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TOWARDS AN ETHICAL THEORY OF JUDAISM

Judaism, conceived as a religion whose primary sources are the Bible and the Talmud, contains much that is considered today to be moral teachings. This article analyzes the understanding that the biblical writers and the Rabbis might have had of these teachings, and concludes that there is reason to believe that their view is commensurable with our own.

While these sources imply the centrality of moral teachings, there is no medieval Jewish thinker who develops an "ethical theory" indicating the special role of morality. This article attempts to explain why this is so, and concludes with an outline of a possible ethical theory of Judaism.

I suppose that the only noncontroversial observation you can make about the ethical theory of Judaism is that there isn't any.¹ This is rather surprising in that Judaism has been around and studied for some time, and is generally considered to be quite sensitive to the moral dimension. One would expect that at least some of its major thinkers, writing from within the tradition, would have thought it necessary to analyze the special nature and significance of morality and its place within the Jewish religion.

But what is *ethical theory* and how does it differ from a *moral code*? The latter has an "overtly regulative character" and includes rules enjoining or forbidding selected types of actions, selected character traits, and particular patterns of ends and means. That Judaism contains a moral code in this sense seems indisputable. Ethical theories, on the other hand, are more reflective and attempt to understand questions such as: "What is morality?" An ethical theory "provides an analysis of the basic concepts and methods of morality and an explanation of the relations of morality to the fuller context of human life: to man, to God, and to the world."²

Why is it that Jewish thinkers have not explored this seemingly important area? Before we can attempt an answer we must ask an even more fundamental question. Is it possible to enter into a dialogue with a 3,500 year-old cultural

tradition over a concept which is not completely clear even to moderns, and which may have been completely unintelligible to our ancestors? To put the question more precisely: What is *our* conception of morality as we ask this question and what might have been the biblical writers' understanding of those rules and principles that we consider to be a part of its moral code? Was *their* understanding of these rules and principles in any way commensurable with our own?

Let us propose a definition of morality which is limited to its verbal expression considered as a subspecies of natural languages and which has its own vocabulary, function, and logic.³ As such, it is neutral to the major issues in philosophical ethics such as the nature of values, the subjective/objective and the absolute/relativistic dichotomies.

Judgments using approval or disapproval terms such as "good" and "evil," "right" and "wrong," "ought" and "ought not," are to be deemed "moral" when they are thought to be judging individuals not as citizens (bound by certain laws), or as residents of a certain locality (bound by certain customs), or as participants in a particular activity (bound by rules of a game or professional etiquette), but simply as human beings *qua* human beings.

Thus, moral codes may differ in substance, i.e., as to what actually is a moral good and moral evil. However, they may be considered to be dealing with the same subject matter, i.e., they are *moral* codes in that they recognize the special nature of morality, i.e., behavior and character traits appropriate to human beings as human beings.

Can we say that the Bible recognizes certain of its teachings as "morality" in this sense? I would answer in the affirmative, and in support offer the following arguments:

In its account of the first 20 generations of human history, the Bible describes God as judging the behavior of human beings and holding them responsible for actions in areas we would call "morality."⁴ Yet, during this entire period there is no condemnation of idolatry although it is clear from what occurs later that idolatry was rampant. The implication is that while idolatry is a "great mistake"⁵ and a tragedy, in that it consigns man to a life without God, it is not something for which, in those particular circumstances, men are to be punished. Nor was it the reason why God "grieved and had regrets" about His creation.⁶ Also, while the Bible is tolerant of certain practices of the Patriarchs which will later be prohibited by Sinaitic legislation,⁷ it holds all human beings from the beginning of history responsible for observing the principles of justice and righteousness. If, therefore, it is primarily the violation of *these* principles

that engenders God's "regret" and disappointment with Creation, does this not suggest that the Bible believes justice and righteousness to impinge upon the very nature of the human being and, therefore, qualify for what we would call "morality"?

MORAL AGENCY AND THE IMAGE OF GOD

If, according to our definition, morality deals with principled behavior which is "appropriate to a human being as such," then it might be instructive to ask what is Judaism's view of man? It is, of course, encompassed in the well-known statement: "And God created man in His own image (כצלמו), in the image of God did He create Him; male and female He created them."⁸

There is nothing explicit in the Bible as to the precise meaning of "image of God." However, from the general context a number of inferences are legitimate. Coming after a detailed account of the Creation starting with the simpler orders of life: vegetation, marine life, reptiles, flying creatures and animals, the designation of "man" as a creature formed in the "image of God" implies that it is this which constitutes man as a unique creature different from all the others that preceded him. If so, then by empirical examination we might subtract "animal" from "man" and consider the "remainder" to be the contribution of the "image of God."⁹ In thus asking what makes man "different" (really "superior") from the beast, we may arrive at a minimal but probably consensual list of attributes: use of language and conceptual thinking, self-consciousness, sense of identity, free-will, superior intelligence and a moral sense (the fact that I am a "human being" with the above attributes obligates me to a special kind of behavior). But these are precisely the necessary and sufficient conditions to make one a candidate for moral experience. Thus, to say that every human being is created "in the image of God" is to say that every human being is a potential moral agent which implies that: 1. all human beings have and intuit a natural *obligation* to behave morally; and 2. all human beings, by that fact alone, *deserve* moral treatment.

Textual evidence of the connection between morality and the "image of God" is to be found in God's instructions to Noah: "Whoso sheds man's blood by man shall his blood be shed; for in the image of God made He man."¹⁰ The latter part of the verse "explains" the first part. The fact that man is created in the "image of God" makes him a moral agent, *capable* of acting morally, *obligated* to act morally and, if he doesn't, *accountable* for his deeds. Hence, "he who sheds man's blood...shall his blood be shed."

But for a person to be a moral agent and to be held responsible for his actions, it is necessary that he not only have a vague sense that, as a human

being in certain situations, there are some kinds of actions, some character traits that are appropriate (morally right) and others that are inappropriate (morally wrong), but also that he know in a rather specific way what these actions are. Thus, if God condemns Cain for having murdered his brother and the generation of the Deluge for their "violence" and "corruption," then we must assume that these people had the requisite moral knowledge, i.e., that they *knew* that those actions were wrong.

But *when* and *how*, according to the Torah, did human beings acquire this knowledge? From Genesis 3:22, it appears that whatever happened in the Garden of Eden is relevant to this question.¹¹ However, as the entire story seems to be a metaphor for some metaphysical teaching, we would do well to pick up the story after man emerges from Eden, i.e., with the historical *homo sapiens*. From that point on, the Bible simply assumes that people know what is morally right and wrong, have the ability to choose the right and, therefore, are held accountable for their choices. Genesis 9:6, quoted earlier, can be seen as a direct prophetic imperative to Noah, and was included by the Rabbis among the Seven Noahide Laws.¹² However, this entire concept of the Seven Noahide Laws itself is best understood within an ethical theory which sees the Bible as teaching an *intuitive* morality, i.e., that human beings are naturally endowed with certain moral sentiments which enable them to distinguish between the morally approvable and that which is not, and to experience the *reprehensibleness* of murder, stealing, incest, causing unnecessary pain to people and animals, and the *obligatoriness* of establishing law and order, of meting out justice and righteousness.¹³

What supports this is the fact that nowhere in the Bible, either before or after Sinai, are we given a definition of these important principles, "justice and righteousness" (צדק ומשפט), and how they differ, if at all! There seems to be the assumption that the mere mention of these terms will be sufficient for their meanings to be grasped by the reader. The teachings of the Bible clearly presuppose an intuitionist ethical theory but not only on textual evidence. For what alternative is there? Surely mankind could not wait for the Sinai revelation to discover how to behave! Besides, the Ten Commandments, designed to express the covenant between God and a particular people, does not seem to have been directed toward mankind as a whole, at least not in the first instance. Nor is there anywhere in the Bible the suggestion that the rules and principles of morality were invented by men or discovered on the basis of their social utility.

This conclusion, that the primary elements with which the "image of God" endows man are those making for moral agency, directly confirms another principle of Judaism: that God is a moral God not only in the sense that His

actions are always in accordance with the principles of justice and righteousness but also in the more radical sense that moral values, in a form appropriate to God, are resident aspects of God's "personality."¹⁴ This is seen in the revelation to Moshe on Mt. Sinai after the tragedy of the Golden Calf and the smashing of the first Tablets: "And the Lord passed before him and [the Lord] proclaimed: The Lord, the Lord, God merciful and gracious (רחום וחנון), long suffering, abundant in kindness and truth..."¹⁵

IMITATIO DEI AND THE MORAL CONNECTION

It is this moral connection between man and God that now becomes the basis for that unique and sublime teaching in Judaism of *Imitatio Dei*.¹⁶ The image (צלם) has given man the possibility to become *like* unto (רמות) the moral God. "As he is merciful so shall you be merciful (virtue morality). As He buried the dead, so shall you bury the dead (act morality). As He is holy, so shall you be holy." Once it has been disclosed that the "way of the Lord" is to do righteousness and justice, then it becomes appropriate for man to be commanded "to walk in His ways."¹⁷

If the Bible's concept of man focuses primarily on his being a creature capable of moral action, then it follows that morality is indeed behavior appropriate to human beings as such. But going beyond that, the Bible provides a theological explanation as to why man happens to be the way he is. This means that, in Judaism, morality is ultimately grounded in God and possesses religious significance.¹⁸

But, if our analysis is correct and morality is indeed central to the very concept of man and constitutes the way by which man draws close to God, why was this important truth not made explicit in the Torah? Not doing so has resulted in all sorts of distortions and misconceptions! The very least that might have been expected was that moral rules and principles be listed separately and differentiated from ritual commandments pertaining to cultic worship of God. It is, however, clear from even a casual reading of the main collections of *mitzvoth* in the Bible that a deliberate policy of intermixing the various types of commandments has been followed.¹⁹

Biblical usage and etymology bears out the rabbinic observation that the term משפטים, translated as "judgments," refers to rules confirmed by common sense or as socially useful, while חוקים, rendered "statutes," denotes cultic or ritual rules. Indeed, moral rules are as a matter of fact generally subsumed under the term משפטים. However, here again the Bible in its general exhortations never emphasizes one over the other, or even consistently places one term before the other. What we evidently have here is a deliberate policy to place moral and

cultic demands on the same level in terms of their authority and their origin in God.²⁰ This was necessary in the light of the contemporary pagan belief that the gods had no real interest in morality. For the pagans, the proper rules by which human society was to be governed were to be found in the realm of wisdom rather than in prophecy or religion. The radical new concept that the Torah introduced was that the one transcendent Creator, God, was vitally concerned with and, in some sense, "affected" by the way men dealt with each other — not only because God who is good seeks the good of others, but because the realization of moral values in the world increases the presence of Divinity and enhances the power and quality of the Holy. Thus, the reason for intermixing the judgments and the statutes, the moral precepts and the ritual commands, in the time of the Torah was to raise the moral precepts in the mind of the reader to the religious level of the ritual, i.e., that morality too is religious, that this too brings one into communion with God.

However, at a number of points in the Torah we have evidence that the primacy of the moral over the ritual was recognized:

In his farewell address, Moshe hurls the following challenge at his people: "And what great nation is there that has statutes (חוקים) and judgments (משפטים) so righteous (צדיקים) as all this law (תורה) which I set before you this day?"²¹

Of course, says Moshe, other peoples, such as the Hittites and the Babylonians, have laws and statutes as well. In this you are not unique. But only you, Israel, have statutes and judgments that are *righteous*! Here the moral principle of צדק, whose meaning is presumably self-evident, is proposed as an objective criterion by which the law codes and religious rituals of different cultures, including the Torah, are to be compared and judged.

That most celebrated document, called the Ten Commandments but referred to in the Bible as the Ten Words of the Covenant,²² constitutes the essential terms or conditions of the relationship between God and the People of Israel. Clearly, these words inscribed on stone tablets were meant to *represent* in some sense the totality of the demands, all of the 613 precepts that God requires of the people. They might be construed as principles from which the other rules are to be deduced, as chapter headings under which the others are to be subsumed, as a representative sampling, as a model in miniature of the entire Torah. But, regardless of how one sees the relationship between the Ten Commandments and the rest of the Torah, the very fact that of the Ten Words of the Covenant (of which only nine have operative clauses), six are clearly moral in nature and appear together as a unit, says something significant about the centrality of the moral component in the Bible.

THE INTRINSICALITY OF MORAL VALUE

As society developed in the Kingdoms of Israel and Judea, and economic changes gave rise to inequalities and social abuses, the later Prophets, in their, exhortations and chastisements, were compelled to address the contemporary reality in which, apparently, Fast Days, Holidays and the Temple service were generally respected, but basic moral demands of justice and righteousness were ignored. In their attempt to shock the people into a realization of their distorted sense of values, the Prophets cried, in the name of God:

“For I desire mercy and not sacrifice, the knowledge of God rather than burnt offerings” (Hosea, 6:6).

“I hate, I despise your feasts and I take no delight in your solemn assemblies.... But let justice well up as waters and righteousness as a mighty stream” (Amos 5:21,24).

“Saith the Lord: I am full of the burnt-offerings of rams and the fat of fed beasts....

Yea when you make many prayers, I will not hear: Your hands are full of blood....

Seek justice, relieve the oppressed. Judge the fatherless, plead for the widow....” (Isaiah 1:11-17).

It is of course clear that the Prophets did not come to declare that the Holiday and Temple service ought to be replaced by moral behavior or that, once people were moral, the Temple service was no longer necessary. Instead, they wished to point out that sacrifices and Temple worship could not compensate for unrepentant immoral behavior, and that worship by an unregenerate sinner is an abomination.

However, whether intended or not, such declarations in effect acknowledge a certain important distinction between moral and ritual commandments, namely, that moral commandments have *intrinsic* value, while ritual commandments have only *instrumental* value. In order to see this let us imagine a sort of reversed situation, a society in which morality is being meticulously observed whereas sacrifices and Temple service are being neglected. Is it conceivable that anyone would arise and preach in the name of the God of the Bible: “I am full of your mercy and kindness.... I hate and despise your acts of justice and righteousness, for you have neglected my burnt offerings and my solemn assemblies.” In Judaism this is inconceivable, yet the reverse was plainly declared by the Prophets!

This is so because acts of kindness, justice, and righteousness, if that is what

they indeed are, can never be rejected regardless of motivation and whatever else the individual may or may not have done. Such acts of morality are of *intrinsic value*, good of and by themselves, while cultic acts are valued not because of themselves but only because of what they represent, what they can bring about. Therefore, if these cultic acts are not done properly, with the right intentions, with "clean hands," with a repentant, humble spirit, with a sense of subservience to God, then they cannot have the desired effect and, as such, are worse than worthless.

MORALITY AND THE RABBINIC TRADITION

Let us now consider whether the Talmudic Rabbis related to morality in a manner which preserved the biblical insights. They, of course, affirmed the doctrine that biblical legislation in its entirety, ritual and moral, by virtue of its divine origin, is equally and unconditionally authoritative. On the practical level they warned against the consequences of grading the precepts: "Be heedful of a light precept as of a grave one for you know not the reward of the precepts."²³ In applying their special method, *midrash halakhah*, to the legal portions of the Bible, they worked with equal diligence on the moral precepts as on the ritual ones. However, the process of halakhic elaboration often necessitated the making of material distinctions among the commandments, such as between "Thou shalt" and "Thou shalt not," classification of precepts according to the degree of punishment assigned to them by the Torah, commandments between man and man and those between man and God. Thus, the Rabbis were led to articulate the distinction between *חוקים* and *משפטים* which had only been implicit in the Bible, and to notice and appreciate the different nature of the moral precepts. For example, it has been pointed out that in elaborating the ritual commandments the Rabbis used a policy of contraction, restricting the law to the precise conditions mentioned in the text. Whereas, in regard to precepts between man and man or the moral *mitzvot*, the Rabbis used a policy of expansion, i.e., they widened the scope of the law, since they understood the guiding moral principle behind the precept.²⁴

It is well known that the Rabbis did not "do" philosophy in the analytic and systematic manner of the ancient Greeks. Instead, in the area of *midrash aggada*, they formulated their insights in terse and pithy maxims which nevertheless showed their capacity for abstract conceptual thinking. Unfortunately, however, "there is never an attempt to combine isolated conclusions into a coherent framework"²⁵ or to follow through systematically on the implications of the individual teachings. Unlike the Bible, which contains primarily the content of the religious consciousness itself, the Talmud begins to treat certain biblical

ideas and precepts as objects of theoretical reflection; the Rabbis begin to consider them philosophically. One of these is the area of the moral precepts. What we have, therefore, in some of the rabbinic teachings is actually the beginning of an ethical theory. Consider the following discussion:

“Thou shalt love thy neighbor as thyself,” this is a great principle of the Torah (כלל גורל כחורה). Thus said Rabbi Akiva. Ben Azzai said, there is a principle that is even greater: “This is the book of the generations of Adam...in the likeness of God made He him” (Gen. 5:1).²⁶

Rabbi Akiva seems to be saying several things. First, he is pointing out that this particular precept is a *principle*, i.e., given in general terms (כלל). This means that although an imperative, the precept, of and by itself, does not call for any particular action. However, as a general principle it can be used as a criterion to test the morality of any number of particular acts. Thus, anyone wishing to observe this moral principle would feel obligated to visit the sick, invite the hungry, bury the dead, help the poor as he would certainly wish others to do the same for him. Rabbi Akiva also says it is a “*great principle*” or as it seems from Ben Azzai’s remark, “*the great principle*.” This is not to be taken as a value judgment but as a statement about the extent of its generality. For while a precept such as “Righteousness, righteousness shalt thou pursue...” is also a general principle (כלל) in that it is relevant to any number of different situations and mandates any number of different actions, it is restricted to a particular content, i.e., the moral principle called “righteousness,” the precept of “Love thy neighbor” is a completely formal principle urging a single moral standard for the self and the other.²⁷

Rabbi Akiva has, in effect, discovered a most important characteristic of moral experience, namely, that it presents itself to consciousness as a general principle and must be capable of universalization. Because moral experience is primarily intuited as general principles, morality can be taught and learned, particular moral judgments can be justified by appeal to principle, moral rules can be related to moral principles as particulars to universals, making possible moral reasoning and giving to morality the possibility of logical structure. A “*great principle*” indeed! The fact that Rabbi Akiva calls this “the Great Principle of the Torah” even though we are only talking about the moral precepts, again reflects the primacy of morality in Judaism.

Ben Azzai disagrees with Rabbi Akiva and claims that there is in the Torah a general principle that is “even greater than” (more general than) “Thou shalt love thy neighbor.” The verse cited by Ben Azzai is not even a precept in the imperative voice, and merely refers to the fact that man was created in the “likeness of God”! However, the key to understanding Ben Azzai lies

in the fact that he reaches out to Chapter 5 in Genesis for his source that man was created in the image of God! If that alone was what he wished to teach he could have found it in Genesis 1:26 and 1:27! But it is only in Genesis 5:1 that Ben Azzai finds the introductory phrase: "This is the *book of the generations of man...*" This tells us that to have been created "in the likeness of God" is not simply an abstract metaphysical concept with only honorific implications. What makes human history significant and important to God, so that the Bible itself really is "the book of the generations of man," is the fact that man is a moral agent, that the struggle between good and evil takes place within every man, that there is hope that the great drama which is human history will work its intended good because man can become "like unto God."

If Ben Azzai challenges Rabbi Akiva, who is clearly focused on the subject of morality, then it follows that Ben Azzai believes that the concept of "man created in the image of God" has significant implication for morality which, writ large, is the problem of history.

If this interpretation is correct, then the views of Rabbi Akiva and Ben Azzai need not be mutually exclusive. Rabbi Akiva is speaking about the most general principle *within* the system of Torah, whereas Ben Azzai is addressing the question of the *ground* of morality in general, or the conditions which make morality possible altogether. Once this distinction is acknowledged, it is possible to argue that each of those principles is supreme in its own sphere.

In a number of teachings some leading Rabbis in the Talmud made it clear that the moral precepts were central to the entire Torah. This could be seen in the celebrated reply of Hillel to the impudent request of the pagan that, preparatory to conversion, he be taught the entire Torah while he stood on one foot! "What is hateful to yourself do not do to your fellow man. This is the entire Torah, the rest is commentary...."²⁸ There is the teaching of Rabbi Phineas ben Yair, who outlined a series of stages in the religious development of the individual where the highest stage is described in terms of moral virtue such as "kindliness" or "humility."²⁹ But all this is already foreshadowed in the early teaching of Simon the Just: "Upon three things does the world stand: on *Torah*, *Avodah* (service), and *Gemilut Chasadim* (acts of loving kindness)."³⁰ Regardless of the precise meaning of the first two general terms, the fact that a concrete particular such as moral deeds is considered the "third (indispensable) pillar" of Judaism, and indeed of the cosmos itself, points to its being seen as much more than simply a certain class of the divine precepts.

All that we have pointed out regarding the biblical and rabbinic understanding of morality serves only to sharpen the question we posed at the outset. Why didn't classical Jewish thinkers pick up on the clues and implications, the hints

and sometimes overt disclosures in our primary sources regarding the special significance of morality and develop therefrom a comprehensive ethical theory?

THE MAJOR ATTRIBUTE OF GOD: KNOWLEDGE OR MORALITY?

In describing different types of religions, Guttman points out that much depends upon what we consider to be the major attribute of God: "If it is held that morality is the major attribute of the Deity, then morality will be the way to achieve proximity to God. However, if knowledge is considered the major value then it is by way of the intellect that closeness to God is attained."³¹

The latter type of theology is exemplified in medieval Jewish thought by the writings of Bachya, Ibn Daud and of course Moses Maimonides, whose enormous influence imposed an intellectualist bent on subsequent Jewish thinking. However, what is most curious is that while there were other Jewish thinkers in that general period who did not see "knowledge" as the most important attribute of God nor the intellect as the way to God, nevertheless they did not choose morality as the alternative! For example, in his sharp distinction between religion and philosophy, Judah Halevi sees the pious individual as driven to God not by a desire for knowledge but by his yearning for communion with Him. There is a special religious faculty in every man which is developed into an actual disposition by observance of the ceremonial law which leads to an experience of God felt as love and joyous obedience, a foretaste of the bliss of the world to come.³² Thus, although knowledge is rejected as a major attribute of God by Halevi, the moral precepts as such are not singled out for special attention. But why not, given what the Bible and the Rabbis had to say about morality?

Hasdai Crescas demolished the Aristotelian metaphysical presuppositions of Maimonides, and asserted that the primary content of the God idea is not "thought" but the divine Will and His goodness. This "goodness" is not merely an analogical characterization of the quality of God's personality, but is "the unitary ground which welds the plurality of the attributes into a single whole."³³ God is joyous in that His goodness overflows into creation which is an expression of the divine Will and demonstrates God's love for His creatures. To make possible deeds of loving kindness is the ultimate purpose of the world, and this cannot be questioned any further since goodness is for its own sake.³⁴ According to Crescas, man's highest good, which he attains by the observance of the divine precepts, is love of God — which brings him to communion with God and to eternal happiness in the world to come. Yet, even as Crescas rejects the idea of physical perfection and intellectual perfection as possibly

constituting man's *ultimate* perfection, so does he reject moral perfection, although acknowledging its social benefits.³⁵ What is rather strange here is that Crescas has no problem in making positive statements about the nature of God, namely His absolute goodness, and yet is unable to see the connection between man's personal moral perfection in the form of a virtuous personality and communion with the good God!

MORALITY AS A SPECIAL KIND OF *MITZVAH*

I wish to suggest that there are two main factors, operating sometimes separately and sometimes together, which are responsible for the inability on the part of Jewish thinkers during this period to perceive morality as the bridge between man and God. One was the conviction stemming from religious as well as from rational considerations that man could not grasp intellectually the nature of God: "For man cannot see Me and live" and "To know Him is to be Him." This agnosticism about the nature of God discouraged any further explication of statements such as "God is merciful, God is compassionate," other than as analogical descriptions of God's actions but nothing more. The same cloud of obscurity and vacuousness cast by Maimonides over attributes such as "God's knowledge" and "God's existence" was applied to statements about God's moral nature.³⁶

The second factor has to do with these thinkers' understanding of morality and the nature of moral value. Aristotle considered morality the realm of practical reason, i.e., reason determined the right policy for man, in terms of his nature, which was then up to the individual to carry out. However, from the *covenantal* perspective of the Bible, as teachings directed in the first instance to the people of Israel, morality is simply that portion of the 613 precepts that deal with man's relationship with his fellow man. Therefore, any question as to the significance of these rules and principles for man has to be found within the context of their being *mitzvot*. The Rabbis had indeed noted that these particular precepts had beneficial social consequences which demonstrated God's benevolence. Yet in terms of their purely religious significance, that is, in terms of relating the individual to God, there appeared to be nothing special. True, the individual in carrying out these precepts is expressing his loyalty and obedience to God, but no more so than when fulfilling any of the other precepts.

Indeed, the fact that some of the commandments are "rational" actually constitutes a problem for a certain type of religious consciousness, and their inclusion within a religious system sets up a certain tension with the other elements. There are those who claim that the most distinctive and important

element in the subjective religious experience is a sense of the *mysterium tremendum*: a sense of the Holy, a sense of radical dependence.³⁷ This feeling, which a person can experience in the intense concentration of prayer or in the collective enthusiasm reached at the climax of a religious ritual or dramatic ceremonial, seems to fit our concept of a deity who is "wholly other," mysterious and fundamentally unknowable who inspires dread before He inspires gratitude and fear and awe before it turns to love. All of this flourishes best in the absence of the rational. The individual who straps on his *tefillin* in the morning knows there is no significance to what he is doing other than as an act of divine worship. Therefore, in terms of the purity of his intentions and the general content of his consciousness, he is free to receive whatever religious emotion awaits him. However, in the performance of moral precepts where there exists a natural human sympathy and an awareness that murder and theft and adultery can destroy the social fabric, can one, in performing these precepts, truly experience, the Presence of God? Can it be that the very understandable features of the moral precepts, which enhance our appreciation of their value and urge upon us their fulfillment, may leave little room for the *religious* impulse. While, for the Jew, it is clear that it is God who has commanded us to be moral, the living experience of God during the performance of the moral rules may be harder to generate and to identify.

The impasse reached by medieval Jewish philosophy in regard to the significance of morality is clearly presented by Joseph Albo (d. 1444), a student of Crescas whose work, in a sense, sums up the Jewish philosophic legacy of the Middle Ages:

Now it is clear that perfection may be acquired through the theoretical part of the Torah (חלק המדעי), its negative as well as its positive side. Similarly, perfection may be acquired through the part containing the statutes (חלק החוקי) i.e., the rules concerning those things that are pleasing to God and those which are displeasing to Him. The thing that requires explanation, however, is how can perfection of the soul be acquired through the third part, which embraces judgments (החלק הממדי)? It is hard to conceive how any of its parts, whether the positive or the negative commandments, can give perfection to the soul. Those positive commandments which deal with injuries caused by an ox or an open pit or a fire, and negative commandments like, "You shall not steal," "Thou shalt not oppress thy neighbor nor rob him" and so on, are no doubt correct rules for the preservation of social life but by what merit does the soul of a moral man acquire perfection by means of them?³⁸

In posing the question in this manner, Albo is evidently focusing on the substance of the different commandments. Precepts that deal with "beliefs" are clearly related to the soul in that they are "spiritual." Precepts that deal with natural or cultic items which have no rational justification other than that they are "pleasing to God," also relate to the spiritual perfection in that they are performed as an expression of humble submission and obedience to God. However, the rather mundane specificity of the precepts called משפטים, which include so much of civil law and are performed in order to achieve their beneficial social consequences, how are they related to spiritual perfection?

At this point, Albo makes a statement which demonstrates that he had advanced in his understanding to a stage beyond that of Crescas:

And if their virtue (of the משפטים) consists in the fact that they are a guide to correct morals (מכבוא ודרך לתקון מידות), which alone enables one to acquire human perfection, then it would follow that the intensive occupations within the Talmud on the part of the Jewish Sages and their study of Talmudic questions is of no benefit in acquiring perfection and their labor is in vain!

But, continues Albo, perhaps we should consider the value of the deeds called משפטים not in their social benefit but, rather, in the effects those acts have on the doer, i.e., in developing within him a moral personality which may be considered, by itself, ultimate human perfection. This Albo rejects, arguing that were we to see the entire purpose of the משפטים to lie in their effect on the doer and on that alone, then we have no justification for the time and effort spent by the Sages in explicating the fine points of their application. "Besides it is not likely that so large a part of the Torah bestows perfection only because it leads to right morals and for no other reason."

What is important here is that Albo recognizes that while the משפטים as laws confer social benefits, they, at the same time, are moral actions embodying moral principles such as justice and righteousness and concern for the other. When performed consciously on principle, these deeds can develop a virtuous personality and as such decisively affect the soul of the doer. Albo's objection, however, is not in the unsuitability of moral virtue as a candidate for ultimate human perfection, but that this theory would leave unaccounted for the intense preoccupation of the Rabbis with the minutiae of the Halakhah. Albo's own solution to the problem is to state that the proper fulfillment of a commandment lies in the combination of the action with a proper intention or frame of mind. Thus, in carrying out the משפטים one must have in mind not only the improvement of social life but that the source of the commandment is God,

and that one is doing so out of love of God. So performed, these precepts achieve for the doer perfection of soul.

Although Albo does not go into this, it would appear from his analysis that the religious significance of the *משפטים* performed with the proper intention should be greater than that of the *חוקים* performed with the proper intention. For, while both types of precepts confer perfection of the soul by their being motivated by the love of God, the *משפטים* have the additional virtue that they are benefiting society and are contributing to the doer's moral perfection.

MAHARAL AND THE REINSTATEMENT OF MORALITY

Writing in Prague about 100 years after Albo, Rabbi Judah Loeb (d. 1609) is able to ignore the intellectualistic bias of Greek philosophy and sets things straight, as they always should have been, to "we disciples of Moshe our Rabbi."³⁹ The ultimate goal of man is to achieve communion with God. This possibility was already provided by man being "created in the image of God." Toward this end man was given the system of commandments, which by observance of the negative commandments lifts man above nature, and the performance of positive ones implants in man proper character traits.

The commandments of the Torah purify the soul and bring man closer to God until he cleaves unto Him. And by doing all these good things like charity, righteousness and justice (it is unnecessary to explain), man achieves ultimate salvation because those things relate him to God and make him like unto Him since these are the attributes of God who is kindness and justice and righteousness. And it is precisely by being in such relationship that one might be said to cleave unto Him....⁴⁰

And likewise theft, robbery, adultery, and murder, without doubt bring about eternal punishment, for these are abominable and detestable in the eyes of God for He is the essence of fairness (*ישר*)...incest and sexual immorality and materialism place one outside the fence of Holiness and are far from God who is utter holiness.

The importance of the Maharal's teaching lies not only in his explicit rejection of the idea of the intellect being the supreme attribute of God but in his uninhibited receptivity to the plain meaning of biblical and rabbinic sources. By linking the following pivotal biblical teachings, Maharal arrives at his clear and incisive grasp of the role of morality in Judaism:

1. As a consequence of having been formed in the "image of God," man is a moral agent.

2. God is moral not only in His actions but morality is the only known quality of His personality.

3. The command to "cleave unto God," which is man's ultimate perfection, links (1) and (2). "You shall diligently keep all the commandments which I command you to do, to love the Lord your God, to walk in all of *His ways* and to cleave unto Him."⁴¹ The "way of the Lord" (דֶּרֶךְ ה') has already been defined in Genesis 18:19 as "to do righteousness and justice."

Man's uniqueness lies in his ability to discern, appreciate, and act upon the moral principles of justice, righteousness, and kindness. His task in life is to actualize these values and sense therein the Presence of God. The only positive attribute of God that is explicitly stressed is His morality, His moral character and His "love" for justice and righteousness and for people who practice justice and righteousness. What, therefore, is more self-evident than that the command to "cleave unto God" and to commune with Him is by means of moral perfection? In striving for moral perfection man "imitates God" not only by realizing (making "real") moral values in the living tissues of human relationships, but also by exercising his freedom and creativity in shaping for himself a unitary moral personality. As He is free so shall you be free, as He is creative so shall you be creative, as He is One so shall you be one and united within yourself.

What remains to be explained is what possible meaning other than as attributes of His action could concepts such as "justice" and "righteousness" have in reference to God Himself? Here we must return to a point stressed both by Saadia and Crescas: that the entire philosophical quest for God must start with the reality of the world of which man is a part, and from there by a process of inference work our way to a Creator with the necessary attributes of life, power, wisdom who acts by the exercise of His free will. We today find these conclusions in a way confirmed by our personal religious encounter, by our ontological experience as creature and as beneficiary which simultaneously confers a sense of utter dependence-of-being on God and yet we feel confirmed in our personal identity by God's care. One feels oneself to be completely at the mercy of God, and yet to feel that He is *my* God. Together they give man a sense of *relationship* with the Divine.⁴²

Most important in the philosophy of Saadia and of Crescas is the realization that the entire process of Creation is to be seen as a *moral* act which implies the Creator's "*goodness*," i.e., God creates, goes "beyond" Himself, out of His splendid isolation in order to create others whom He can benefit and to whom He can do good. God is to be seen not only as the ground of all being, which means that the real is also rational, but that God also has impregnated Creation with value, and is also the source of all value. Creation is also a

moral act in the teleological sense that the goals for which God has brought the world into existence are value-laden and serve to increase the good and benefit others. Thus, in spite of the difficulty of speaking of the "wholly other" God in terms of "intending," "willing," "planning," "caring," "loving," "being good," and "moral," the biblical testimony and the living religious experience of the individual require that we speak of Him in this manner.

"Justice" and "righteousness" seem to have significance only in a social context, in regulating relations between human beings.⁴³ However, God as Creator is in relationship with His creatures whom He has formed out of His benevolence. Were God to deal with His creatures unjustly or unfairly, it would violate God's "goodness." Thus, the same essential quality of benevolence which is God's "goodness," which we experience in the fruits of Creation, is the basis for the assertion that God is "just and righteous," in history.⁴⁴ We are suggesting that according to the ethical theory of Judaism the primary term in morality is "goodness," to which all of the other terms can be reduced.

The Bible frequently asserts that God is "good."⁴⁵ As used throughout the Bible, the term in all of its different forms connotes something *positive* and *approving*. Sometimes it is used to refer to *moral* good.⁴⁶ When used as an attribute of God, the word *טוב* (*tov*) would seem to fit best our word, "value," a term which encompasses all of the basic items and experiences in life which men cherish, desire, and approve of, such as the cognitively true, the moral good, and the aesthetically beautiful. Frequently, the word "value" is used in contrast to the word "fact." The latter is used to refer to the public reality which is "out there," doing its thing independent of our perceptions, and whose existence can in principle be verified. "Values," however, although in a sense even more important than "facts," do not seem to "exist" in the same sense as the "facts." They seem to be impervious to "facts" and in some sense to float above them, endowing them with meaning.

I wish to suggest that Judaism is compatible with the view that values such as the *true*, the *moral good* and the *beautiful* are not the subjective inventions of man but are integral aspects of reality.⁴⁷ Only, they are intuited or known or apprehended by man differently than are facts. They are experienced *immediately* as value, i.e., they are immediately appreciated as something positive and desirable, are accompanied by an emotion such as joy, love, and hope, and are perceived as an attribute of the object.

Thus, when the Torah asserts that "God is good": הוֹדוּ אֵת ד' צְבָאוֹת כִּי טוֹב ד' (Jer. 33:11), it is stating that goodness is an essential quality of God Himself. But to be good means also to act benevolently to others. Hence, טוֹב ד' לְכָל וְרַחֲמֵי עַל כָּל מַעֲשֵׂי (Psalms 145:9). However, since at first there were no "others," God in His goodness and out of love creates a world which

He impregnates with value: וירא אלקים את כל אשר עשה והנה טוב מאוד (Gen. 2:31), so that the cosmos itself exhibits a certain beauty and seems to follow certain underlying uniformities called "laws." But, above all, God creates man "in His image" so that now man himself can perceive and appreciate the value that is all about him: ...טעמו וראו כי טוב ד' (Psalms 34:9), and man himself can go on to create things that are true, good, and beautiful: ויברך אתם אלקים ויאמר להם אלקים פרו ורבו (Deut. 6:8); ועשית הישר והטוב... ושם אחיו יוכל הוא היה אבי כל תופש כנור (Gen. 1:28); ומלאו את הארץ וכששה... ועוגב... (Gen. 4:21).

CONCLUSIONS

The following set of propositions culled from the above are presented as part of an outline of an ethical theory of Judaism. I have argued that all of them are consistent with primary biblical and rabbinic texts; some of them can be directly deduced therefrom; and together they serve to justify Jewish normative practice.

1) The Bible and the Rabbis implicitly recognized among the many divine precepts a particular set of normative principles, rules, and virtues as appropriate to the human being *qua* human being. This concept corresponds to what we today call "morality."

2) Moral value, particularly in its instantiation as the quality of *Goodness* and *Benevolence*, is not only an attribute of God's actions but is of the very nature of God Himself. Hence, God cannot do otherwise but to act morally.

3) Man's nature as a being "created in the image of God" confers upon him the status of a *moral agent* which includes the obligation and the capacity to be good, just, and righteous.

4) The *summum bonum* for man as one created *b'tzelem elohim* lies in self-fulfillment, which is to create for himself a resident moral personality out of love for the supreme Good which is God and ultimately to attain communion with Him.

5) Man acquires the ability to distinguish between the moral good and the moral evil by exercising his intuitive moral sense which is part of his *tzelem elohim*. The Sinaitic revelation, whose main purpose was to establish the covenantal relationship between God and Israel, does not proclaim a "new" morality but comes to clarify the range and depth of the natural morality, to urge its application in all spheres of life, and to reveal the relationship between morality and God.

6) There is only one meaning to "moral good" and "moral evil" in any

particular situation, and it binds both man and God. In judging the morality of God's actions man may err for lack of sufficient information.

7) Of the things demanded of man by God, morality alone (which includes love of God) is to be seen as an intrinsic value: "to love and do good because it is good."

8) One's relationship to God and one's relationship to the question whether there is a God is in part a matter of morality. Therefore, he who is moral in his relations to man but does not relate to God is not morally perfect. He who worships God but is not moral in his relationship to man or beast is neither pious nor moral.

NOTES

- 1 In my book, *Morality, Halakha and the Jewish Tradition* (Ktav, Yeshiva University Press: New York, 1983), I attempted a philosophical analysis of the moral tradition in Judaism in the light of modern ethical theory. (See in particular Chapter Two.) In this essay I attempt some further steps toward the development of an ethical theory of Judaism.
- 2 Abraham Edel, *Science and the Structure of Ethics: Foundations of the Unity of Science* (University of Chicago Press: Chicago, 1961) pp. 10, 18.
- 3 Before anything else, morality "exists" as a collection of words which are a sub-set of a modern language used to perform a special function in human communication. Just as the work of science is carried on with the help of its special language and the work of art is facilitated by its "jargon", so can we identify a group of terms which are used by people when they wish to make moral judgements or describe moral aspects of our experience. This linguistic sub-group, as each of the others, has its own function, vocabulary and even logic. An analysis of these features can reveal the understanding its users have of morality. See Shubert Spero, "Analytic Philosophy and the Morality of Judaism" in *Sefer Higayon: Studies in Rabbinic Logic*, M. Koppel & E. Merzbach (Zomet Institute: Alon Shevut, 1995), pp. 61-70.
- 4 Gen. 4:9,10; 6:1,2; 6:11,13; 9:22, 11:6.
- 5 רמב"ם, ספר המדע, הלכות עבודת כוכבים פרק א : א
- 6 Gen. 6:6.
- 7 Jacob married two sisters and the Patriarchs worshipped God by means of a standing stone or pillar (*matzevah*), both of which were later prohibited (Lev. 18:18; Deut. 16:22).
- 8 Gen. 1:27.
- 9 Aristotle seems to follow the same line of reasoning in Chapter 7 of the *Nicomachean Ethics*.
- 10 Gen. 9:6. It is interesting that Rabbi Akiva uses this proof-text in his important teaching: "He used to say, Beloved is man for he was created in the image of God; but it was by a special love that it was made known to him that he was created in the image of God, as it is said, For in the image of God made He man" (Gen. 9:6) Avot 3:18. I would suggest that Rabbi Akiva refers to this particular verse, rather than to earlier references to "image of God," because his point is that it was made known to man that he was created

in the image of God not because it is so stated in the Torah but because, once man begins to become aware of his moral sense, he begins to realize his connection to the Creator. As we indicate in the text, this verse occurs in connection with a moral precept.

- 11 "And the Lord God said: Behold the man is become as one of us, to know good and evil..." (Gen. 3:22).
- 12 Sanhedrin 56.
- 13 See the discussion in Shubert Spero, *Morality, Halakha and the Jewish Tradition* (Ktav Publishing, Yeshiva University Press: New York, 1983), pp. 64-90.
- 14 The importance of this distinction can be grasped once it is applied on the human level: Case A: All we know is that he has performed certain particular acts of charity. Case B: After a prolonged process of psychological testing and analysis, we are told that he has a deeply-rooted generous character. In regard to future expectations there is an important difference between A and B. Since A's acts of charity in the past might have been motivated by any number of extraneous considerations, we are not sure about his behavior in the future. Since, however, B's generosity has been discovered to be part of his very "nature" or "character," we can have more confidence as to the future. And so it is with God.
Also, if moral values can be viewed as, in some sense, aspects of God's very "essence," then to love God is to love the Good and to do the Good out of love for God is to do the Good out of intrinsic love for the Good, thus preserving the autonomy of morality.
- 15 Ex. 34:6,7. The statement "God is merciful" is, strictly speaking, a description of God Himself. That God performs acts of mercy was known before. That mercy is a resident quality of God's personality was not known before. This is why this new information is given in a direct, dramatic, mystical revelation to Moshe.
- 16 See Martin Buber, "Imitatio Dei" in *Israel and the World: Essays in Time of Crisis* (Schocken Books: New York, 1948), pp. 66-78.
- 17 Gen. 18:19; Deut. 8:6, 11:22.
- 18 ד. סטטמן אבי שגיא, "עיונים בשאלת היחס בין דת ומוסר בהגותו של בוכר". דעת חוברת 17 (אוניברסיטת בר אילן)
- 19 See Spero, *Morality, Halakha and the Jewish Tradition*, op. cit., note 13 pp. 22-26.
- 20 Lev. 18:4,5; 25:18; 26:43,46; Deut. 5:1,28; 6:1,24; 7:11,12; 8:12; 11:32; 12:1; 26:16-18.
- 21 Deut. 4:8.
- 22 "...and he wrote upon the tables the words of the covenant, the ten words" (Ex. 34:28).
- 23 Avot 2:1.
- 24 See, יחיאל מיכל הכהן גוטמן, בחינת קיום המצוות, (הוצאת מקור בע"מ, ירושלים תשל"ח) דפים, יט-כג
- 25 Julius Guttman, *Philosophies of Judaism* (Holt, Rinehart & Winston: New York, 1964), p. 39.
- 26 Torat Kohanim, Lev. 19:18.
- 27 See the discussion in Spero, *Morality, Halakha...*, op. cit., note 13 Chapter 7.
- 28 Shabbat 31a.
- 29 Avodah Zorah 20b.
- 30 Avot 1:2.
- 31 Yitzhak Julius Guttman, *On the Philosophy of Religion* (Magnes Press: Jerusalem, 1976), p. 189.
- 32 Judah Halevi, *Kitab Al Khazari*, Part IV, sections 15, 16.
- 33 Hasdai Crescas, *Or Adonai*, I 3,3. See Guttman, *Philosophies of Judaism*, op. cit., pp. 224-241.

- 34 The same is true of Saadiah Gaon, who acknowledges that we can infer God's goodness from the fact of Creation along with His attributes of existence, power, and knowledge. Saadiah also acknowledges the special nature of that class of precepts which have a "reason" in that they bring about beneficial social consequences. However, he makes no connection between morality and coming close to God.
- 35 Crescas, *op. cit.*, II, 6.1.
- 36 See Shubert Spero, "Is the God of Maimonides Truly Unknowable?" *Judaism*, 22:1 (Winter 1973).
- 37 See Rudolph Otto, *The Idea of the Holy* (Oxford University Press: New York, 1958) and William Barrett, *Irrational Man* (Doubleday & Co.: New York, 1958), both of whom relate these elements of existential philosophy to the Bible and Hebraic tradition. See my "The Meaning of Existentialism for Orthodoxy," in *Perspective*, 1:2 (Winter 1959-60) and, of course, the writing of Rabbi Joseph Dov Soloveitchik.
- 38 Joseph Albo, *Sefer Ha-Ikkarim*, III, 28 (Jewish Publication Society of America, Philadelphia, 1930), pp. 261-262.
- 39 Judah Loeb ben Bezalel, *Tifferet Yisroel*, Chapter 9. Known as the Maharal of Prague, he was probably aware of the empirical spirit of the early science which was developing in that city.
- 40 Maharal cites proof-texts from the Bible and the Rabbis for these assertions.
- 41 Deut. 11:22.
- 42 The Aristotelians argued that it was incorrect to speak of having a "relationship" with God! On this, see Eliczer Berkowitz, *God, Man and History* (Jonathan David: New York, 1959), p. 61.
- 43 It is hard to believe that the following was written by Maimonides: "For all moral principles concern the relation of man to his neighbor; the perfection of man's moral principles is, as it were, given to man for the benefit of mankind. Imagine a person living alone and having no connection whatever with any other person, all his good moral principles are at rest, they are not required and give man no perfection whatever" (*Guide for the Perplexed*, III:LIV, p. 375, Friedlander edn. 1942).
- 44 Deut. 32:4.
- 45 Psalms 100:5, 136:1; Jer. 33:11.
- 46 Gen. 3:5; Amos 5:14,15; Psalms 25:8; 34:15.
- 47 See Shubert Spero, "Maimonides and our Love for God," *Judaism*, 32:3 (Summer 1983) and Shubert Spero, "Judaism and the Aesthetic," in *BDD: A Journal of Torah and Scholarship*, No. 1 (Summer 1995) (Bar-Ilan University).

