question is raised: “*From where is it derived that saving a life overrules Shabbat? Rabbi Elazar ben Azarya says it is derived from the mitzva of circumcision: Just as circumcision, which pertains to only one of a person’s limbs, overrules Shabbat, all the more so it is an a fortiori (qal va-chomer) inference that saving a life, which is a mitzva that pertains to the entire person, overrules Shabbat.*”⁴⁶ Rabbi *Elazar ben Azarya*’s argument is thus strikingly similar to that of *Jesus* – but both are rejected. However, the above argument for refusal is first related in the *Talmud* to Rabbi *Akiva* (whose explanation was also rejected on this basis) almost a hundred years after *Jesus*, so we do not know for sure whether this exclusionary rule was ever in place at the time of *Jesus*.

with the opinion of Rav, except these three where he conducted himself in accordance with the opinion of Shmuel. He ruled: One may light from one Hanukkah lamp to another lamp, and one may untie ritual fringes from garment to garment, and halakhah is in accordance with the opinion of Rabbi Shimon in the case of dragging. As it was taught in a baraita, Rabbi Shimon says: A person may drag a bed, chair, and bench on the ground, as long as he does not intend to make a furrow in the ground.” Rabbi *Shimon*, by the way, always takes an extremely liberal stance on issues related to the *Sabbath*. Similar passages on the carrying of one’s bed on the *Sabbath* see: bShabbat 44b, 45b–46a, 46b, 93b (someone carrying a person on a stretcher on the *Sabbath* is not guilty because the bed belongs to the sick person in this case – however, if he only carries the bed, he is guilty). However, in general, it was not allowed to carry one’s bed on the *Sabbath*.

41 bEruvin 45a, 48a.

42 On this, see: DERRETT, Why „bed”?

43 John 7:21–24.

44 bShabbat 131b–136a is all about this issue.

45 bShabbat 132a. The *Rashi* adds, “*It was given to Moses on Mount Sinai.*”

46 See also: bPesachim 81b, bNazir 57a.

3.3. The problem of ‘mud making’ on the Sabbath

This is also a case related to healing on the *Sabbath*: “When he had said this, he spat on the ground and made mud with the saliva and spread the mud on the man’s eyes, saying to him, Go, wash in the pool of Siloam (which means Sent). Then he went and washed and came back able to see. (...) Now it was a sabbath day when Jesus made the mud and opened his eyes. Then the Pharisees also began to ask him how he had received his sight. He said to them, He put mud on my eyes. Then I washed, and now I see. Some of the Pharisees said, This man is not from God, for he does not observe the sabbath. But others said, How can a man who is a sinner perform such signs? And they were divided.”⁴⁷

While they do not expressly state that they have an objection to mud making – obviously, they also found healing problematic – but we can suspect that this was interpreted as a violation of the *Sabbath* prohibition on work.⁴⁸ We can interpret this similarly to the previous case if we do not want to ignore Matthew 5:17–20: *Jesus* may have interpreted the concept of work more liberally than the tradition of the Pharisees; or, he felt entitled to disobey oral Doctrine for the sake of healing a sick person.

3.4. Plucking the heads of grain and rubbing the grain out on the Sabbath

This case differs from the previous ones in that no healing is involved here. The story is presented in all three synoptic gospels: “At that time *Jesus* went through the grainfields on the sabbath; his disciples were hungry, and they began to pluck heads of grain and to eat. When the Pharisees saw it, they said to him, Look, your disciples are doing what is not lawful to do on the sabbath. He said to them, Have you not read what David did when he and his companions were hungry? He entered the house of God and ate the bread of the Presence, which it was not lawful for him or his companions to eat, but only for the priests. Or have you not read in the law that on the sabbath the priests in the temple break the sabbath and yet are guiltless? I tell you, something greater than the temple is here. But if you had known what this means, ‘I desire mercy and not sacrifice,’ you would not have condemned the guiltless. For the Son of Man is lord of the sabbath.”⁴⁹

47 John 9:6–16.

48 Kneading is listed specifically as one of the thirty-nine “main work activities” in mShabbat 7:2 as the 39, and mixing a mass is prohibited in mShabbat 24:3. Neither should the body be anointed except with liquid fluids (mShabbat 14:4, bShabbat 108b). Moreover, there was some halakhic debate (spiced with some humor) about healing the eye on the *Sabbath*: “Rav Zutra bar Toviyya says that Rav says: With regard to an eye that rebelled, i.e., which is apt to pop out of its socket, it is permitted to apply blue eye shadow to it on Shabbat. The Sages initially concluded from this that this statement applies only where one had already ground the ingredients yesterday, i.e., on Shabbat eve, but if he planned to grind them on Shabbat, or to bring them through a public domain, it would not be permitted, as this would constitute a desecration of Shabbat by Torah law. To dispel this notion, one of the Sages, named Rabbi Ya’akov, said to them: This matter was explained to me by Rav Yehuda, who said that even if he plans to grind the ingredients on Shabbat and bring it through a public domain, it is permitted. The Gemara relates that Rav Yehuda permitted someone to apply blue eye shadow to the eye on Shabbat. Rav Shmuel bar Yehuda said to the Sages: One who adheres to the ruling of Yehuda desecrates Shabbat. Ultimately, Rav Shmuel bar Yehuda himself suffered pain in his eye. He sent a message to Rav Yehuda, asking: Is it permitted or prohibited for me to treat my eye on Shabbat? Rav Yehuda sent back to him: For everyone else, it is permitted; for you, it is prohibited...” (bAvodah Zarah 28b) However, *halakhah* is generally of the position that eye healing, like all other healing, is allowed on the *Sabbath* if there is an imminent danger to life, or there is a risk of further deterioration of one’s health, otherwise it is not. See also: FLUSSER, *Jesus* 62.

49 Matthew 12:1–8. See also: Mark 2:23–28 and Lukas 6:1–5.

Jesus himself did not pluck or rub the heads, nor eat the grain, and thus, in the strictest sense, he remained unblemished. However, he defended his disciples' activities, which the Pharisees said was a violation of the Sabbath prohibition on work, and he did so on the basis of a total of four arguments, declaring them too sinless; of these, the first three come directly from Scripture, while the fourth is exemplified by rabbinical tradition itself: 1. An example of *David's* apparent (?) breach of the Law; 2. the invalidity of the *Sabbath* prohibition on work in the Temple (from which, again, he derives his freedom through the use of *qal va-chomer*); 3. the prophet *Hosea* ranks the exercise of mercy over sacrifice; and 4. the son of man is lord of the *Sabbath*, because the *Sabbath* is for man, and not the other way around.

I will also briefly review this problem in both the written and the oral Doctrine. The rabbinical position was that on the *Sabbath*, plucking and rubbing the ears of corn was work in the sense of the classification that was generally used to determine the exact validity of the *Sabbath* prohibitions. According to this classification, on the *Sabbath* it was forbidden to do all that was to be done in the construction and daily service of the Sanctuary.⁵⁰ This included, according to traditional calculations, thirty-nine main types of work activities (*'abot melachot*), but according to the concept of "*building a fence around the Torah*,"⁵¹ these were supplemented with minor work activities including plucking and rubbing corn that was not regarded as stealing,⁵² so in the Pharisees' view, the disciples' actions may even have called for stoning.

On the other hand, *Sabbath* is to be called "enjoyment", and "pleasure,"⁵³ which is hard to reconcile with hunger (and so is rest). Therefore, on this day, according to rabbinical regulation, it is necessary to eat three times a day,⁵⁴ as the *Sabbath* is to be honored with proper eating, drinking, and nice clothes; whereas fasting is forbidden.⁵⁵

Jesus' first argument is based on a scene from *David's* life, who, while escaping from *Saul*,⁵⁶ was given the *lechem ha-panim* ("show-bread") by the high priest, and he ate, and even gave to his companions, though he was not allowed to do so according to the *Torah*.⁵⁷ The *Talmud* tries to acquit *David* of his deed,⁵⁸ but again the decisive factor is the *piquach nefesh*, the principle of the protection of life.⁵⁹ *Misna* allows eating, even eating unclean food, and even on *Yom Kippur*,

50 mShabbat 7:2, bShabbat 49b., Mechilta Shemot 35:1 (110b), Baba Qammah 2b.

51 mAbot 1:1.

52 Deuteronomy 23:25, jShabbat 67, bShabbat 8, mEduyot 2:6, mMa'asrot 4:5, Beitzah 12b, 13b. *Flusser* is unable to solve the problem: in his view, rubbing grain from ears of corn on the *Sabbath* was indeed a breach of the Law, and therefore it could not have happened, but the translator to Greek mistranslated the original text. I disagree with his position.

53 Isaiah 58:13.

54 bShabbat 117b–119b (and countless other places).

55 bTa'anit 27b.

56 1 Samiuel 21:1–6.

57 Leviticus 24:8–9, 21:22.

58 bMenachot 95b–96a.

59 The *Rashi* comments on this (to bYoma 83a) that they were overwhelmed by *bulmos*, hunger near fainting; that is, there was an immediate danger to life, so they could eat it from the holy bread. (However, this connection was only made in the Middle Ages, the *Talmud* had not arrived at this conclusion. It is unlikely that *David* and his men were in a state of *bulmos* all at the same time. It was also possible that persecution and escape made nutrition vitally important for them.)

if someone is caught by an attack of *bulmos* (wolfish appetite, bulimia, from Greek *bulimos*),⁶⁰ “until his eyes recover”;⁶¹ and the *Gemara* on this attempts to define the contents and characteristics of this concept in many ways,⁶² but the conclusion is certainly that the prohibition on eating is removed because there is a risk of health loss (fainting) due to such kind of hunger. The Gospels contain no reference to how hungry the disciples were, nor does *Tanakh* – or even rabbinic literature – indicate how hungry *David* and his companions were. In any case, the decision of *Jesus* – or *David* – may have been correct in the eyes of the Pharisees only if they were all in a state of near fainting, which is unlikely. However, it is quite possible that the issue was not regulated in such detail at that time, so the details were still open for debate.

Jesus’ second argument drew attention to the fact that priests in the Temple do not keep the *Sabbath*, because the *Torah* requires them to work on offering sacrifices, twice as often as on weekdays. This is also made clear in rabbinic literature: “there is no *Sabbath* work prohibition in the Temple.”⁶³ *Jesus* also claims, “something greater than the Temple is here,” so referring to his Messianic nature, he again applies the *qal va-chomer* rule to substantiate that his disciples can do in the ministry of the *Messiah* what the priests did in the ministry of the Sanctuary. Rabbinic literature also considers it evident that the *Messiah* is larger than the Temple; this is indisputable. *Jesus* considered his body as a temple, which is expressly revealed in the New Testament.⁶⁴ Psalm 110, interpreted by the *Targum* and several midrashim as Messianic in content, calls the *Messiah* a priest of the order of the *Malchizedek*, and the New Testament proves – using rabbinical argumentation – that this priesthood is superior to the Aaronic priesthood,⁶⁵ since *Abraham*, *Aaron*’s forefather, paid tithes to *Malchizedek*. Thus, the *Messiah* is greater than *Aaron* and his sons, so his activity is greater than that of the Aaronic priests; and if “there is no *Sabbath* work prohibition in the Temple,” this is much more the case for the service of the *Messiah*. As such, *Jesus* did indeed place himself as the *Messiah* and his disciples above the *Sabbath* – as he later concludes saying that “the Son of Man is lord of the *Sabbath*” – but that does not mean an overall annulment of the commandment of the *Sabbath* rest, nor does it imply that *Jesus* did not keep the *Sabbath* in this particular, minute detail, but it means that, while interpreting the commandment of the *Sabbath* rest, he has the right to make this decision so that his disciples may enjoy eating and this well-being at the price of doing activities that the written *Torah* does not expressly prohibit, only the oral Doctrine does, and admittedly, only as an element of the “fence built around the *Torah*.”⁶⁶

Jesus’ third argument is based on Hosea 6:6: *God* desires love and mercy (*chesed*), not sacrifice. For the disciples, being hungry on a *Sabbath* would not have been joyful but sacrifice and anguish; the question is whether this would have amounted to keeping the day holy. Thus, *Jesus* ruled that in this situation, one had to choose well-being instead of starvation, and this partially suspended the prohibition on labor, provided that plucking and rubbing the grain was

60 bYoma 83a.

61 Cf. 1 Samuel 14:28–29.

62 bYoma 83a–b.

63 bPesachim 65a.

64 John 2: 19–22.

65 Hebrews 7:1–28.

66 Concerning the various “minor” or “sub-work” activities of the “major” or “main work” activities, which cannot be performed on the *Sabbath*, the *Misna* notes that a very large number of rules relating to this have a minimal biblical basis; they “are as mountains hanging by a hair, for they have scant scriptural basis but many *halakhot*.” *Dee*: Chagigah 1:8.

work in the first place, which, as we have seen, was defined as such only by rabbinical ordinance (probably after the age of *Jesus*). It seems that in *Jesus*' interpretation, Scripture (with the quote from *Hosea*) overrules the rabbinical provision defining the minor 'sub-activities' of work because "*a matter prohibited by Torah law (de-'orayta')* comes and overrules a matter prohibited by rabbinical law (*de-rabbanan*)."⁶⁷

Jesus' fourth statement is that the *Sabbath* was made for humankind, and not humankind for the *Sabbath*; so, the Son of Man is lord even of the *Sabbath*. The term Son of Man here can be interpreted generally as referring to a person or the speaker, but it can also be interpreted as a messianic name.⁶⁸ Taking into account its former meaning, *Jesus*' sentence means that people are free to determine the specific meaning of the *Sabbath* and thus their proper conduct in a given situation, on the principle that *Sabbath* rest is for the benefit of people and not the other way around. An example of this way of thinking is also found in rabbinic literature with regard to the Law.⁶⁹ Interpreting the term Son of Man as a Messianic name, the sentence implies that the *Messiah* is entitled to this interpretation, that is, the definition of *halakhah*. This reading is narrower in scope compared to the former, for in this case other people have no right to a more liberal interpretation, only the *Messiah* is, or – in yet another interpretation – a messiah is, that is, an anointed prophet, king, or priest. In the latter case, the reference to the above deed of *David* does not entitle every human being, even in life-threatening situations, but it grants a prophetic, royal, or priestly privilege. In view of this latter meaning, *Jesus* actually drew attention to *His* own messianic nature and, therefore, exercised his right to change *halakhah*. From the point of view of our subject matter, it is not necessary to decide which of these versions we regard as valid, so this question can be left open.

4. Summary: a broad interpretation of the principle of protection of life

Based on the above, we can safely state, in general terms, that *Jesus* did not claim anywhere that healing, plucking, rubbing, making mud, or carrying a load were not to be considered as work; in fact, in one passage, healing was expressly classified as work. His argument, therefore, was not based on confuting the rabbinical definition of work,⁷⁰ but on the notion that he, his disciples, and (in one instance) the actions of the healed, suspended the *Sabbath*. In all cases, this was expressly or implicitly derived from the principle of *piquach nefesh*, the principle of the protection of life, yet in a much broader interpretation than that of the Pharisees, his counterparts. In fact, not only did he see the need to suspend the *Sabbath* in the event of imminent danger to one's life or the risk of further deterioration in one's health, but also when it came to restoring existing damage to health or even to alleviating hunger. This position is remarkably different from that of the rabbinical one, but in theory, it is easy to justify: these are the ways for a sick or hungry person to make the *Sabbath* a truly enjoyable holiday, thus guaranteeing the actual sanctification, joy, and peace of the

67 bShabbat 128b.

68 Although the latter is disputed by *Vermes*, he can only substantiate his argument here by eliminating several passages on a historical-critical (not text-critical!) basis, which is not a method that can be used in my frame of reference. Therefore, while retaining the texts excluded by *Vermes*, the duality of the term Son of Man is retained: it is both a general subject and a Messianic title. See: *VERMES, Jesus the Jew* 160–186.

69 *Mechilta de Rabbi Ishmael* on Exodus 31:14, quoted by *FLUSSER, Jesus* 62.

70 From the point of view of the *Sabbath*, it does not matter whether it is a minor or a major work activity.

Sabbath. Applying halakhic argument, we could even say that keeping the *Sabbath* holy, which is pronounced earlier and as a positive command in the *Ten Commandments*, overrules the prohibition of labor coming two sentences later, and as a negative commandment.⁷¹

Although *Jesus*, or the New Testament makes no reference to it, this notion could be supported – as an *a posteriori* reconstruction – by the following passage from *Isaiah*: “Whom will he teach knowledge, and to whom will he explain the message? Those who are weaned from milk, those taken from the breast? For it is precept upon precept (tsaw le-tsaw), precept upon precept, line upon line, line upon line (qaw le-qaw), here a little, there a little. Truly, with stammering lip and with alien tongue he will speak to this people, to whom he has said, This is rest (menuchah); give rest (hanichu) to the weary (le-’ayef); and this is repose (marge’a); yet they would not hear. Therefore the word of the Lord will be to them, Precept upon precept, precept upon precept, line upon line, line upon line, here a little, there a little; in order that they may go, and fall backward, and be broken, and snared, and taken. Therefore hear the word of the Lord, you scoffers who rule this people in Jerusalem...”⁷²

The part I have highlighted can easily be read in reference to the content of the *Sabbath*: according to this, the essence of the *Sabbath*, the tranquility it confers, naturally implies that the weary are rested. The sick and the hungry can recover when they are healed or properly fed. I think this reasoning would not be far from *Jesus*’ way of thinking. It is interesting that the above prophetic text mentions the meticulous legal regulation regarding the exact meaning of rest, which, however, can become an authentic intellectual trap or a cause for stumbling. Perhaps it is not improper to imply that the Nazarene – often disagreeing with the Pharisees and accusing them of similar over-regulation⁷³ – could well have referred to this text too. Remarkably enough, the last sentence of the passage quoted from *Isaiah* was paradigmatic in the Qumran community, which clearly identified the “scoffers” mentioned here with the members of parties of the Pharisees and Sadducees/Zadokites, in utter condemnation of the latter.⁷⁴

At the same time, we must also recognize that *Jesus*’ above arguments contain several elements that are impossible or difficult to interpret without the oral Doctrine. It was only after the *Maccabean* wars that the principle of *piquach nefesh* came into the spotlight in relation to the *Sabbath* prohibition on labor, and although it can be inferred from Scripture, it was oral Doctrine to expressly state its power to suspend the *Sabbath* prohibition. The same can be said about *qal va-chomer*. If *Jesus* had been following a Zadokite – or better to say, a ‘proto-Karaite’ – mentality, categorically rejecting oral Doctrine, not only would he not have used such a typically halakhic argument, but he could not have suspended the *Sabbath* at all, because in such a scenario he should have observed the *Torah*’s commandment mechanically, to the letter.

71 The *Talmud* sometimes uses the rule that positive / active commandments are stronger than negative / prohibitive commandments when in conflict; and sometimes it posits that the stronger of two equally powerful commandments is the one that came first. Following this principle, the *Sabbath* commandment overrides the *Sabbath* rest order according to the Talmudic reasoning proposed by the famous German reformed rabbi, *Samuel Holdheim*. See: Encyclopaedia Judaica, entry “Halakhah,” “Various ‘Reform’ Perspectives”. Of course, it would be an inappropriate anachronism to attribute a modern, reform Jewish line of thought to *Jesus*, but the logic behind it in this case is typically Talmudic.

72 Isaiah 28: 9–13. Interestingly, I have not been able to locate any commentary on this section in rabbinic literature.

73 Matthew 23:1–24.

74 The 4Q162 Commentary on Isaiah, 2:6–10; Damascus Document 1:14–18, 4:19.

Moreover, I believe the other above statement is also crucial; that is, the fact that *Jesus* derived his conception on the *Sabbath* from his messianic consciousness. By considering the *Messiah* and his ministry greater than the Temple and its ministry – applying, again, the *qal va-chomer* rule –, he demonstrated that he could continue his Messianic activities on the *Sabbath*, just like priests could work without any limitation on the *Sabbath* around the sacrifices on the *Sabbath*. He thus freed himself and his co-workers, at least in terms of carrying out good deeds, to do ‘messianic work’ on the *Sabbath* (which is aimed at granting rest to others). However, this reasoning obviously does not apply to activities out of the scope of ‘messianic activities;’ that is, to profit-making, or everyday work, nor does it apply to people who are not engaged in such ‘messianic activities.’

Therefore, my final conclusion regarding the relationship between *Jesus* and the *Sabbath* is – as I have already formulated in the Introduction – that *Jesus* adopted a selective, critical, and creative approach to oral Doctrine, neither fully accepting nor wholly rejecting it. It is clear, however, that he did not intend to invalidate or break the written *Torah*’s commandment of keeping the *Sabbath* holy, but he strove to keep it truly holy, to make it joyful and a source of complete enjoyment (*‘oneg Shabbat’*)⁷⁵ for himself and for others. He firmly expressed and defended this position, regularly and publicly, denouncing the different interpretations of the Pharisees and committing himself to the serious conflicts that would ensue.⁷⁶ Although, for that matter, *Jesus* was not condemned by rabbinic literature for breaking the *Sabbath*.

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⁷⁵ Isaiah 58:13.

⁷⁶ According to the strictest rabbinical position, anyone who interpreted the *Torah* differently from the accepted halakhah committed a deadly sin (see, for example, bSanhedrin 99a) – although this concept may have been developed after *Jesus*’ era and may have been valid only for the provisions passed by the Jerusalem Sanhedrin (which *Jesus* recommended for acceptance), not for other rabbinical decisions.

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