AUTONOMY IN JEWISH PHILOSOPHY

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Autonomy in Jewish Philosophy examines an important theme in Jewish thought from the Book of Genesis to the present day. Although it is customary to view Judaism as a legalistic faith which leaves little room for free thought or individual expression, Kenneth Seeskin argues that that view is wrong. Where some see the essence of the religion as strict obedience to divine commands, Seeskin claims that God does not just command but forms a partnership with humans requiring the consent of both parties. Looking at classic texts from Biblical, Rabbinic, and philosophical literature, Seeskin shows that Judaism has always respected freedom of conscience and assigned an important role to the power of human reason.

The book both considers existing arguments and presents new ideas about the role of autonomy in Judaism. Clear and concise, it offers a refreshing alternative to the mysticism and dogmatism prevalent in much of the recent literature.

KENNETH SEESKIN is Professor of Philosophy at Northwestern University, Illinois. He has published widely in the area of Jewish philosophy and his books include *Searching for a Distant God: The Legacy of Maimonides* (2000), *Jewish Philosophy in a Secular Age* (1990), *Maimonides: A Guide for Today's Perplexed* (1991), *No Other Gods* (1995) and *Dialogue and Discovery: A Study in Socratic Method* (1987).

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To
Joseph Edelheit

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Preface

This is a book I have wanted to write ever since I began to think about Jewish philosophy in a serious way. Where some see the essence of the religion as obedience to a commanding God, I see it differently. God does not *just* command. If that were all God did, we would be worshiping a dictator not a perfect being. Rather God forms a partnership with humans that requires the consent of both parties.

The standard objection to my view is that it is a transparent attempt to read the ideas of liberal democracy into the sacred literature. Needless to say, I think the objection is false. The Biblical narrative shows that humans are given more freedom in their dealings with God than philosophers of religion generally acknowledge. More important, the normal metaphor for the relation between God and humans is not the making of an edict but the joining together of two people in matrimony. I submit that what philosophers typically call "revelation" is more complicated than a list of imperatives saying "Do this" and "Don't do that." At the very least, it is an agreement that takes into account the dignity of both parties. Without this agreement, we may have lightning, thunder, and a booming voice from the top of a mountain, but we would not have action worthy of a divine being.

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Allison, David Hartman, Christine Korsgaard, J. B. Schneewind, Moshe Sokol, Allen Wood, and last, but not least, the late Steven S. Schwarzschild. Finally I wish to express my perpetual gratitude to the Academy for Jewish Philosophy.

Abbreviations

Where both German and English editions are cited in the text page numbers are shown in the references as, for example, (*FMM* 400, p. 16) with the German edition cited first.

BMM	Martin Buber, *Between Man and Man*
CF	Immanuel Kant, *The Conflict of the Faculties*
CPR	Immanuel Kant, *Critique of Pure Reason*
CPrR	Immanuel Kant, *Critique of Practical Reason*
DF	Emmanuel Levinas, *Difficult Freedom*
DH	Baḥya ibn Pakudah, *Duties of the Heart*
EFP	Emmanuel Levinas, "Ethics as First Philosophy"
EG	Martin Buber, *Eclipse of God*
FFL	Richard A. Cohen (ed.), *Face to Face With Levinas*
FMM	Immanuel Kant, *Foundations of the Metaphysics of Morals*
GAP	Emmanuel Levinas, "God and Philosophy"
IT	Martin Buber, *I and Thou*
J	Moses Mendelssohn, *Jerusalem*
JS	Hermann Cohen, *Jüdische Schriften*
GP	Maimonides, *The Guide of the Perplexed*
HJP	Daniel H. Frank and Oliver Leaman (eds.), *History of Jewish Philosophy*
MM	Immanuel Kant, *The Metaphysics of Morals*
MT	Maimonides, *Mishneh Torah*
OTB	Emmanuel Levinas, *Otherwise than Being*
PII	Emmanuel Levinas, "Philosophy and the Idea of the Infinite"
PJ	Julius Guttmann, *The Philosophy of Judaism*

PMB	Martin Buber, *The Philosophy of Martin Buber*, edited by Paul Arthur Schilpp
RR	Hermann Cohen, *Religion of Reason Out of the Sources of Judaism*
RWL	Immanuel Kant, *Religion Within the Limits of Reason Alone*
SR	Franz Rosenzweig, *The Star of Redemption*
TI	Emmanuel Levinas, *Totality and Infinity*
TTP	Baruch de Spinoza, *A Theologico-Political Treatise*

CHAPTER I

The problem of autonomy

In the first sentence of his famous essay "What is Enlightenment?" Kant tells us that it is "man's release from his self-incurred tutelage," where *tutelage* is defined as "man's inability to make use of his understanding without direction from another" (*FMM* 35, p. 85). He then sums up the motto of enlightenment as "Have courage to use your own reason" or more simply "Think for yourself." In the essay "What is Orientation in Thinking?" he elaborates:

> *Thinking for oneself* means seeking the supreme touchstone of truth in one's self, i.e., in one's own reason; and the maxim of always thinking for oneself is *enlightenment* . . . To make use of one's own reason means nothing more than to ask oneself with regard to everything that is to be assumed whether he finds it practicable to make the ground of the assumption or the rule which follows from the assumption a universal principle for the use of one's reason.[1]

It is clear then that Kant adopts a stern perspective on the use of reason: rather than looking to God or to people in positions of authority, a person seeking to distinguish truth from falsity should consult her own mind.

This does not mean that it is wrong to seek expert advice on subjects like medicine and engineering or that a person must have a valid argument for everything he believes. Kant himself is famous for saying that there are beliefs which cannot be established by theoretical means but which a rational person would be justified in accepting on other grounds, e.g. the existence of God and the immortality of the soul. It is also

[1] "What is Orientation in Thinking?" in Kant, *The Critique of Practical Reason and Other Essays*, p. 305.

worth noting, as Allen Wood does, that the "Think for yourself" principle does not mean that a person is justified in thinking whatever he pleases.[2] It means that when it comes to truths accessible to all humanity, truths like the one that says it is wrong to break a promise, a person should consult his own reason and accept them on his own authority. In Kant's eyes, the enemies of enlightenment are people like physicians, tax collectors, and clergy – what he calls "guardians" – who feed off the laziness of "the great unthinking masses" and ask for unquestioning obedience. Bad as this habit may be in other areas of the arts and sciences, it is worse in religious matters because in Kant's opinion "religious incompetence is not only the most harmful but also the most degrading of all." Behind this claim is the conviction that rational decision making is an end in itself and that anyone who interferes with it compromises human dignity.

Although it would be easy to find other people in the history of philosophy who espoused the "Think for yourself" principle, there is little question that Kant regarded himself as the spokesman for a new age (*FMM* 40, pp. 90–91):

> As things now stand, much is lacking which prevents men from being, or easily becoming, capable of correctly using their own reason in religious matters with assurance and free from outside direction. But, on the other hand, we have clear indications that the field has now been opened wherein men may freely deal with these things and that the obstacles to general enlightenment or the release from self-imposed tutelage are gradually being reduced. In this respect, this is the age of enlightenment.

To appreciate the tone of Kant's remarks, one need only recognize, again with Wood, that the "Think for yourself" principle is really a general version of the doctrine of autonomy. The doctrine of autonomy, in turn, is at the heart of the Copernican Revolution in moral theory, Kant's attempt to show how all previous moral systems have failed and to put morality on a firm foundation.

[2] Allen Wood, "Kant's Deism," in P. J. Rossi and M. Wren (eds.), *Kant's Philosophy of Religion Reconsidered*, pp. 16–17.

In Kant's view the reason previous morals systems have failed is not that they were unable to come up with a convincing account of how to advance human interests or improve the quality of human life but something more radical: they neglected to account for the central feature of morality – the fact of duty. As Kant conceives it, duty is a necessary relation between a moral agent and the object of volition (*FMM* 400, p.16). By *necessary* he means binding at all times and in all places. Thus any moral system that makes duty contingent upon a specific interest will culminate in imperatives that are hypothetical rather than categorical. It will treat people as beings subject to law but not subject as *moral* beings in Kant's sense of the term. Consider the claim that I am obliged to do whatever God commands. Kant's question is: Why am I so obliged? The thunder and lightning that broke out over Mt. Sinai have nothing to do with morality. Nor do the curses and threats that make disobedience imprudent. As it is often said, might does not make right. The only adequate response is that I should obey God because I have decided to accept God as the supreme authority on moral questions. But if this is so, the authority of God's commands presupposes a decision on my part and cannot bind categorically. If a person does not believe that God exists, he would be under no obligation at all.

In a famous passage in the *Foundations of the Metaphysics of Morals* (432–33, p. 51), Kant puts his point this way:

> If we now look back upon all previous attempts which have ever been undertaken to discover the principle of morality, it is not to be wondered at that they all had to fail. Man was seen to be bound to laws by his duty, but it was not seen that he is subject only to his own, yet universal, legislation, and that he is only bound to act in accordance with his own will, which is, however, designed by nature to be a will giving universal laws. For if one thought of him as subject only to a law (whatever it might be), this necessarily implied some interest as a stimulus or compulsion to obedience because the law did not arise from his will. Rather, his will was constrained by something else according to a law to act in a certain way. By this strictly necessary consequence, however, all the labor of finding a supreme ground for duty was irrevocably lost, and one never arrived at duty but only at the necessity of action from a certain interest. This might be his own

interest or that of another, but in either case the imperative had to be conditional and could not at all serve as a moral command.

Kant's solution is to invoke a version of internalism: we should not look for the source of obligation outside the will but inside. If divine commands do not become binding until I accept divine sovereignty, then from a moral perspective the real decision rests with me, not with God. In short, moral acts are inherently reflexive. Even if I decide to do what someone else asks, I must first decide if such a course of action is warranted.

The element of reflexivity means that it is not only wrong but degrading to look upon moral agents as merely subject to law. According to Kant they must be viewed as subjects and legislators simultaneously. In his most famous description of autonomy, he writes (*FMM* 431, p. 49):

> The will is thus not only subject to the law but subject in such a way that it must be regarded also as self-legislative and only for this reason as being subject to the law (of which it can regard itself as the author).

Because we impose the law on ourselves and can look upon ourselves as its author, no external factor like fear of punishment or hope of reward is needed to explain why it is binding. The law we impose *on* ourselves is a sufficient motive for action *in* itself. Thus a law that we impose on ourselves is the only law that can bind categorically. To the degree that the law is based on rational legislation and not on self-interest or personal preference, it is a universal law that covers all rational agents. Again from Kant (443, p. 51), a rational agent "must regard itself as giving universal law through all the maxims of its will." As we saw, Kant believes that each of us is "designed by nature" to be a will giving universal laws. It is our status as both subject and legislator of universal laws that accounts for our dignity as moral agents and gains us membership in the kingdom of ends.

Before inquiring into the religious consequences of this doctrine, it is important to clear up a number of misconceptions. The first derives from Kant's use of metaphors like subject, author, and legislator. The crux of Kant's position is that autonomy involves self-rule in the sense that each of us follows his own will. Still we must be careful not to draw too

close an analogy between an individual and a government. Legislatures gather information, debate proposals, and enact laws. At the national level, they are free to determine their own course of action without interference from other governments. They are even free to reverse themselves if they see fit. But nothing like this is true when it comes to answering the call of duty. Having imposed the law on myself, I am not at liberty to repeal it.[3] If I were, obeying the law would cease to be an obligation and become a preference. Nor am I at liberty to change its terms or ask for something in return.

Though the principle of autonomy represents a strong statement of human freedom, it does not permit me to do whatever I please.[4] In the long passage from *Foundations* cited above, Kant makes this point by saying that we are subject to our own *yet universal* legislation. This means that the moral law is determined by reason a priori with no consideration for human success or failure. In the *Critique of Practical Reason* (123, p. 127), he calls it "stern, unindulgent, truly commanding." Again in *Foundations* (431, p. 49), he describes it as "the supreme limiting condition of all subjective ends, whatever they may be." As we saw, it is the irrelevance of all interests or preferences that allows the law to bind categorically and permits a single individual to "legislate" for all humanity. Along these lines, Hermann Cohen argued that strictly speaking the problem of autonomy does not concern the origin of action but the origin of law."[5]

Kant would therefore take issue with the claim that autonomy is personal in the normal sense of the term. It can be considered personal if by *person* one means the noumenal or rational self, which is to say the self that wills independently of sensuous influences. But if one means a being with a history and a particular point of view, autonomy is no more personal than the law of excluded middle. As Cohen (*RR* p. 345) put it: we are

[3] On this point, see G. A. Cohen, "Reason, Humanity and the Moral Law," in Christine Korsgaard, *The Sources of Normativity*, pp. 167–70 as well as Korsgaard's reply on p. 236: "In both Kant's version and mine the subject is unequivocally the author of the law, but autonomous lawmaking is not something you can do any way you like, any more than thinking is. It must be done universally."

[4] Cf. Joseph B. Soloveitchik, *Halakhic Man*, pp. 78–9, 134–35.

[5] Hermann Cohen, *Ethik des Reinen Willens*, p. 319.

not volunteers for morality and must subjugate ourselves to duty. To see this point, one need only recognize that for Kant (*FMM* 447, p. 65) a free will is a will under law. Clearly he is not thinking of freedom as the ability to do whatever one wants. That conception of freedom is purely negative because all it tells us is that there is no external constraint on what we do. If lack of external constraint were all that is involved in freedom, there would be no difference between a free will and an arbitrary one. In the end autonomy would not be self-*rule* but the ability to act on whatever whim strikes one at the moment.

To see the difference, consider what is involved in ruling oneself. According to Kant the key factor is the endorsement of a principle. If I scratch my ear inadvertently, I have initiated behavior but said nothing about the value of what I have done. If I lose my temper and blow up at a friend, I have initiated behavior of which I strongly disapprove.[6] Suppose however that I give to charity in the belief that what I am doing is right. Here I have initiated behavior and affirmed something about the reason for doing it. It is the fact that my behavior is sanctioned by a principle I accept that allows us to say I have exercised self-control. In addition to having no external constraint, a free action expresses something about the person who performs it. It tells us what she stands for and what kind of person she wants to become.

The upshot is that a free action is mine in a way that an action on impulse is not. It is an action on which I have staked a claim. The difference between freedom and necessity is that in the latter case, the cause of my action is a force external to the will, while in the former case it is the will itself. How can the will be a cause? Without going into the metaphysical dimension of the question, we can say that it is a cause when it chooses a law of its own making rather than responding to a law imposed on it by something else. According to Kant's metaphor, when it

[6] On the importance of secondary intentions for understanding autonomy, see Gerald Dworkin, *The Theory and Practice of Autonomy*, p. 15: "One may not just desire to smoke, but also desire that one not have that desire. I may not just be motivated by jealousy or anger, but may also desire that my motivations be different (or the same)."

chooses a law of its own making, it legislates its own behavior and in that sense is autonomous.

By a law, Kant means a principle that covers all moral agents, something I legislate for myself and urge you to legislate for yourself. As any student of Kant knows, this explanation is nothing but the first formulation of the categorical imperative: act according to a maxim by which you can at the same time will that it should be a universal law. At this stage the categorical imperative does not tell us exactly what we should do. It says only that we should act for the sake of principle and not make exceptions of ourselves. Because of its generality, the categorical imperative is the only law that can govern the realm of freedom. Rather than constrain the will by saying "Do this" or "Don't do that," it requires only that in choosing a principle, we be consistent. Any breech in consistency means our action is not law-governed but arbitrary. As Christine Korsgaard points out, this formulation of the categorical imperative arises from the very nature of what a free will is.[7] All it says is that freedom must be principled. That is why the will is subject to it.

The second misconception involves the metaphor of authorship. Since the moral law is known a priori, it cannot have an author in the sense that *King Lear* does. As members of the kingdom of ends, everyone is an author; as empirical beings responding to sensuous influences, no one is. Kant makes this point by saying (*FMM* 431, p. 49) that the supreme condition of the will's harmony with universal practical reason is "the *idea* [my emphasis] of the will of every rational being as making universal law." In other words, the author of the law is not Dick or Jane but our conception of ourselves as beings who live up to the demands of practical reason. Emil Fackenheim makes essentially the same point by saying that while I am the author of the law in the sense of being able to appropriate it freely, it does not follow that I am (or have to be) the author of the law in fact.[8] Note Kant claims in the passage cited above that I must be able to *regard* myself as author. In one sense he means a great

[7] Korsgaard, *Sources*, p. 98.

[8] Emil Fackenheim, "Abraham and the Kantians," in *Encounters Between Judaism and Modern Philosophy*, p. 45.

deal, in another sense comparatively little. The problem is that he sometimes vacillates between the two, leaving the reader with conflicting impressions of what he means.

If we look at autonomy from the standpoint of the will in its relation to the law, all authorship means is that I am capable of grasping the validity of the law and choosing to act for its sake.[9] Rather than create or introduce the law, I recognize that it is binding on every rational agent. In this sense, I am no more the author of the law than is a geometry student who proves the Pythagorean Theorem is its author. Along these lines Kant suggests (*CPrR* 8, p. 8) that only a fool would claim to be the inventor of morality. So while it is true to say that the will is a law to itself, it is important to remember that the only law it can impose on itself is one of which a morally perfect being would approve, a law that is universal and thus completely impartial.

By calling us the author of the law, Kant means that the law acquires its validity not because someone orders me to obey it but because reason requires it. It is significant that after introducing the formula of autonomy, Kant does not do what a casual reader would expect: he does not go into a discussion of the freedom to determine our own destiny but exactly the opposite, a discussion of the need to ignore "all admixture of interest" and to act solely on principle. So there is no reason to think that he took the formula of autonomy as a way of inviting creativity.

If however we look at the matter from the standpoint of the will as the source of the law, we get a different impression: not only that the will is subject to a universal principle but that it literally *makes* the principle for itself.[10] Here the will is treated as sovereign, as a moral authority bound only by its own directives. It is almost as if the stern and unyielding voice of duty gets pushed to the margins. Kant would no doubt reply that he is not trying to create two impressions but one: since the will he is talking about is nothing but reason in its practical capacity, the

[9] For this formulation, I am indebted to Brendan E. A. Liddell, *Kant on the Foundation of Morality*, p. 163.

[10] For more on the two ways of reading the formula of autonomy, see Robert Paul Wolff, *The Autonomy of Reason*, pp. 178–79.

fact that it is both subject and sovereign is perfectly consistent. It is true that the will is bound only by its own directives but also true that it is subject to a principle that has nothing to do with the specifics of time and place. From Kant's perspective, the appearance of inconsistency arises only if we persist in interpreting sovereignty as ability to do whatever one wants. While his choice of words is partly responsible for this problem, we must be careful not to press the metaphor of authorship too far.

It is clear that freedom in the sense here intended involves more than the capacity to choose between alternatives. Sometimes Kant makes this point by distinguishing between *Wille* and *Willkür*, or as we might say between rational will and the liberty of free choice. Suppose a tyrant offered me a take-it-or-leave-it proposition: work for an evil bureaucracy or go to prison. Though some might say I am free to do one or the other, no matter what alternative I pick, I cannot regard myself as its author. The same is true of deception. If you trick me into thinking the money I give you will be used to feed hungry children, it may be true that I give it to you freely, but it is not true that I can regard myself as the author of what I have done.[11] The problem with coercion or deception is that they do not enable me to endorse the action I have undertaken, to exercise authority over my behavior and thus to be free.

It should also be clear that Kant's understanding of autonomy makes sense only if we accept his bifurcation of reality into the realms of nature and freedom. Yet here too we run the risk of misunderstanding. The distinction between nature and freedom, or phenomenon and noumenon, is not analogous to Descartes' distinction between body and mind. It is not, in other words, a distinction between two entities linked by a strange causal connection. There are, of course, passages where

[11] For discussion of why liberty does not necessarily imply autonomy, see again Dworkin, *Theory and Practice of Autonomy*, p. 14. Note however that Dworkin's account of autonomy does not include the idea of an objectively valid moral law. According to Dworkin (p. 21), a person who decides he wants to uphold the rule "I will do everything my mother, leader, or priest tells me to" is still autonomous. According to Kant, such a person would not be autonomous because the maxim according to which the person acts is suspect. We cannot follow the dictates of another person until we can assure ourselves on independent grounds that everything the person says is right.

Kant talks this way, but I follow Cohen and a long tradition of scholars in regarding the noumenal realm not as a collection of entities but as a system of values, a target rather than a substance.[12] Put otherwise, the noumenal self is not a ghost-like creature that intervenes in the phenomenal world but a transcendental presupposition: our idea of ourselves insofar as we are capable of responding to the call of duty.

The upshot is that we do not possess autonomy in the way that we possess a circulatory system. Since it requires action on principle, autonomy involves the ability to subject the desires and impulses that affect behavior to rational scrutiny. If I am going to be autonomous, I must forget the fact that I like Peter and hate Paul and look at both as human beings worthy of respect. It follows that autonomy is something we have to make, or better yet, something we have to strive for. Though we all have the capacity to act rationally, there is nothing that guarantees we will succeed and every reason to think we can be mistaken in our estimate of what we have done. In the words of Yirmiahu Yovel: "*the very status of rationality is not ready-made but constituted.*"[13]

To this we should add that it has to be constituted by the agent herself. Behind Kant's authorship metaphor is the view that it is impossible to receive morality from an external source, even if that source is divine. God can issue commands and beseech me to obey them. But if morality is to command unconditional respect, I must recognize the intrinsic value of obeying the commands and affirm them for their own sake. In the kingdom of ends, where everyone is rational and every subject's humanity is respected, no one will follow any orders other than the ones she imposes on herself. We should keep in

[12] For a passage where the distinction between noumenon and phenomenon sounds like an ontological dualism, see "On the Extreme Limit of All Practical Philosophy" in the *Foundations*. For discussion of the Marburg interpretation of Kant, see Steven S. Schwarzschild, "The Tenability of H. Cohen's Construction of the Self," *Journal of the History of Philosophy* 13: 3 (1975), 378–79: "Noumena are, however, normative constructs; they are the reasons for, not the causes of, their phenomena; and so the noumenal self is the definition of the self as an ethical task." For a recent interpretation that takes a similar view, see Henry E. Allison, *Kant's Idea of Freedom*, pp. 3–5, 141–43.

[13] Yirmiahu Yovel, *Kant and the Philosophy of History*, p. 13.

mind however that this is an ideal of reason, something we must work for rather than something we already have.

Though Kant is convinced that all people have the capacity to be rational, he would not have written "What is Enlightenment?" if he thought that most people were successful in exercising it. In fact, his answer to the question "Do we live in an enlightened age?" is no. Rather than an enlightened age, Kant says he is living in an age *of* enlightenment by which he means that "the field has been opened up." Although there has been a tendency for people to use *autonomy* more as a descriptive term than a normative one, Kant would no doubt object that this is part of the larger tendency to try to derive morality from our awareness of the way things are rather than the way they ought to be. Once we admit that it is the *idea* of the will of every rational being that makes universal law, it follows, as Wood remarks, that "it is always in principle possible for us to be mistaken about what we think is right, no matter who we are, how many of us there are, or what decision procedures we may have applied in arriving at our moral beliefs."[14]

The final misconception, and the most serious from my perspective, is that the doctrine of autonomy does away with God.[15] To be sure, it calls into question the idea of a God whose decrees cannot be questioned and who insists on obedience above all else, but why is that conception of God the only legitimate one? Not only did Kant believe in God, he went on to argue in *Religion Within the Limits of Reason Alone* that there are good reasons for believing in the saving grace of God. Unless we can rely on God's saving grace, then, in Kant's opinion, there would be no way to overcome the burden of our own guilt and no reason to have confidence in our ability to redirect the course of our life. "Without God," he writes, "I would have to

[14] Allen Wood, *Kant's Ethical Thought*, p. 158.

[15] For an extreme form of this criticism, see Yeshayahu Leibowitz, *Judaism, Human Values, and the Jewish State*, pp. 19, 90, 106, 207. According to Leibowitz, the doctrine of autonomy is negated by the *Shema*, which says "And that you may not go astray after your own heart and after your own eyes." Part of the issue concerns the meaning of heart (*lev*). If the prayer means that we are not supposed to follow desires and inclinations that arise within us, Kant would agree. Note that a few lines earlier, the same prayer says that God's words have been deposited in our heart and in our soul.

be either a visionary or a scoundrel. I would have to deny my own nature and its eternal moral laws."[16] Rather than banish God, the purpose of the critical philosophy is to put a check on the things we can say about God: that God is arbitrary, that God is immoral, or that God has contempt for human reason.

In the *Critique of Practical Reason* (130, p. 134), Kant defines religion as: "the recognition of all duties as divine commands, not as sanctions, i.e., arbitrary and contingent ordinances of a foreign will, but as essential laws of any will as such." As we will see later, he does not deny that God issues commands nor does he object to the idea of some form of divine revelation. His point is that while all duties may be *seen* as divine commands, the fact that something is a divine command is not a sufficient reason for regarding it as a duty. The only reason for regarding it as a duty is that reason can establish its necessity a priori. This is another way of saying that God's commands are not unique to God nor are they magically validated by God. "The very concept of religion," he tells us, "shows that it can never be based on decrees (no matter how high their source)."[17] So it is not God's voice that gives the moral law its value but the fact that it has value in itself that makes it the object of a morally perfect will. In many respects Kant's position is like the medieval view which says that God does not make the laws of logic valid but recognizes their validity and affirms them for all time.[18]

How do we come by the moral law? We saw that in presenting the doctrine of autonomy, Kant makes use of the vague and potentially misleading phrase that the will is "designed by nature" to be a will giving universal law. In *Religion Within the Limits*, he goes further, saying that God's will is revealed through an inner revelation to our reason and that inner revelation is prior to all other forms and serves as their judge.[19] The problem with external revelation like a heavenly

[16] Kant, *Lectures on Philosophical Theology*, p. 110.
[17] *CF* 36, p. 61.
[18] See, for example, Maimonides, *GP* 3. 15.
[19] *RWL* 102, 135, 142–43. For the adaptation of this doctrine in Reform Judaism, see Michael Meyer, *Response to Modernity: A History of the Reform Movement in Judaism*, pp. 147, 273.

voice is that it is addressed to specific people, dependent on historical circumstances, and therefore cannot bind all of humanity. Why for example should people at one end of the world be bound by a law given to people at another? But this argument does not get to the heart of the matter.

Even if God's voice could be revealed to all humanity simultaneously, it will still not impose a moral duty because we would first have to assure ourselves that it was God speaking rather than a pretender (*RWL* p. 157):

> For in whatever manner a being has been made known to him by another and described as God, yea, even if such a being had appeared to him (if this is possible), he must first of all compare this representation with his ideal in order to judge whether he is entitled to regard it and to honor it as a divinity. Hence there can be no religion springing from revelation alone, i.e., without *first* positing that concept, in its purity, as a touchstone. Without this all reverence for God would be *idolatry.*

Since the only way to judge whether something deserves to be honored as a divinity is to determine whether the message we receive is *worthy* of divinity, external revelation presupposes internal. "Faith in a merely historical proposition," he assures us, "is, in itself, dead."[20] From his perspective no right-thinking person would obey a heavenly voice rather than the moral law. In a moment of eloquence, he goes further still, saying that the moral law is engraved on our hearts, a passage that calls to mind Deuteronomy 30:11–14, where Moses says the same thing about the Torah.[21]

The idea of internal revelation was hardly new; any number of medieval rationalists including Maimonides espoused the same thing. What was new is Kant's view of priority. Rather than start with the knowledge that something is a divine command and infer that it is a duty, Kant thinks we should start with the knowledge that it is a duty and infer that it is a divine

[20] *CF* 66, p. 121.

[21] In all likelihood, Kant got the metaphor of a law written on the heart from Romans 2:14–15, where Paul says that when people who do not have the law but do instinctively what it requires, they are "a law to themselves" and show that what the law requires is "written on their hearts." This context differs from Deuteronomy 30, where the people do have the law and have internalized it.

command.[22] In sum our idea of God is derived from our idea of moral perfection, not the other way around. Moral perfection, in turn, can be known by reason alone. So it would seem that reason, or the moral law as determined by reason, is the supreme authority in religious matters.

Another way to see this point is to recognize that while Kant believes that God commands us to do our duty, *the fact that* God commands it is of no moral significance. As Fackenheim remarks, the fact that the law originates with God has no more bearing than a remark about the weather. As in geometry, the question is not where we get the law but whether it is valid in its own right. It is in this sense that the doctrine of autonomy poses a threat to traditional religion. The problem is not that God has dropped out of the picture for Kant continues to think that faith in God is necessary if we are to renounce evil and make a serious effort to improve our lives. Without God, the moral law would retain its validity but there would be no reason to think that we could fulfill it. This implies that we can be reconciled with God despite our failings as human beings, that, however difficult it may be for us to understand, atonement and redemption are possible.

But whether we succeed in improving our lives or continue to sin, God is still bound by the same stern, unindulgent law that we are. Thus our awareness of God is mediated by our awareness of the law. Other than obeying the law, there is no way we can please God.[23] In answer to the charge that he was replacing divine authority with human, Kant would reply that his goal is simply to have people direct their attention to a true rather than a spurious conception of God, a God who speaks to all people and calls us to the highest behavior of which we are capable. Such is the creed of the "single, unchanging, pure religious faith" that he thinks is embedded in the conscience of every person.

It is not hard to see how the idea of self-legislation undermines Rabbinic and clerical authority for that is precisely what

[22] *RWL* p. 143, cf. *FMM* 408, p. 25: "Even the Holy One of the Gospel must be compared with our ideal of moral perfection before He is recognized as such."

[23] *RWL* p. 158.

Kant wanted it to do. In a true faith, we would not have the laity dragged around by "the small body of textual scholars" but would accord recognition and respect to "universal human reason as the supremely commanding principle."[24] It is worth noting that for Kant scriptural scholars form a separate class from scriptural interpreters: while the latter derive universal moral messages from scripture, the former, in his opinion, maintain the authority of a particular church.[25] According to him (*RWL* p. 148): "It is obvious that no scriptural scholarship but the pure religion of reason must be the law's interpreter." In *The Conflict of the Faculties* (123), he claims that the God who speaks through our own reason "is an infallible interpreter of His words in the Scriptures, Whom everyone can understand."

On the issue of interpretation, Kant takes a liberal view that emphasizes the moral efficacy of the teaching rather than faithfulness to the text. Provided our interpretation advances the cause of true religion, we do not have to show that the meanings we ascribe to religious symbols or religious texts match the authors' intentions; all we have to show is the possibility that the authors *may* have understood them this way. The justification for this strategy is that the authors' intentions are of little value compared with the importance of promoting the cause of morality (*RWL* p. 102):

> For the final purpose even of reading these holy scriptures, or of investigating their content, is to make men better; the historical element, which contributes nothing to this end, is something which is in itself quite indifferent, and we can do with it what we like. (Historical faith "is dead, being alone"; that is, of itself, regarded as a creed, it contains nothing, and leads to nothing, which could have any moral value for us.)

In a later chapter, we will see that unbeknownst to Kant, this strategy was often used by the very scholars whose efforts he criticized.

Nor is it hard to see how Kant's emphasis on the supremacy of reason calls into question the need for ritual. In fact Kant looks forward to the day when "religion will gradually be freed from all empirical determining grounds and from all statutes

[24] Ibid. p. 152. [25] Ibid. p. 103.

which rest on history."[26] It is well known that he considered Judaism the archetype of a statutory religion, which means, in effect, that it is not a true religion at all.[27] Reduced to simplest terms, Judaism, in his view, worships a God who makes "absolutely no claims upon, and no appeals to, conscience."[28] Even the Ten Commandments, whose moral validity is obvious, "are directed to nothing but outer observance." In Kant's opinion, it is only with Christianity that we get a religion containing moral teachings that require no other proof than that afforded by reason. Kant's anti-clericism and frequent appeals to the freedom of conscience leave little doubt that if Christianity is a more advanced religion than Judaism, Protestantism is a more advanced form of Christianity than Catholicism.

Whatever Kant says about the history of religion, it is undeniable that the doctrine of autonomy presupposes a long list of religious doctrines to be credible.[29] Among them: that the worth of a human being has nothing to do with external features like race, wealth, or social class; that human beings have free will and are responsible for their actions; that all of humanity is an end in itself; that all of humanity has the ability to know what duty requires; that all of humanity has the ability to renounce evil and pursue goodness; that morality concerns the dictates of the heart rather than outward observance; that all duties must be performed for their own sake (or as Kant himself allows, out of love of God); that the soul is immortal; that every human being will be judged by a merciful God who alone can look into his heart. It could be said therefore that the doctrine of autonomy is the outcome of a view that stresses the importance of the self and its power to determine its own actions.

Kant acknowledges his indebtedness in some places, arguing that (*RWL* p. 102) "the predisposition to the moral religion lay hidden in human reason" so that sound doctrines sometimes

[26] Ibid. p. 112. [27] Ibid. p. 116.

[28] Note that in a peculiar way, Leibowitz, *Judaism*, p. 207, agrees with this.

[29] Cf. Cohen, *RR* p. 33: "Autonomy, however, is not impaired by the borrowings from history, which ethics has to make from religion for its concepts of God and man, as it has had to borrow from all other factors of history and science."

emerge from ancient sources. Not surprisingly, he is more explicit about finding these doctrines in Christian teachings, especially when he argues that Christianity is a natural, which is to say moral religion. But even here, his interpretation of scripture is brief and impressionistic.

Despite his lack of respect for Judaism, Kant had a profound impact on Jewish philosophy.[30] Beginning in the nineteenth century, generations of scholars and theologians argued that rather than a statutory religion, Judaism was in fact a rational religion based on ethical monotheism. The outline of their argument is easy to discern. The Hebrew Bible is the first document to introduce the idea of universal humanity because it affirms that all of humanity has a common origin in God and was created in the image of God. The God who calls people to service is merciful, gracious, and slow to anger, and insists that the Israelite and the stranger be judged by the same law.[31] Though sin is a formidable obstacle, human beings are free agents who have the power to overcome it and bring about new and much better conditions than anything humanity has experienced before. While there are a number of statutory commandments in Judaism, their purpose, according to this school of thought, is to promote repentance and reinforce values like mercy, graciousness, and forgiveness. Even the sacrificial cult, which once constituted the core of Israel's piety, was replaced by the institution of prayer, which asks people to open their hearts to God. The religion reaches its culmination in love of God, which is a sufficient reason for performing the commandments and supersedes all motives based on self-interest.

As for the doctrine of autonomy, Moritz Lazarus went so far as to say that "the true meaning of the autonomy of morality appears in Jewish writings, especially those of Rabbinical times, if in forms different from Kant's, in forms as unmistakable."[32] Can this really be true? The usual answer is that Lazarus was

[30] For further discussion of Kant's impact on Judaism, see Kenneth Seeskin, "Jewish Neo-Kantianism: Hermann Cohen," in Frank and Leaman (eds.), *HJP* pp. 786–98.

[31] For the commandment to treat the Israelite and stranger according to the same law, see Exodus 12:49; Leviticus 24:22; Numbers 15:16.

[32] Moritz Lazarus, *The Ethics of Judaism*, Part One, section 100, pp. 132–33; Part Two, pp. 56–57.

too eager to find echoes of Kant in the pages of the Talmud.[33] In truth his sources are modest in number, and even his presentation of Kant slanted. Judaism does believe in a law that covers all people and must be performed for its own sake. But clearly there is more to autonomy than belief in the absolute nature of the law. As Lazarus himself recognizes in certain places, there is also the question of its ground or source. Should one obey the law because God commands it or because morality requires it?

To appreciate this question, consider Abraham as he is about to slay Isaac. There is no question of killing Isaac in order to secure happiness or avoid punishment: the command asks for obedience and offers nothing in the way of reward or consolation. Unless it is something Abraham would not do on his own, which is to say, unless he could not regard himself as its author, there is no test of loyalty. So Abraham's decision to forgo reward and punishment and regard the command as absolute does not make his action autonomous. It is not autonomous because he still has an external interest: to please God. Apparently he is willing to please God even at the cost of subverting his own intuitions about murder and his love for his son.[34] For Abraham then the supreme motive is love of God. How does he know what God wants of him? According to the text, it is only through external revelation in the form of voices and messengers.

We saw however that for Kant morality cannot be based on external revelation; the only revelation that is possible is internal through the medium of reason. Put otherwise, God is not a phenomenon; therefore it is impossible for a human being to be acquainted with God through one of the five senses. No matter what message we receive, we would first have to ask ourselves whether it accords with our idea of moral perfection. Since that

[33] For criticism of Lazarus, see Ephraim E. Urbach, *The Sages*, pp. 317–19. But it cannot be true as Urbach claims (p. 317) that the decision to accept the covenant was not free but "enforced and directed by God's will." If it was not free, no obligation is incurred. I will discuss this issue in greater detail in the next chapter.

[34] Note that the prohibition against murder is given as early as Genesis 9 and applies universally. I will have more to say about this issue in the next chapter as well.

idea is known a priori, our only way to establish contact with God is through the activity of reason.

It follows that any attempt to decide an issue by appealing to heavenly voices or people authorized to interpret them constitutes heteronomy *even if there is no question of reward and punishment*. For Kant no external voice has the authority to overrule a person's conscience, and no interpreter has the right to tell us what our own conscience demands. Any other view is tantamount to rejecting the "Think for yourself" principle. We saw that the ability to give law to oneself applies to all of humanity and is what gives humanity its dignity. In regard to Abraham, Kant maintains that the correct response to the voice from heaven should have been:[35]

> That I ought not to kill my good son is quite certain. But that you, this apparition, are God – of that I am not certain, and never can be, not even if this voice rings down to me from (visible) heaven.

Such is the answer of the Abraham who thinks for himself.

But clearly this is not the Abraham of tradition, the Abraham who rose early in the morning to serve a God whose will he could obey but not understand. Thus the classic Rabbinic position is that the Torah stands or falls on acceptance of the yoke of heavenly authority and after that the yoke of the commandments. According to a Midrash, the situation is analogous to that in which a king enters a province but imposes no decrees. When asked why, he replies that unless the people first accept him, they will not accept his laws.[36] This is exactly the view that Kant thought he was arguing against. While it is true that some of the laws of the Torah are such that a rational person could accept them on his own, we saw that the issue is *why* they are accepted: if the validity of the law derives from the authority of the law giver, what contemporary theologians refer to as God's commanding presence, we are back to heteronomy. In the words of David Novak: "It is divine offering, not human acceptance, that creates the obligation."[37]

[35] Kant, *CF* p. 115.

[36] *Mekhilta de-Rabbi Ishmael (Baḥodesh)*, 4. 2. 227.

[37] David Novak, *Jewish Social Ethics*, p. 36. Cf. Yovel, *Kant and the Philosophy of History*, p. 202.

In fact the stronger the argument for heteronomy in Judaism, the stronger is Kant's claim that the Copernican Revolution in ethics is just that: a radical departure from previous accounts of morality. Not only is there nothing in Rabbinic Judaism that claims that human beings give the law to themselves, there is nothing approaching a theory of practical reason in Kant's sense, let alone the recognition that reason is reflexive. Even on an intuitive level, Judaism stresses that we are servants (*avadim*, Leviticus 25:55) or at least subjects of God whose purpose in life is to bend our will to suit God's.[38] According to a famous saying of Rabbi Gamaliel (*Pirkei Avot* 2.4):

> Do His will as if it were your will, that He may do your will as if it were His will. Nullify your will before His will, that He may nullify the will of others before your will.

There is a respect in which Kant could accept this advice. If all ethical duties are divine commands, then we should appropriate God's will and make it our own. But this assumes that our knowledge of God is derived from practical reason, while Rabbinic Judaism typically assumes that it is the product of external revelation. So the context of Rabbi Gamaliel's remark leaves little doubt that it is a defense of heteronomy.

Does it follow that Judaism has no place for autonomy? Should we assume that a believer has no choice but to worship a God whose word binds without any thought of human participation? In keeping with his existentialist orientation, Fackenheim argues for a kind of freedom that is neither autonomous nor heteronomous in the strict sense: a divine commanding presence, by which he means a critical moment prior to the appearance of commandments, when God first calls a person to service.[39]

> In the pristine moment, the divine commanding Presence does not communicate a finite content that the human recipient might appraise

[38] The issue of slavery in the Bible is complicated. Hebrew slaves could only be held for seven years and then had to be released. During their term masters did not have total authority over them and could not treat them harshly or unfairly. Thus Leviticus 25:55 and similar passages could be taken to mean that Israel has agreed to serve God voluntarily. For more on the character of Israelite slavery, see Lenn Goodman, *God of Abraham*, p. 117.

[39] Fackenheim, "Abraham and the Kantians," p. 45.

and appropriate in the light of familiar standards. On the contrary, it calls into question all familiar content, and indeed, all standards.

Again the obvious comparison is with a king who wants to be accepted for who he is rather than what he has decreed.

While no content is passed in this moment, according to Fackenheim, there is still a choice:[40]

> The freedom required in the pristine moment of the divine commanding Presence, then, is nothing less than the freedom to accept or reject the divine commanding Presence as a whole, and for its own sake – that is, for no other reason than that it is that Presence. It is such freedom that the prophet displays when he responds, ''Here I am, send me''; or that the people as a whole display when they respond, ''We shall do and hearken.'' . . . But this entails the momentous consequence that, if and when a man chooses to accept the divine commanding Presence, he does nothing less than accept the divine Will as his own.

The decision to accept the commanding presence of God is not autonomous because there are as yet no commandments to appropriate. Kant would object that to accept divine authority ''as a whole'' before knowing what demands have been made on us runs the risk of fanaticism. Unless knowledge of the moral law precedes the call of God, we can answer the call but not appropriate it in a rational way. But, Fackenheim insists, neither is the decision heteronomous because it is accepted for no other reason than that it *is* the presence of God. The prophet makes God's will his or her own out of love for God, not desire for a reward. In Fackenheim's view, this is the appropriate way to respond to Kant's challenge because it preserves divine sovereignty at the same time that it leaves an important role for the spontaneity of a human response. So we have the decision to obey or disobey God irrespective of specific commandments.

The question raised by Fackenheim, and by divine command theories in general, is whether religious life is ever as simple as accepting or rejecting God's presence as a whole.[41] Is religious

[40] Ibid., pp. 46–47.

[41] For a recent attempt to formulate a modified divine command theory, see Robert M. Adams, *The Virtue of Faith and Other Essays in Philosophical Theology*, pp. 97–122. According to Adams, to say that something is wrong is to say that it is contrary to God's commands. Clearly his version of divine command theory presupposes that

commitment an all-or-nothing proposition in which humans accept God's will as their own, or is it rather the case that decisions are more complicated and often involve some aspect of autonomous thought or action? Note, for example, that while Abraham is ready to leave his father's house at God's command, his life is anything but a record of constant submission. More important for our purposes, Abraham challenges God after hearing of the plans to destroy Sodom and Gomorrah (Genesis 18:23–25):

> Will you actually sweep away the righteous with the wicked? . . . Far be that from you! Shall not the judge of all earth do what is just?

As David Hartman points out, Abraham's response is fundamentally different from Noah's.[42] Faced with impending disaster, Noah acquiesces and builds an ark to protect himself and his family; by contrast, Abraham launches a protest. Again the issue has nothing to do with reward or punishment. The issue is rather that God has proposed something that contradicts Abraham's sense of what is right, and rather than make God's will his own, Abraham argues that the proposal falls short of a standard that God too must obey.[43] It could be said therefore that there are circumstances in which the Biblical Abraham is quite willing to think for himself.

So too the Biblical Moses. While it is true that Moses answers God at the burning bush with the characteristic phrase "Here I am" (Genesis 3:4), anyone who interprets this response as

the God we are talking about is a loving God and would not command cruelty for its own sake. But suppose God did command it? In that case Adams thinks our understanding of right and wrong would "break down" (pp. 101–102), making it neither right nor wrong to obey God. The problem with this view is that it takes away the possibility of holding God to account as Abraham does at Genesis 18:23–25.

[42] David Hartman, *A Living Covenant*, p. 30.

[43] For a rejection of the idea of natural law in Judaism, see Marvin Fox, "Maimonides and Aquinas on Natural Law," in Fox, *Interpreting Maimonides*, pp. 124–51. The argument (p. 126) that there is no word in Biblical Hebrew corresponding to *physis* or *nature* does not rule out the possibility that there are universal moral standards binding on God as well as humans. For criticism of Fox, see Aharon Lichtenstein, "Does Jewish Tradition Recognize an Ethic Independent of Halakha?" in Menachem Kellner (ed.), *Contemporary Jewish Ethics*, pp. 102–23 as well as David Novak, "Natural Law, Halakhah, and the Covenant," in Novak, *Jewish Social Ethics*, pp. 25–29. I will take up this issue in greater detail in the next chapter.

willingness to serve at the drop of a hat has gone well beyond the text. In fact Moses puts up every conceivable form of opposition to his call and eventually provokes God's anger.[44] More important for our purposes are the episodes where Moses objects to God's decision to destroy the people as a punishment for disobedience. In the first instance (Exodus 32:13–14), he uses two arguments: the Egyptians will form the wrong impression of God's intentions, and God will break the promise made to the patriarchs. The latter is a clear allusion to Genesis 17:4 ("You shall be the ancestor of a multitude of nations") and 17:7 ("I will establish my covenant between me and you, and your offspring after you throughout their generations, for an everlasting covenant"). The passage clearly assumes that promise breaking is as wrong in heaven as it is on earth.

In the second instance (Numbers 14:13–19), he again uses two arguments: the nations of the world will form a mistaken impression of God's saving power, and God will break the promise made to Moses at Exodus 34:5–8, according to which the Lord is slow to anger, abounding in love, and willing to forgive iniquity. Like Abraham, Moses suggests that God will fall short of a standard according to which everyone including God must adhere. The implication is that God is not like a tyrant who makes laws that apply only to others. On the contrary, it is God most of all who remains true to the law. The universality of the law culminates in the institution of a written public document (Exodus 24:3–7; Deuteronomy 27:1–8) with universal validity. Once this institution is established, the practice of citing the law against God becomes a valid part of Israel's heritage. In many respects it is the origin of "the problem of evil" as found in prophets like Jeremiah and Habakkuk.[45] As we will see in a later chapter, even the Rabbis are not averse to invoking it when it suits their purposes. That does not mean that people expect to gain a material advantage over God but that, like Job, they feel justified in insisting on fair play.

[44] Cf. Jeremiah 1:1–19.

[45] Jeremiah 12:1–2; Habakkuk 1:1–13. For further discussion of this aspect of Biblical literature, see S. H. Blank, "Men Against God: The Promethean Element in Biblical Prayer," *Journal of Biblical Literature* 72 (1953), 1–13.

And finally the Biblical Amos. On one of the holiest days of the year, he enters the royal sanctuary at Bethel, interrupts the service, and tells the priest that the religion being practiced there is a sham because it is based on social inequality and oppresses the poor. Who is Amos that he should cause such a disturbance? In his own words (7:14–15): "I am no prophet, nor the son of a prophet; I am a herdsman and a dresser of sycamore trees; and the Lord took me from following the flock, and the Lord said to me: 'Go prophesy to My people Israel.'" In short, he is an amateur from a rural area who is convinced (or has been told) that the priests in the city have failed to understand the true meaning of the religion, which is the importance of social justice. According to Samuel Sandmel: "The message would be considered 'radical' in any age. There are people in our own day who would denounce it as subversive and who would be shocked to recognize it in the Bible."[46] With the benefit of hindsight, we can say that Amos was sent by God to expose the hypocrisy to which ancient Judaism had sunk. But if we were to ask Amos what that God is like, he would answer by talking about fairness and compassion, qualities that one does not have to be a priest to understand.

Perhaps it should come as no surprise that the Bible contains people willing to challenge authority on the basis of firmly held convictions. Note that in most of the conflicts between an individual and the community, the individual turns out to be right. It is the community who doubt God prior to the parting of the Red Sea, the community who want to return to Egypt and be slaves to Pharaoh when food is scarce, the community who turn to the Golden Calf in Moses' absence, the community who threaten to stone Joshua and Caleb when they ask people to have faith in God's saving power, and the community who turn to superstition despite repeated warnings that it is nonsense. In many ways, the Bible offers a landscape in which heroic individuals refuse to follow the community or God or anyone else without speaking their minds when it appears that things are not right, a world in which individuals can affect the

[46] Samuel Sandmel, *The Hebrew Scriptures*, p. 60.

course of events if they have the courage to stand up for what they believe.

Unfortunately this aspect of Biblical literature is often obscured by people who have a vested interest in defending some version of heteronomy. But without characters willing to challenge civil and religious authority, the history of religion would be much less inspiring than it is. "The creation of a being capable of saying no to divine commands" writes Hartman, "is the supreme expression of divine love, insofar as God makes room for humans as independent, free creatures."[47] Without the ability to say no, humans would be an extension of God but could never be partners with God. The same sentiment is expressed by the Soloveitchik of *Halakhic Man*, who points out that the man of halakhah is neither submissive, nor retiring, nor particularly meek when it comes to expressing his views.[48] In Soloveitchik's terms, his most characteristic feature is strength of mind, a feature for which the Bible offers ample precedent. We saw that there is a sense in which Kant undermines his own revolutionary rhetoric by claiming that "a predisposition" to morality lay hidden in human reason so that we should not be surprised to find traces of moral theory in ancient sources. Though it is overly ambitious to suppose that the doctrine of autonomy is present in texts written centuries before Kant, given the complexities of religious life, it is unrealistic to think that in those same centuries no one anticipated it.

In the chapters that follow, I will try to show that what is revolutionary in Kant's philosophy is not belief in universal moral standards, or the recognition that morality is an end in itself, or even the willingness to listen to the wisdom of a common shepherd – all that had been said before. What was

[47] Hartman, *A Living Covenant*, p. 24. Cf. Levinas, *TI* pp. 58–59: "It is certainly a great glory for the creator to have set up a being capable of atheism, a being which, without having been *causa sui*, has an independent view and word and is at home with itself." For commentary, see Richard A. Cohen, *Elevations*, pp. 180–82.

[48] Soloveitchik, *Halakhic Man*, p. 79. I say "the Soloveitchik of *Halakhic Man*," because the Soloveitchik of *The Lonely Knight of Faith* speaks differently. In the latter work (p. 103), Adam the second willingly accepts defeat, agrees to live according to the dictates of a higher will, and retreats into the irrationality of a total commitment to God. For the transition in Soloveitchik's thought, see Hartman, *A Living Covenant*, ch. 3.

revolutionary was the idea that everyone can know what morality requires and act on it, that in principle everyone has the right to follow Abraham, Moses, or Amos and question authority in the name of a higher principle. For according to Kant, it is the capacity to question authority that defines our humanity.

The challenge then is to discuss autonomy without oversimplifying, to see that while Kant was the first person to pose the problem of autonomy in such a stark way, he did not create it *ex nihilo*.[49] In discussing this issue, I will try to avoid the temptation to speak in global terms arguing that Judaism as a whole either supports or rejects this doctrine. There is a long history of people who view Judaism as a legalistic faith that has no room for free thought or individual expression. But that view, which was popular with Kant and many of his Enlightenment cohorts, is a prejudice based on a massive oversimplification. What interests me are the sources that anticipate the doctrine of autonomy, wrestle with it, or introduce assumptions on which it depends for support.

I will also try to avoid the temptation to assume that the distinction between autonomy and heteronomy is hard and fast. If autonomy is something we have to strive for, I see no reason why one cannot be more or less autonomous. We will see in our discussion of classical sources that there is more to revelation than a commanding voice from above and a band of devoted followers below. Between these poles are a long series of prophets, sages, and interpreters – all places where the issues posed by autonomy pop up in new guises. It could be said therefore that what is true of Mideast peace negotiations is also true of discussions of this issue: the devil is in the details.

Even in today's world, when autonomy has taken on a more personal character than Kant intended, the issues are complex. To what extent should a religious community respect the conscience of individual members? To what extent should we think of God as a king issuing decrees, and to what extent as a

[49] The great exception to this claim is, of course, Rousseau. See *The Social Contract* 1.8.4, p. 27: "For just as motivation by sheer appetite is slavery, so obedience to self-imposed law is liberty."

partner working to perfect the world? Does God stand outside morality, or is God the primary exemplar of it? How we decide these issues will depend on how we think about fundamental concepts like creation, revelation, and the relation between God and humans. While the dominant tendency in philosophy of religion has been to accept some form of heteronomy, there has always been a segment that has sought enlightenment and tried to lift humanity from what Kant calls its self-incurred tutelage. It is that segment which forms the subject matter of this book.

CHAPTER 2

Covenant and consent in the Bible

It is often hard for us to read the Bible without a sense of estrangement – not only because it describes a prescientific age but because its characters seek religious fulfillment in ways we have trouble understanding. We think of worship in terms of prayer, hymns, and the study of sacred texts; they thought of it largely in terms of animal sacrifice. The strangeness of Biblical religion is one reason that philosophers like Kant and Hegel concluded that to the degree that it is a religion at all, Judaism is a purely statutory one. As Hegel put it: "All law is given by the Lord, and is thus entirely positive commandment."[1] No doubt much of Biblical religion would seem like positive commandment if we were asked to practice it today. Even if we could be allowed into the Holy of Holies, few people would feel comfortable watching the high priest perform his duties. But is that any reason to conclude that the people for whom these rituals were intended would have felt the same way? Is our abhorrence of cult worship sufficient grounds for saying that they would have regarded it as arbitrary ritual or "entirely positive" commandments?

In an important passage in *The Guide of the Perplexed* (3. 32), Maimonides argues that in ancient times, the situation was the exact opposite of what Kant and Hegel thought: rather than force meaningless rituals on a people who did not want them, God provided for priestly vestments and animal sacrifice because the people were so used to these things that they would have been baffled by a religion that excluded them. According

[1] Hegel, *Lectures on the Philosophy of Religion*, vol. II, p. 211.

to Maimonides: "a sudden transition from one opposite to another is impossible. And therefore man, according to his nature, is not capable of abandoning suddenly all to which he was accustomed." Seeing this, God had no choice but to wean the people from paganism one step at a time. The result is that what may look like a body of arbitrary ritual to us, and conjure up pictures of a vengeful God who rules by fiat, is evidence of God's willingness to make accommodations to human sensibilities.

I mention Maimonides because in discussing the Bible one always runs the risk of anachronism. Rather than look at Biblical religion as a test of wills between God and a recalcitrant Israel, I want to see it as the foundation of a moral tradition that upholds freedom and the importance of agreement by mutual consent. Briefly put, God is not Pharaoh. Rather than impose positive law on people who have no choice but to accept it, God asks Israel to commit itself to a law that represents the highest expression of its own convictions.

The Book of Genesis is noteworthy for the abrupt way it begins. God creates heaven and earth and calls the first ray of light into being. Unlike other ancient cosmogonies, this one tells us nothing about who God is, what else God may have done, what God looks like, or how God came to power. Since God has no beginning, we may conclude that there is no external force that holds sway over God, nothing that causes God to act or presents an obstacle against which God must contend. Creation then is completely spontaneous. God says "Let it be" and suddenly it is so. From a philosophic perspective, the opening verses of Genesis present an agent and an action. The agent acts, but we have no context for the action and no empirical manifestation for the agent. Though successive acts are preceded by the phrase "God said" both Maimonides and Naḥmanides see references to divine speech as a figurative way of talking about the divine will.[2] The world exists because God desires that it should. Since the parts of creation are good, and

[2] On this point, see Maimonides, *GP* 1.67 as well as Naḥmanides' commentary on Genesis 1:3.

creation as a whole *very* good (Genesis 1.31), the Bible begins by saying that above all else, God has a free and good will.

According to the morning prayer ("In goodness God constantly renews the act of creation day by day"), creation is not a one-time event but something that is repeated indefinitely. So the issue is not just God's decision to create the world but the infinite number of decisions God makes to sustain it. Better yet, the issue is that the original decision to create the world has the power to renew itself.

The idea of renewal has important consequences for how we understand freedom. Recall that freedom involves not only the performance of an action but the decision to endorse the action and all others like it. Viewed in this way, freedom is reflexive: it involves doing something and taking responsibility for what one intends to do in the future. If a person commits herself to a cause, she must *re*commit if she is going to remain loyal to it. If a person falls in love, he is saying that his devotion to his loved one is not going to change from one day to the next.[3] Along these lines, I take Genesis 1:1 to mean that God both created the world and accepted the responsibility of keeping it going. There is a tradition based on Proverbs 8:22 ("The Lord create me [wisdom] at the beginning of his work") that claims that the phrase "In the beginning . . ." should be understood as "With wisdom . . ." This has led people to suggest that God created the world using the Torah as a model or template.[4] All this is a way of saying that rather than an arbitrary act, creation is a principled one. If so, the decision to recreate the world is the reaffirmation of the principle.

Additional light is shed on divine freedom when God finishes creating the world and decides to rest. Since creation is ongoing, the narrative would make no sense if we take rest to mean that God succumbed to boredom or fatigue and became inert. Rather than take rest in the literal sense of inactivity, we should focus on the moral principle that underlies it. An agent

[3] Cf. Christine Korsgaard, *The Sources of Normativity*, pp. 230–31: "When I will an end, I must *ipso facto* will that even on another occasion, even when I am tempted not to, I will stay on the track of that end."

[4] See *Genesis Rabbah* 1.1.

who does not have the privilege of resting works under constraint. Note, for example, that when Pharaoh, the arch tyrant, hears that the Israelites want to go out into the wilderness to celebrate a festival, he replies by saying that Moses and Aaron are trying to take them away from their work (Exodus 5:4). In this context work is something one has to do rather than something one chooses to do. What the narrative is trying to say is that nothing like this is true of God. In the words of Karl Barth:[5]

> A world-principle without this limit to its creative activity would not be free like God but would be tied to the infinite motion of its own development and evolution. In its unlimited creative activity, it would not really belong to itself. It would not really be active but entangled in a process imposed upon it and subjected to its higher necessity. A being is free only when it can determine and limit its activity. God's creative activity has its limit in the rest from His works determined by Himself, i.e., the rest of the seventh day. His freedom revealed in this rest is a first criterion of the true deity of the Creator in the Biblical saga.

A day of rest provides the first opportunity we have to learn who or what God is. In particular, it allows us to see that God is not identical with the work completed during the first six days because above and beyond work is a will that is free to initiate it or terminate it. Even if God renews creation day by day, the act of renewal is also spontaneous and self-motivated, something that God does by choice rather than necessity.

On my reading, God's activity in the opening verses of Genesis provides the framework in which all subsequent action is explained and evaluated. Not only does God rest on the seventh day but commands Israel to rest as well (Exodus 20: 8–11). If rest is a sign that God is not limited by a task or function, the commandment to imitate God is a sign that neither are we. This does not mean that work is inherently exploitative. Adam and Eve were assigned work in the Garden of Eden (Genesis 2:15), and a well-known Rabbinic proverb (*Pirkei Avot* 2.2) claims that it is a good idea to combine study of the Torah with a worldly occupation. But however important it

[5] Karl Barth, *Church Dogmatics*, vol. III, part 1, p. 215.

may be, work does not define our humanity; it is something we do, but, in a deeper sense, not something that determines what we are. In regard to the latter, we are free agents whose goal in life is to walk in the ways of the Creator. "The Sabbath," as Lenn Goodman remarks, "becomes a symbol of the existential autonomy of the individual, the irreducibility of person to task."[6] According to the fourth commandment, even slaves are supposed to rest on the Sabbath, which implies that on this day, the distinction between master and servant, or employer and employee, disappears: no one is in a position to give orders, no one in a position to respond to them.

It could be said therefore that in creating the world and deciding to rest after the work of creation is finished, God is not just an agent but the agent *par excellence*. From that point onwards, we have a world in which freedom provides the focal point of the story. Though sin presents a formidable obstacle to human progress, no tragic necessity guarantees that it will prevail in the end because the individual always has the power to rise above it. As God tells Cain at Genesis 4:7: "Sin couches at the door; its desire is for you, but you can master it." As we saw, freedom has both a negative and a positive dimension: the absence of external constraint and the willingness to commit oneself to a principle. In the Torah the negative and positive sides of freedom are symbolized by the Exodus from Egypt and the acceptance of the covenant at Sinai. In one case, the people are released from the bonds of slavery; in the other, they are asked to accept a body of law.

The Torah reaches its climax near the end of the Book of Deuteronomy (30:19) when God puts the ultimate choice before the people: "I have set before you life and death, the blessing and the curse. Therefore choose life." But it is not enough to choose life and rest content with one's decision. Like God's creation of the world, the choice of life must be renewed again and again, not only by the elders and heads of the tribes, but by every man, woman, and child regardless of social standing. On three separate occasions (Deuteronomy 5:1–3, 26:16–19,

[6] Goodman, *God of Abraham*, p. 118.

31:10–11), the people are asked to rededicate themselves to the covenant and accept it anew. It follows that choice is always before one, either as affirmation or reaffirmation. To live is to make choices and accept responsibility for them.

In keeping with the theme of this chapter, each choice we make can be seen as a creation in the sense that it brings value into the world and sets a standard for all humanity to follow. "Man," as Soloveitchik points out, "is commanded to become a partner with the Creator in the renewal of the cosmos."[7] If, as he goes on to say, man never creates, then he can never be holy. While no human can imitate God's act of bringing the cosmos into existence *ex nihilo*, we can imitate God's decision to make choices, incur obligation, and disavow lawless or arbitrary behavior. That, I submit, is the true meaning of *imitatio Dei*.

The freedom of the individual to decide his or her own destiny is refined once again in the prophecy of Ezekiel. Although the Torah says quite clearly that God will punish those guilty of iniquity to the third and fourth generation (Exodus 20:5), Ezekiel refuses to accept it and maintains that retribution across generations is incompatible with divine justice. As a result (Ezekiel 18:4): "Only the person who sins will die."[8] His argument is not totally new. Moses makes a similar point at Numbers 16:22 ("Will you become angry with the whole congregation because one person sins?"), and we saw that Abraham protests that God is planning to destroy the innocent along with the guilty at Genesis 18. Still it is with Ezekiel that sin takes on a personal dimension, and the idea of individual responsibility that will play so important a role in

[7] Joseph Soloveitchik, *Halakhic Man*, p. 105. As Hartman points out (*A Living Covenant*, p. 65) this aspect of Soloveitchik's thought is revolutionary because the Rabbis never thought of creation as something that humans are called on to imitate. Instead we are called upon to imitate God's moral qualities as expressed in Exodus 34. For autonomy as creation, see Joseph Raz, *The Morality of Freedom*, p. 154: "(Significantly) autonomous persons are those who can shape their life and determine its course. They are not merely rational agents who can choose between options after evaluating relevant information, but agents who can in addition adopt personal projects, develop relationships, and accept commitments to causes . . . In a word, significantly autonomous agents are part creators of their own moral world."

[8] According to Yehezkel Kaufmann, *The Religion of Ancient Israel*, p. 439, Ezekiel is not always consistent on this point. See 9:4 ff., 14:12 ff., and 21:8 ff., where it appears that children suffer for the sins of their parents.

subsequent moral theories begins to take shape. In Ezekiel's words (18:20): "the righteousness of the righteous shall be his own, and the wickedness of the wicked shall be his own."

In philosophic terms, sin is not transferable. The self is not defined by its ancestors or descendants but by the actions it undertakes on its own behalf. In some ways it is not even defined by the actions it *has* performed but by the actions it *will* perform. In this connection Ezekiel emphasizes that every person has the power to remake himself by renouncing the past and changing his ways. Accordingly (18:31): "Cast away from you all the transgressions you have committed against me, and get yourselves a new heart and a new spirit!" "Cast away" does not mean that one ignores responsibility for the past but that one recognizes that the past does not have to be repeated. Like God, the human self is understood in terms of its ability to bring forth something new. Again from Goodman: "Freedom is the condition of existence, and creativity is the mark of freedom."[9] Every day, indeed every minute, holds out the possibility for a new and better person to arise and take hold. God, as Ezekiel (18:23) insists, takes no pleasure in the death of sinners, only that they turn from their evil ways and set out on a different path. It follows that even those who have made the decision to renounce sin must go on making it. Ezekiel warns the righteous that should they become complacent, their righteousness will be forgotten and they shall die for their sins.

Two thousand years after Ezekiel, Hermann Cohen argued that with awareness of the personal dimension of sin and the individual's ability to turn away from it, the idea of the moral self makes its first appearance in Western literature (*RR* p. 194):

> Only now does man become the master of himself; no longer is he subject to fate. It was fate that would not allow man to abandon the way of sin. Man becomes free from this fate through the teaching that sin does not become a permanent offense for man, a permanent reason for stumbling. Through this, man first becomes an individual who is not absolutely dependent on relations of the social plurality in which he is enmeshed. He is an autonomous spiritual unity, because

[9] Goodman, *God of Abraham*, p. 119.

he is a moral one. The capacity to turn away from his previous way of life bestows upon him the value of this sovereign unity.

While the reference to autonomy may be overstated, Cohen is right in this respect.[10] We cannot make sense of autonomy, let alone act on it, unless we assume that the self is free to reconstitute itself, to take responsibility both for what it has done and for what it is going to do. In other words, the fundamental insight behind the doctrine of autonomy is that the self cannot take a passive position with respect to its moral worth. Nor can it receive moral worth from an external source. It must not only do the right thing but do it in a way that it constructs its own identity in the process.

From the standpoint of hindsight, Ezekiel seems to fall short in his support of the sacrificial cult. If sin is not transferable, then killing an animal as a way of atoning for sin is a mechanical act that diverts attention from the real issue. It is with prophets like Amos (5:23), Hosea (6:6), Micah (6:6–8), and Isaiah (1:11–16) that we get the realization that God does not want outward sacrifice as much as moral improvement. All this is a way of saying that ideas like freedom and personal responsibility focus attention inward. The issue is not how many rams have been slaughtered or how much anointing oil has been poured but whether, to use Ezekiel's metaphor, the heart of stone has been made into a heart of flesh. What God really wants then is the heart, or more specifically, the will.[11] Thus Deuteronomy 10:16: "Circumcise your heart, and do not be stubborn any longer."

In sum the focal point of the Biblical narrative is not the rise and fall of empires or the sacrificial duties of the high priest but the struggle that goes on in each individual soul. The people

[10] For a critical discussion of Cohen's treatment of Ezekiel, see Lawrence Kaplan, "Hermann Cohen's Theory of Sacrifice," in Helmut Holzhey (ed.), *"Religion der Vernunft aus den Quellen des Judentums" Tradition und Ursprungsdenken in Hermann Cohens Spätwerk*, pp. 191–205.

[11] It is well to recall that in Biblical Hebrew the heart (*lev*) is not normally the seat of emotion but the seat of reason or considered judgment. Thus Deuteronomy 29:3: "The Lord has given you a heart to know and eyes to see." When God hardens Pharaoh's heart (Exodus 4:21), the point is that God has stiffened Pharaoh's will or resolution. In this connection, see Jeremiah 3:15: "I will give you shepherds according to my heart."

must not only recognize the difference between right and wrong but feel an obligation to commit themselves to the former. The soul becomes the stage on which the battle between good and evil is played out. Each soul must experience the Exodus from Egypt, receive the law at Sinai, and renew the covenant with God.[12] These experiences are infinitely renewable, and for that reason infinitely appropriable. They are relived so that we can be free and willing participants in the task of improving the world rather than just readers of its history. It is important to keep this point in mind when dealing with issues like commandment and revelation because there is a tendency for philosophers to oversimplify what the Bible sees as a complex and forward-looking relationship. As we will see in the next section, the Bible gives us more than just a commander and a list of commandments. In particular it gives us a process by which commandments are put forward for human consideration and freely accepted.

Amidst all the talk of choice and responsibility, the Bible is also a story of how an infinite being relates to finite ones. The typical way this occurs is for God to enter a series of covenants and establish the idea of the rule of law. Obviously the two themes are connected because a covenant implies that each of the parties is free to enter the agreement and can be held responsible for any violation of its terms. Even if one party is superior to the other, as was often the case in ratifying treaties between nations, an obligation can arise only if both parties pledge to obey it. We will see below that the Bible contains a variety of covenants, some of which resemble contracts, some of which do not. One factor that remains constant however is the emphasis on the dignity of the weaker party. Though God could impose the divine will by force alone, it is more in keeping with the tone of the Biblical narrative for God to ask for Israel's consent.

[12] See Exodus 13:8: "You shall tell your child on that day, 'It is because of what the Lord did for *me* when *I* came forth out of Egypt.'" Also see Deuteronomy 29:15: "I am making this covenant, sworn by an oath, not only with you who stand here with us today before the Lord our God, but also with those who are not here with us today."

For reasons that are never made clear, no covenant is enacted in the "prehistory" that takes place in the Garden of Eden. Adam and Eve gain knowledge of good and evil not as a result of entering into an agreement with God but as a result of eating fruit from the tree of knowledge of good and evil.[13] Unfortunately we are not told what "good and evil" refer to or why knowledge of them is forbidden. All we know is that from the moment Adam and Eve are expelled from the Garden, both they and their children are expected to know the difference between right and wrong and to respect the sanctity of human life. So while there is no formal commandment that says "Thou shall not murder," it is clear that Cain is held responsible for the knowledge that murder is wrong. According to Nahum Sarna: "The culpability of Cain rests on an unexpressed assumption of the existence of a moral law operative from the beginning of time."[14] Maimonides goes so far as to say that six precepts were given to Adam: prohibitions against idolatry, blasphemy, murder, adultery, and robbery, as well as one positive command: to establish courts of justice.[15] But there is no textual warrant for this reading, and Maimonides himself admits that it is derived not from "the general tenor of the Scriptures" but because human reason "approves" of the precepts involved. As we would say, a minimal amount of moral knowledge is needed if the subsequent narrative is to make sense.

By Genesis 6, there is so much evil in the world that God must take desperate action and call on Noah to preserve a remnant of animal life on the planet. In what did Noah's righteousness consist and what evils made God regret the work of creation? Again all we are given are generalities. By Genesis 9 however we have the first covenant and with it the first attempt to introduce an explicit code of law. After repetition of

[13] For recent attempts to discuss the story of Adam and Eve in connection with autonomy, see Michael Wyschogrod, "Sin and Atonement in Judaism," in F. Greenspahn (ed.), *The Human Condition in the Jewish and Christian Traditions*, pp. 103–26 as well as Shalom Carmy and David Shatz, "The Bible as a Source for Philosophic Reflection," in *HJP* pp. 16–21.

[14] Nahum Sarna, *Understanding Genesis*, p. 31. The Rabbis (*Sanhedrin* 56b) interpreted Genesis 2:16–17 as containing an implicit prohibition against murder. For a recent discussion of Cain's culpability, see David Novak, *Natural Law in Judaism*, pp. 31–36.

[15] Maimonides, *MT* 14, Laws of Kings and Wars, 9.1.

the commandment to be fruitful and multiply, Noah and his sons are told that they will have dominion over all the plants and animals provided they do not eat flesh with life, i.e. blood, still in it. Since blood is the source of life, we may take this commandment as an expression of reverence for life in the most general sense. Reverence for life is underscored by a prohibition against murder, which is justified by going back to the idea that humans are created in the image of God. God then announces a covenant with Noah, every living creature, and the earth upon which they walk. According to the terms of the covenant, God will never again bring a flood to destroy everything. Although the partners to the agreement are unequal, both partners have a duty to respect the sanctity of life. Perhaps that is what Abraham is referring to when he castigates God for destroying the innocent along with the guilty. Not only is there a written record of these duties but a physical sign (the rainbow) to commemorate the agreement that establishes them.

Several comments are in order. First *covenant* (*brit*) covers a wide range of agreements. Sometimes it involves a relation between equals, as with Abraham and Abimelech (Genesis 21:32) or Jacob and Laban (Genesis 31:44); sometimes a relation between unequals (1 Samuel 11:1); sometimes the relation between a king and the council of elders (1 Chronicles 11:30). In some cases, it refers to a marriage vow (Proverbs 2:17); in others it has the force of an ordinance (Joshua 24:25). There are even cases where it involves nonhuman participants.[16] Regardless of the status of the parties, covenants were often consummated by an oath, a sacred meal, a sacrifice, or a list of blessings and curses. We may conclude that the making of a covenant is a general way for the Bible to describe the emergence of order and respect.[17] The idea is that the parties have promised to do something that will work to their mutual advantage.

[16] For a covenant involving nonhuman recipients, see Jeremiah (33:20–25), where God makes a covenant with night and day.

[17] For two classic studies on the history and variety of covenants in the ancient Near East, see George Mendenhall, "Ancient Oriental and Biblical Law," *Biblical Archaeologist* 17 (1954), 24–26, as well as "Covenant Forms in Israelite Tradition," *Biblical Archaeologist* 17 (1954), 50–76. For a more recent study and partial critique of Mendenhall, see Jon Levenson, *Sinai and Zion*, pp. 15–86.

Second the covenant with Noah is mainly a reaffirmation of duties that were in existence long before the generation of the flood. We saw that there are grounds for saying that the prohibition against murder is as old as Adam and Eve. According to Rabbinic tradition, the covenant with Noah contains seven commandments in all: prohibitions against idolatry, blasphemy, murder, theft, adultery, and the eating of flesh with blood in it, as well as a positive commandment to set up courts of justice.[18] According to the traditional interpretation, these commandments constitute the minimal standards needed to uphold the dignity of human life and are binding on the people of all nations. Not surprisingly, they are often seen as a precursor to the idea of natural law. If Maimonides is right, the only thing new in the Noachide covenant is the prohibition against eating flesh with blood in it. Adam and Eve, it will be recalled, were permitted to eat fruit, but no provisions were made for the eating of meat.

If the covenant with Noah covers the human race as well as the animal kingdom, that with Abraham (Genesis 15:1–21, 17:1–27) covers the descendants of a particular family. God promises to make Abraham exceedingly fruitful, to bring forth kings from him, and to give the land of Canaan to Abraham and his descendants. But it is far from clear what Abraham is supposed to do to keep his part of the agreement. We know that he must circumcise himself and his descendants, but Genesis 17:11 suggests that this practice is a *sign* of the covenant rather than a stipulation of its terms. Quite possibly this is a case where God alone incurs obligations in order to enter a pledge of friendship. A similar pledge is made at Numbers 25:12, when God offers Pinchas and his descendants a special covenant of peace (*brit shalom*). Whatever the case may be, it is the covenant with Abraham that Moses refers to when he asks God not to destroy Israel. As for circumcision, Sarna argues that of the people with whom Israel came in close contact, the only ones *not* to practice it were the Philistines.[19] In short there is no

[18] *Sanhedrin* 56a. For the details of this interpretation and the implications the Rabbis draw from it, see David Novak, *The Image of the Non-Jew in Judaism*, ch. 9.

[19] Sarna, *Understanding Genesis*, pp. 131–32. On the issue of circumcision, see Jeremiah 9:24.

evidence that the covenants with Noah or Abraham change the standards of morality or push human behavior in a radically new direction.

The significance of these covenants is that by making promises and establishing expectations, God is disavowing the right to act in an arbitrary fashion. In a world where pagan deities were thought to act capriciously and often violently, God agrees to a set of self-imposed rules. Surely it is not anachronistic to point out that while these rules may limit God in one sense, they greatly enhance God's moral status in another. Here is the first suggestion that freedom does not mean ability to do whatever one wants but ability to act in a rational way under law. The conclusion is clear: in the Biblical world, everything from God to humans to animals to the land they walk on is bound by law and will be held responsible to it.

The covenant at Sinai is different from the ones that preceded it for two reasons. First it involves an entire nation rather than a single person or family. This is made clear at Deuteronomy 29:10–12:[20]

> You stand assembled today, all of you, before the Lord your God: the leaders of the tribes, your elders, your officers, all the men of Israel, your children, your women, and the strangers who are in your midst, even hewers of wood and drawers of water, to enter into the covenant of the Lord your God.

The implication is that agreement is so important that everyone must be involved regardless of social standing. Second this covenant culminates in an explicit text. According to Deuteronomy 4:13, God "declared to you his covenant, which he commanded you to observe, that is, the ten commandments."[21] Although Jewish tradition opposes the practice of isolating the ten commandments from the rest of Mosaic legislation, in this section I will focus on the ten commandments in order to shed greater light on the implications of the covenantal relationship. The other parts of Mosaic legislation will be taken up later.

[20] Cf. 2 Kings 23:1–3, where very similar language is used. This has led people to speculate that the book that Josiah found in the Temple is Deuteronomy or substantial parts of it.

[21] This passage expresses the same sentiment as that expressed in Exodus 34:27–29.

In the wake of modern historical research, it is customary to view the covenant at Sinai in light of suzerain treaties between superior and inferior parties. The general form that such treaties took is: (1) a preamble in which the author of the covenant is identified; (2) a historical prelude in which the previous relation between the parties is described, including past benefits conferred on the vassal (as George Mendenhall points out, this part of the treaty is usually personal and takes the form of I–Thou);[22] (3) the obligations accepted by the vassal, the most important of which is that the vassal will not enter into a treaty with another lord; (4) deposit and public reading of the treaty; (5) a list of witnesses; (6) blessings and curses for obedience and disobedience.

Obviously there are a number of parallels between this kind of treaty and the text of Exodus 20. The passage opens with God speaking in the first person and identifying a great service done to Israel: "I am the Lord your God, who brought you out of the land of Egypt, out of the house of bondage." Unlike prior covenants, this one contains a clear enumeration of what Israel must do to demonstrate its allegiance – the most important point being the promise not to bow down to or serve other gods. Moses records the agreement and reads it back to the people several times. At Deuteronomy 30:19, heaven and earth are invoked as witnesses to the agreement. Finally the Books of Leviticus (26) and Deuteronomy (28) contain wondrous blessings and hair-raising curses for obedience and disobedience.

It is significant however that the blessings and curses do not accompany the original list of commandments.[23] Instead of the usual "If you breech the agreement by doing *X*, I will retaliate by doing *Y*," these commandments are expressed in categorical form with no mention of threats. Strictly speaking one who frees a slave earns the right to impose whatever law he sees fit without asking for the slave's consent.[24] Along these lines, a Rabbinic tradition maintains that the people were obliged to obey the covenant because God liberated them from Egyptian

[22] Mendenhall, "Covenant Forms in Israelite Religion," pp. 33–34.
[23] The problem posed by blessings and curses will be taken up in the next chapter.
[24] On this point, see again Leviticus 25:55.

bondage, fed them in the desert, and defeated their enemies.[25] But there are two problems with this interpretation. First it is based on the idea that might makes right. Since the people are beholden to God, they must do whatever God asks of them. Second, as Hartman points out, it overlooks the fact that God *invites* Israel to join in a partnership that requires the participation of both parties.[26] Thus Exodus 19:5: "Therefore if you obey my voice and keep my covenant, you shall be my treasured possession out of all the peoples of the earth."[27] The wording is clear: "*If* you obey," not "Here is why you are required to obey."

In short, I want to argue that acceptance of the covenant should not be understood in terms of self-interest but of rational reflection. For if all that is involved is the attempt to save one's skin, Sinai would confirm Euthyphro's observation that piety is nothing but an exchange relation between heaven and earth. Again from Sarna:[28]

> The motivation for observing the law is not fear of punishment but the desire to conform to the will of God. The Decalogue thus becomes a self-enforcing code in that its appeal is to the conscience, not to enlightened self-interest, and its enforcing mechanism is the spiritual discipline and moral fiber of the individual, not the threat of penalty that is imposed by the coercive power of the state.

Nor for that matter by the coercive power of God. There is a well-known Midrash that argues God held the mountain over the people's heads and threatened to destroy them unless they pledged their loyalty.[29] But as the Rabbis saw, this view, if taken literally, would nullify the entire agreement because it would mean that the people acted under duress.

Apart from legal issues, it makes no sense to suppose that a

[25] *Mekhilta Baḥodesh*, 4. Also see *Sifre Numbers*, 115 and *Sifre Deuteronomy*, 38.

[26] Hartman, *A Living Covenant*, pp. 4–5. For further discussion of the difference between these two interpretations of the covenant, see Louis E. Newman, *Past Imperatives*, pp. 67–69.

[27] Cf. Deuteronomy 29:1.

[28] Sarna, *Exploring Exodus*, p. 142.

[29] *Shabbat* 88a. Note that according to Rava, the covenant did not become valid until the time of Ahasuerus. For further comment, see Urbach, *The Sages*, pp. 327–29; Soloveitchik, *The Lonely Man of Faith*, p. 45, n. 1; and Novak, *Jewish Social Ethics*, pp. 27–29. For the connection between the freedom to enter the covenant and moral autonomy, see Newman, *Past Imperatives*, p. 74.

responsible agent would set a moral standard by resorting to violence. We have already seen what happened when God threatened to destroy Israel after the Golden Calf episode: Moses claimed it would break the promise God made to Abraham. We can take the Midrash as an expression of how much God wanted the people to accept the commandments or how foolish they would be if they did not. Or we can take it as a metaphor for the moral necessity of the laws expressed therein. We can even take it to refer to spiritual rather than physical death. But in the end, the story of Sinai loses its meaning unless the law is accepted without threats of retaliation. Even in the Book of Job, when God speaks from the whirlwind, the title character is never in physical danger and is never told what to say or think.

This is another way of saying that while threats of violence can make it advantageous to accept an agreement, they cannot make it a duty to obey it. A duty can arise only if acceptance is given freely. If sin is personal and cannot be transferred, neither can duty: even a supreme being cannot bind people singlehandedly. If that were possible, there would be no need for God to seek consent from hewers of wood and drawers of water, no need to invoke heaven and earth as witnesses, and no need to repeat the process several times. In regard to repetition, note that in addition to Sinai, God offers the covenant to Israel in the plains of Moab, near Mt. Gerizim, at Joshua 24, and 2 Kings 23. According to Jeremiah (31), it will be offered yet another time when a sinful Israel is restored to its innocence. I take repetition as a sign of importance. The covenant is offered on multiple occasions and read back to the people so there can be no question that they acted of their own accord. Unless the act of giving consent were critical, all of this would be pointless.

A Rabbinic inquiry asks why the Torah does not simply begin with Exodus 12:1.[30] The answer, as David Halivni observes, is that without the prior material, Biblical law would lack a preamble or a rationale and would run counter to the spirit of

[30] See Rashi on Genesis 1:1.

[31] David Weiss Halivni, *Midrash, Mishnah, and Gemara*, p. 13. For more on the use of reasons, see David Novak, "The Talmud as a Source for Philosophical Reflection," *HJP* pp. 64–71.

the book.[31] The God who asks the people to join in the covenant is not just a power to be reckoned with but a redeemer who has pledged loyalty and freed them from Egyptian bondage. If God were to ignore consent and impose the law by force, we would inherit a system that regards force as the decisive factor in establishing authority. Rather than persuade people of the wisdom of their policies, subsequent rulers would have a precedent for issuing decrees and calling out the army when people disobey. While the Bible does not envision representative democracy in our sense, neither does it provide a theological foundation for tyranny.

On the contrary, the clear implication is that unless the people accept the law and enter a partnership with God, there is a sense in which God will have failed. According to another Midrash: "You are my witnesses, says the Lord, and I am God. That is, when you are my witnesses, I am God, and when you are not My witnesses, I am, as it were, not God."[32] Without consent, both parties would lose something important: the recognition of the other party. God would still be the most powerful force in the universe, and while every nation would have to defer to that power, no one would have agreed to accept it for noble motives.

This is not to deny that the idea of consent raises problems. If I draw up a contract to sell my house, I am free to negotiate terms or to change my mind at the last minute. But for the contract, I am under no obligation to buy or sell anything. Clearly nothing like this is involved with acceptance of the ten commandments. As Cohen put it: we are not volunteers when it comes to morality. In this respect, the Midrash that says God held the mountain over the people's heads is right: there is a sense in which the people cannot refuse what God has offered. To see this, consider what is asked of them. The prohibition against murder is based on the sanctity of human life and goes back to creation. We saw that according to tradition, the prohibitions against blasphemy, lying, stealing, and adultery were known to Adam and Noah. Even if one does not accept

[32] *Midrash Rabbah* to Psalms 123:1.

the Rabbinic interpretation, it is noteworthy that Abimelech objects to lying at Genesis 20:9, and Joseph objects to adultery with Potiphar's wife at Genesis 39:9.[33] Thus neither the seventh nor the ninth commandment introduces anything new. In most cases, honoring one's parents is a natural human response.

Sarna argues that Sabbath observance was established before Sinai, and we saw that there may be a reference to it as early as Exodus 5. In any event, it is hard to see why a band of oppressed slaves would not want to institutionalize a day of rest. From the perspective of modern scholarship, what is new is that the commandments are dealing with monotheism. Here again Jewish tradition maintains that they are part of the minimal standards needed to sustain human life and were given to Adam and Noah.

Like the covenant with Noah, this covenant does not contain any material the people have not heard before. In that sense it is not so much an affirmation as a reaffirmation. According to Yehezkel Kaufmann:[34]

> The cultures which the Israelite tribes had absorbed and out of which they had emerged had highly developed notions of law and morality . . . The Bible itself recognizes the existence of a universal moral law from primeval times, to which all men are subject. Cain, the generation of the Flood, and Sodom are punished for violations of this law. The Sinaitic covenant comes late in the history of man, even according to the Biblical story.

Minimally the people would have to know that it is wrong to break a promise or asking them to become partners to an agreement would make no sense. Not only would they not realize that they have to keep their word, they would have no grounds for expecting God to do the same.

Novak is therefore right to say that unless the people had prior knowledge of good and evil, or as we might say, the capacity to distinguish between right and wrong, their participation in the covenant would be capricious.[35] At the very least, they would have to know what murder, theft, and lying are if

[33] On both points, I am indebted to David Novak, *Natural Law*, pp. 47–55.
[34] Kaufmann, *Religion of Ancient Israel*, p. 233.
[35] Novak, *Jewish Social Ethics*, pp. 28–35.

their acceptance of the relevant commandments is to impose an obligation. In modern terms, a contract requires not only agreement but some measure of understanding – what we sometimes refer to as *informed* consent. Since the covenant is not between God and Moses but God and the whole Israelite nation, we may assume that the degree of understanding needed to accept it is neither technical nor esoteric. What the covenant assumes is that everyone can see that the commandments do not represent the whims of an arbitrary God but the principles needed to live in a responsible fashion. That is why, with the exception of the fifth commandment, no reasons are given: the rationality of the commandments is apparent. The covenant assumes, in other words, that everyone at Sinai has a conscience.

If this reading is correct, the importance of the covenant is not the novelty of its content but the necessity of its content. But that raises the same question: why are the people asked to accept laws that are necessary in their own right? To take an obvious example, you cannot relieve yourself of the obligation to respect human life by saying that you do not agree with it. Why then does God go to such lengths to seek approval? Why not simply say that the law is binding and that anyone who rejects it is a sinner?

One way to answer this question is to treat Sinai the way philosophers treat the social contract: move from actual consent to the idea of virtual consent. If we take the social contract as a historical claim about the origin of society, we face two decisive objections: (1) that there is no evidence to show that people made a conscious decision to leave the state of nature and form civil society; and (2) even if they did, there is no reason to think that the decision they made then is binding on people who live now. The typical reply is that the social contract is not a historical claim but a rational construction whose purpose is to justify the existence of the state. In this context, consent does not mean that people nod their heads but that the idea of a social contract is such that free and rational agents would

[36] Cf. Rawls, *A Theory of Justice*, pp. 11–12, 21–22. Why must the contract be hypothetical? Why should we be bound by a hypothetical agreement? According to

accept it if asked to explain the terms of their association.[36] The reason they would accept it is that they could not *be* free and rational agents without an understanding of what rules are to be followed and what expectations are to be fulfilled.

While the social contract may be hypothetical from one perspective, it is morally necessary from another. By hypothetical, I mean it is an agreement in which everyone understands the terms, has an equal vote, and acts in a fair and impartial manner. John Rawls expresses this by saying that the social contract brings together individuals who arrive at principles that can be affirmed by everyone with complete purity of heart.[37] The justification for relying on a hypothetical agreement is that it is virtually impossible to achieve fairness, equality, and complete understanding in real life. But that does not mean we are justified in ignoring such fairness or equality and thinking of the state as an institution whose purpose is to defend the interests of certain individuals and ignore the interests of others.

To the objection that hypothetical agreements cannot bind people to an agreement, Rawls answers that the social contract is a device of representation: it represents a situation where people enter an agreement in conditions that we do in fact accept or can be persuaded to accept.[38] In particular, no person can use his/her race, social standing, or intelligence as grounds for saying that justice should favor people like him/her. This is another way of saying that we accept or can be persuaded to accept the claim that justice requires fairness. From this it follows that the only legitimate explanation of the existence of the state is one in which fairness is guaranteed. The only way to guarantee fairness is to assume that everyone accepts it, and therefore everyone must act in accord with it. In short, the hypothesis is unavoidable.

For rationalists like Cohen, the same is true of Sinai: it is a

Rawls, because the conditions embodied in the original position are ones that we do in fact accept: autonomy and impartiality (p. 587).

[37] Ibid., p. 587.

[38] Ibid., as well as Rawls, *Political Liberalism*, pp. 24–25.

[39] See *RR* chapter 4.

representation rather than a historical reality.[39] As long as we interpret Sinai as a historical claim about revelation, Cohen thinks we confine ourselves to religious mythology. It is not until we see that the giving and acceptance of the law is really a metaphor for the awakening of moral reason that we are in a position to understand what the text is trying to say. Though God has vastly superior power and intelligence, from a moral standpoint that is irrelevant. All that matters for Cohen is that God and man are both moral agents who must abide by the same law. To be sure, the people cannot reject the laws God has given them. But that does not mean that they were coerced; all it means is that the laws are such that any rational person would accept them as an expression of his or her own will. In Kantian terms, each of us could regard him- or herself as their author.

In explaining the binding force of Sinai, Judaism faces the same problem as social contract theory: why should someone living now be bound by an agreement made thousands of years ago? The Rabbinic answer is that the soul of every Jew who would ever live was present at Sinai to accept the Torah and give consent.[40] If we take this explanation literally, Cohen is right: we are back in the throes of mythology. By introducing the idea of virtual consent, we can say why people are bound by the agreement even if they were not physically present to accept it. Like Rawls's original position, Sinai is an idealization: it represents an agreement people would accept if it were offered to them in ideal circumstances and for that reason is binding on the people of every age.

Some will object to the claim that Sinai is an hypothesis. But even if we try to preserve some of its historical flavor, we can still explain why consent is crucial to the agreement. We saw that morality is not the sort of thing that can be handed to someone. One cannot simply say "Do this" and "Don't do that" and expect the recipient to behave as a moral agent. Unlike the rules for how to change a tire, moral rules must be obeyed for their own sake. To obey a rule on principle, a person must recognize the value of doing so. This recognition requires

[40] On this point, see Rashi's comment on Deuteronomy 29:14.

a judgment: that the law is not just something it is advisable to do but something our conscience requires us to do. That is what is meant by appropriation. Sinai is the Bible's way of saying that the Torah was not just given but given *and agreed to*. In theological terms, it was not just a communication from heaven but a communication that was accepted or could be accepted by everyone on earth.

Before Sinai we have a God who upholds morality and a people whose conscience tells them it is right; after Sinai we have a sacred community in which all parties have dedicated themselves to a common goal.[41] Before Sinai we have law, after Sinai duty.[42] That is why the process of appropriation is critical: by bringing the people into the process, it underscores the point that the commandments are not the product of an alien will but a valid expression of the people's own heart. As Goodman puts it: "Duty, when properly appropriated, cannot be conceived as alien."[43] So while the people are not the source of the commandments in a historical sense, they have made the decision to affirm them and be judged in accordance with them. On this issue the language of Nehemiah 10 is telling: "[All] enter into a curse and an oath to walk in the ways of the Lord . . . We also lay on ourselves the obligation to . . . We obligate ourselves to." Because the people can regard themselves as authors, they can and will be held to account for the consequences of their decisions.

We arrive at the same conclusion if we reformulate this point by replacing appeals to conscience with love of God because the decision to obey the law out of love for God also requires a judgment: that obedience to God is the highest good. If this judgment is informed, we must first recognize that the obligations God asks us to obey are no different from the obligations we in our better moments would ask of ourselves. Soloveitchik makes this point when he says: "Halakhic man does not

[41] Cf. Kaufmann, *Religion of Ancient Israel*, p. 234: "When the Israelites stood together and heard the command 'I am YHWH your God,' a new moral subject was created: the community of persons that know YHWH."

[42] Cf. *RR* pp. 324–25.

[43] Goodman, "The Individual and the Community in the Normative Traditions of Judaism," in Daniel Frank (ed.), *Autonomy and Judaism*, pp. 110–11, n. 48.

experience any consciousness of compulsion accompanying the norm. Rather, it seems to him as though he discovered the norm in his innermost self, as though it was not just a commandment that had been imposed upon him, but an existential law of his very being."[44]

To repeat: the covenant at Sinai does not resemble the sale of a house in the sense that the people are free to say "Sorry, no thanks." While there is consent and possibly consideration, the terms are presented in a way that assumes any rational person would accept them. The reason the Bible emphasizes consent is that it wants to say that human beings participate in the holy order not as slaves but as moral agents. Rather than authorship, the Bible presents the idea of appropriation under the guise of partnership. But it is the same idea. The point is that when it comes to the conception of what a holy order should be, God and the people are one.

In sum, God does not reveal the law in the way Pharaoh made his proclamations. For Pharaoh the issue was obedience not understanding. Once we emphasize that the law was understood *and* accepted, we can look upon it as a source of liberation rather than just a means of establishing order. On this interpretation, the theme of liberation from bondage is central. It is not just that the slaves are set free but that they come to realize that genuine freedom imposes its own set of duties. That is why the Exodus, which represents a negative understanding of freedom, is incomplete without Sinai. It is only when we get to Sinai that the full import of the Biblical concept of freedom becomes clear.

We come to what may be the critical question: did the people accept the ten commandments because God asked them to or did they accept them because they realized that the command-

[44] Soloveitchik, *Halakhic Man*, pp. 64–65. In evaluating these remarks, it should be understood that Soloveitchik is speaking from the context of Jewish orthodoxy. Kant would never agree that the details of the ritual law can be discovered from within and would object that he can see the law as part of his very being only if he first accepts the heteronomy of God's revelation to Moses. Still it is significant that even an orthodox thinker like Soloveitchik recognizes that heteronomy compromises our sense of self-worth. On the differences between *Halakhic Man* and *The Lonely Man of Faith*, see Chapter 1, n. 47.

ments represent a proper assessment of the duties incumbent on a human being? The first thing to see is that it is not clear the original audience would have understood the question in the form in which it is usually posed. Without sacred books, sanctuaries, a body of ritual, or an established theological tradition, the people who stood at Sinai could not be expected to know much about God. As we saw, Deuteronomy 29 claims that everyone from the leaders of the tribes to the children and strangers in the camp was involved. According to one tradition (Joshua 24:14), they lost touch with monotheism during the Egyptian captivity and adopted the religion of their captors. Whatever the case may be, there is no reason to think that they would have agreed to follow God blindly without first hearing who God is or what God wants. So it would have been difficult for them to consider the question of divine authority in the abstract.

From a textual standpoint, there is no passage where God asks the people to submit to divine authority without receiving an account of what that commitment entails, no passage where they are asked to accept a commanding presence in Fackenheim's sense of the term. In most cases the commandments are announced, recorded, and read back so that the people can think about them and affirm them a second, third, or fourth time. Again from Sarna: "The narrative has Israel being first informed of the content of the laws and then freely accepting them."[45] Even the words *na'aseh v'nishma* ("we will do [and then] hear," Exodus 24:7), which the Rabbis take as a classic expression of Israel's devotion to God, occur after the ten commandments and the laws of the "Covenant Code" have been offered, accepted, and read back at least once.[46]

There are passages where some individuals are told to follow God without knowing everything they will be asked or are instructed to do something that conflicts with the demands of

[45] Sarna, *Exploring Exodus*, p. 175.

[46] For the Rabbinic interpretation, see *Shabbat* 88a. This implies the people promised to do before they heard. But the text could also be read in a less exalted way: we will do *and* obey, i.e. we will do faithfully. In either case, it occurs well after the ten commandments have been offered and accepted.

conscience. Here one thinks of Abraham's willingness to sacrifice Isaac or of God's criticism of Saul for not killing all the Amalekites (1 Samuel 15).[47] But we must be careful not to generalize from these examples. All involve specific people in extraordinary circumstances. In fact, one way to read the story of Abraham and Isaac is as a statement that God will *not* accept innocent human life as a tribute even if people are willing to offer it. If one were going to pick extraordinary passages from which to generalize, one could just as easily pick those where Abraham and Moses appeal to God's sense of justice. One noteworthy feature of these passages is that when challenged, God never takes refuge in the inscrutability of the divine will or invokes a version of divine command theory.[48] On the contrary, the entreaties of Abraham and Moses are taken seriously, and in the end God relents. Again God's willingness to relent is significant because it sets a standard. Only a tyrant asks for obedience irrespective of content. The point is that if the creator of heaven and earth can subdue anger and relent, how much more should we when faced with a similar situation.

To return to Sinai, it is well to remember that God had never spoken to the entire nation before. So it would have been perfectly normal for the assembled multitude to ask: What does the God who freed us from Egyptian bondage want in return? Based on Exodus 20, it appears that God does not want the sort of things usually demanded by kings: high praise, lavish tributes, or supplications. According to Jeremiah (7:22): "In the day that I brought your ancestors out of Egypt, I did not speak to them or command them concerning burnt offerings and sacrifices."[49] Although these things eventually became part of the religion, they are not its original focus. By identifying the divine will with principles with which the people were already familiar, God

[47] I owe the latter example to Norbert Samuelson, "Revealed Morality and Modern Thought," in M. Kellner (ed.), *Contemporary Jewish Ethics*, pp. 95–96.

[48] Cf. *Menahot* 7a, where Moses asks about the suffering of Akiba and is simply told that God has decreed it.

[49] For commentary, see *GP* 2.32, p. 530. Jeremiah's remark is confusing since many of the commandments given at Sinai do deal with sacrifices. Maimonides' explanation is that we have to distinguish between the primary intention of the law, which is to worship God alone, and its secondary intention. I will have more to say about this point below.

makes it clear that divine authority is not imposed by force but rooted in the moral order.

So there is nothing startling in the claim that we can view all moral duties as divine commands. Even though the presentation of divine commands resembles the signing of a treaty, we would be making an enormous mistake unless we see that the Bible takes the idea of a treaty and invests it with a new meaning. Rather than consolidating a sphere of influence, God wants to improve the quality of human life. A Midrash tells us that God said to Israel: "If you sanctify yourselves, I shall account it to you as if you had sanctified me."[50] Unlike a normal treaty, the one entered into at Sinai does not ask the people to do anything their conscience could not sanction. In that sense it is as much a treaty with their conscience as it is a treaty with God.

It will be objected that the Bible is the classic statement of external revelation. Its authority is based on a historical fact that occurred thousands of years ago. Why should I be bound by it unless I can discern what Kant (*RWL* p. 100) calls "a rightful claim to universality"? Recall that for Kant inner revelation to reason is prior to all other forms and serves as their judge. The only way we can know that God is speaking to us is to compare the content of revelation with our own conception of duty. But that raises the same point over again: if I can discern a claim to universality, then the authority of the law has more to do with its content than with its source.

In some ways, the question before us turns on the issue of what the Bible means when it says "God spoke." The textual problems of how to interpret Exodus 19–20 and determine what the people actually heard at Sinai are no closer to resolution now than they were in medieval times.[51] If we take the text literally, it would seem that revelation is purely external: God speaks to the people, or to Moses and the elders, from the mountain top. But what exactly is the "voice" (*kol*) that is heard

[50] Sifra to Leviticus 19:1.

[51] For a recent discussion of these problems, see Benjamin D. Sommer, "Revelation at Sinai in the Hebrew Bible and in Jewish Theology," *Journal of Religion* 79 (1999): 422–451.

– a majestic sound, a body of distinct propositions, or a commanding presence that requires human participation to be understood? We will see in a later chapter that for Maimonides, prophetic experience is an intellectual phenomenon explained by emanation, not an auditory phenomenon explained by vocal chords and eardrums.[52] To the degree that revelation involves reason rather than sensory apprehension, it comes much closer to being internal. When the Bible says "God spoke to the prophet," Maimonides argues it really means "the prophet understood what God wills." This does not mean that Maimonides doubted that God actually communicated with Moses. The question is: How does this communication occur? For all intents and purposes, Maimonides' answer is that revelation is another name for the activation of the human mind, and prophecy for the perfection of the human mind.

Since Judaism regards service to God as the highest calling, no traditional commentator could claim that the source of the commandments is irrelevant to their acceptance. The divine origin of the law (*torah min ha-shamayim)* is a basic principle of Judaism and according to Maimonides cannot be given up without destroying the foundation of the entire religion.[53] But what is our knowledge of the source? What do we mean when we say that the origin of the law is divine? We cannot see God, and many of the Bible's descriptions of God are steeped in metaphor. If the figurative reading is correct, neither can we hear God in the way we hear the announcer at a football game. Like the original recipients of the law, our knowledge of what God is depends on our assessment of the behavior God requires. This is true not only at Exodus 20 but in passages where a commandment is given on the authority of the divine name. Consider Leviticus 19:33–34:

> When a stranger resides with you in your land, you shall not oppress the stranger. The stranger who resides with you shall be to you as the citizen among you; you shall love the stranger as yourself, for you were strangers in the Land of Egypt. I am the Lord your God.

[52] Maimonides, *GP* 2. 36.
[53] See Maimonides, *Perek Helek*, Principle 8.

We can take this to mean either "You must love the stranger for my sake because I am the Lord your God," or "I am the Lord your God and this is the type of behavior I insist on." In either case, the commandment is based on the intuition that a society that abuses strangers, as Sodom did, is unacceptable.[54]

In *The Guide of the Perplexed* (2.40, p. 384), Maimonides argues that if a legal system pays attention to the soundness of the body and the soundness of the soul, if it inculcates correct opinions and is designed to enhance human understanding, we are justified in concluding that it originated with God. In short, source and content are related: our assessment of the validity of the law is a relevant factor in determining its authority. We can see this in another way by recognizing that the issue is not authority per se but just and rightful authority. That is why the Bible allows characters to question God in circumstances where it appears that divine authority is being misused. So when we say that the origin of the law is divine, we mean that it is the product of a perfect will, a will that pursues a noble end and does nothing that is frivolous or futile.

If this analysis is right, there is more to revelation than hearing a voice in the desert – even if we take hearing figuratively. For revelation to occur, a person must not just receive a message but be able to recognize the wisdom embodied in it. Thus Deuteronomy 4:5–8 and the tradition of *Moshe Rabbeinu* (Moses our teacher):[55]

> Behold, I have taught you statutes (*ḥukkim*) and laws (*mishpatim*) for you to observe in the land that you are about to enter and occupy. You must observe them diligently, for this will show your wisdom and discernment to the peoples, who, when they hear all these statutes will say: "Surely this great nation is a wise and understanding people." For what other great nation has a god so near to it as the Lord our God is whenever we call to him? And what other great nation has

[54] Cf. Novak, *Natural Law*, p. 59: "In Scripture, a key sign of the true covenantal community is the willingness and preparation of its native members to treat strangers as sojourners in their midst . . . The sign of the inauthentic community is hatred of strangers and abuse of them."

[55] For a brief review of Rabbinic and medieval commentaries on this passage, see Isadore Twersky, *Introduction to the code of Maimonides (Mishneh Torah)*, pp. 380–84.

statutes and laws as just as this entire law that I am setting before you today?

I take this to mean that nothing in the law is arbitrary in the sense that it resists the efforts of human reason to find a justification. In Kantian terms, the law contains a rightful claim to universality: not only is Israel capable of recognizing its wisdom, but in principle every nation is.[56] While acceptance of divine authority is obviously part of revelation, it can never be the only part: God never commands without also educating.

There is a respect in which, however rational, the law may interfere with human freedom. According to Maimonides (*GP* 3.34), the law "was not given with a view to things that are rare. For in everything that it wishes to bring about . . . it is directed only toward the things that occur in the majority of cases and pays no attention to what happens rarely." Put otherwise, the law is not dependent on time and place but applies universally.[57] To take a modern example, the civil law prescribes a limit to the amount of alcohol a person can have in his or her blood and still be able to drive. Undoubtedly there are differences among individuals that allow one person with a certain amount of alcohol to be much more alert than another. But it is not possible for the law to take these differences into account. All it can do is set a norm and enforce it equally. Thus someone may have to obey a law that is valid for the general case but fails to take into account the specifics of his or her circumstances. It is clear however that this is not a fault of the law but an inevitable consequence of its generality.

Even so, Biblical law does much to safeguard the dignity of individuals, especially those who are at a disadvantage. One cannot oppress a stranger or force Israelite religion on a non-Israelite. One must treat the poor, the handicapped, and the elderly with respect. In legal matters, one cannot show partiality

[56] This passage would seem to contradict a well-known legend (*Mekhilta Baḥodesh* 4) according to which God offered the Torah to the other nations of the earth before Israel, but they rejected it because they did not want to obey the commandments prohibiting adultery, murder, and robbery. But it is not clear whether their rejection is due to the fact that they did not realize that these things are wrong or because they did not want to comply with the commandments that prohibit them.

[57] On this point, see Leviticus 3:17, 23:14, Numbers 10:8, Deuteronomy 29:28.

to the rich or the poor.[58] Most important perhaps, one must love one's neighbor as oneself (Leviticus 19:18), recognizing that every individual has an obligation to respect those around him or her.[59] While the individual may be called upon to sacrifice his or her life for the good of the community, the community can never lose sight of the fact that every individual is made in the image of God and must be treated accordingly.

With these points in mind, we may conclude that revelation is best understood as a form of enlightenment. Though it is not the sort of enlightenment Kant had in mind when he wrote "What is Enlightenment?" it is an intellectual awakening suitable to the time and place in which it occurred. Unlike the Pythia in Greece, Moses did not go into a trance, see God in dreams, or require alcohol, drugs, music, or other artificial stimulants to approach God.[60] On the contrary, his prophecy is distinguished by both the clarity and sobriety of his communication.[61] From this point onwards, service to God will revolve around the comprehension and interpretation of the text that bears Moses' name. If that text contains nothing irrational, the same must be true of the process by which we interpret it. More than fanatical behavior, God wants acceptance of the law and consistency in application. Thus Numbers 15:16: "There shall be one law and one ordinance for you and the stranger who resides with you." This speaks volumes about the source from which the law proceeds, which means that once again source and content are intertwined.

At this point we must consider another objection. Let us grant that the ten commandments are based on moral intuitions that any rational person could be expected to have. According to tradition, Moses received a total of 613 commandments. What do we say about the others, the ones that deal with rituals, dietary requirements, or special pieces of clothing?

[58] Leviticus 19:15.

[59] On this point, see Goodman, *God of Abraham*, p. 122: this commandment "both rests upon and fosters individuality: for it is addressed to the individual moral agent and seeks the good of other individuals."

[60] On this point, see Numbers 12:6–8.

[61] See for example Deuteronomy 27: 8.

Surely it is fantastic to suppose that they too contain nothing beyond what a rational person would already have sanctioned.

We saw in connection with Deuteronomy 4 that the Torah mentions two kinds of commandment: laws and statutes. The Rabbis (*Yoma* 67b) explain the distinction by saying that some commandments are such that if God did not reveal them, we would be justified in establishing them on our own, e.g. the prohibitions against idolatry, blasphemy, adultery, murder, and robbery.[62] These are normally grouped under the category of *law*. The other commandments are ones for which we are completely dependent on God and are grouped under the category of *statute*. Why, for example, should we not boil a kid in its mother's milk or wear a garment woven from wool and flax? It is with the latter kind of commandment that the issue of obedience becomes paramount. If we only obey God when the commandments agree with our sense of right and wrong, then, for all intents and purposes, God does not change anything. Why not simply obey our conscience and forget about God altogether? The answer is that while this may lead to a moral life, it would not lead to a holy one. Thus the Talmudic passage that distinguishes laws from statutes goes on to say that the latter are denounced by Satan and refuted by gentiles. In other words, the laws are such that anyone can understand them. The statutes are divine decrees (*gezerot*) which lack reasons and pose a genuine test of faith.

The process of finding reasons for the commandments has always been fraught with risk.[63] First there is the danger that if people cannot find a reason, they will assume that obedience to the commandment is unnecessary. The opposite is also true. If a ritual like Sabbath observance is connected with a doctrine like creation, people might assume that once they accept the doctrine, the ritual is no longer necessary. According to one Rabbinic text, Solomon, the wisest person of his time, erred by finding the reasons for the commandment prohibiting the king from having many wives.[64] His argument was that because he

[62] *Yoma* 67b.

[63] The best sustained discussion of this issue is that of Josef Stern, *Problems and Parables of Law: Maimonides and Nachmanides on the Reasons for the Commandments*.

[64] *Sanhedrin* 21b.

knew what the commandment was trying to accomplish, he could safely ignore it. The clear implication is that if a man as great as Solomon failed in this regard, the rest of us can hardly be expected to do better. Not surprisingly the Rabbis stressed the acceptance of divine authority and obedience to all the commandments that issue from it. As soon as people begin to pick and choose which commandments they want to obey, the law will lose its force. Along these lines, Judah the Prince, the compiler of the *Mishnah*, tells us to be as mindful of a light precept as we are of a grave one.[65] Since all precepts reflect God's will, humans are not in a position to assess consequences and make discriminations.

The truth is however that unlike other law codes in the ancient Near East, the Torah does provide motives or justifications for many of its precepts.[66] When the shedding of human blood is prohibited at Genesis 9:6, for example, there is an attempt to provide a reason: "For in His own image, God made mankind." According to Halivni, there are over a hundred motive clauses in the Book of Deuteronomy alone and three clear instances in the Decalogue.[67] The motives Halivni is talking about range from ethical to religious to historical to merely prudential; but the important point is that there are motive clauses at all. If the people had accepted the commandments on God's authority alone, motives would be superfluous. No motive is given when Abraham is asked to sacrifice Isaac. But often they are given when the issue is legislation that others will be asked to follow. Thus Biblical law, to use Halivni's expression, tries to explain itself rather than just impose itself.

I will have more to say about statutes in later chapters. For the present, note that it is possible to find explanations for them as well. If there is a prohibition against murder, there have to be courts, rules of evidence, guidelines for sentencing, and places of refuge. If there is a law protecting personal property, there have to be rules for how to handle contracts, wills, and rights of

[65] *Pirkei Avot* 2.1.

[66] On this point, see B. Gemser, "The importance of the Motive Clause in Old Testament Law," *Vetus Testamentum*, Supplement 1 (1953), 50–52.

[67] Halivni, *Midrash*, pp. 10–11.

inheritance. Beyond that we should keep in mind that even in modern secular societies, clubs, corporations, universities, military regiments, and popularly elected governments have ceremonies, mascots, special clothing, special music, and a variety of other devices to represent or reinforce shared commitments. This is another way of saying that human beings do not operate on abstract principles alone. In any legal system, there have to be laws which, though not strictly deducible from morality, are needed to help people realize it.

We saw that Maimonides' view of statutory commandments is that so far from constituting a test of obedience, they represent God's attempt to make things easier for us. Behind this claim is the belief that human beings are naturally disposed to trust what they can see and not to trust what they cannot.[68] How can a religion that stresses the prohibition against idolatry overcome such a deep-seated tendency? In effect Maimonides' answer is that the only way to overcome it is to make concessions to it. If the people want something they can see, give them a luxurious sanctuary but make sure it does not contain anything that can be viewed as a physical manifestation of God. If the people need to pray, give them hymns and benedictions but make sure that the language they contain reinforces true opinions and noble motives in those who say them. If the people want special clothing, give them fringes and phylacteries but make sure that the people do not invest these garments with magical powers. Finally if the people want festivals, set aside special days for celebration but make sure that the religious message is not obscured by eating and drinking.

The crux of Maimonides' argument is a distinction between the primary and secondary intention of the law.[69] The primary intention is summed up in the first two commandments: worship of God and the rejection of idolatry. The secondary intention is to help people realize the primary intention. Thus God commanded a series of rituals that "are not the object of a purpose sought for its own sake."[70] In the next life, there will be

[68] Maimonides, *GP* 1. 31.
[69] This distinction is spelled out in ibid. 3.32.
[70] Ibid., p. 530.

no rituals, and the blessed will praise God as the heavenly intelligences do: by contemplating the divine essence in perfect silence. But in this life, rituals are needed if the struggle against idol worship is to have any hope of succeeding.

Along these lines, Maimonides claims that Abraham was a monotheist who devised perfectly good arguments for the existence and unity of God.[71] But the arguments were not accompanied by things the people could see and do: their only appeal was to reason. The result is that when the Israelites lived in Egypt, Abraham's arguments were soon forgotten and the people fell into error. If we consider all the commandments given to Moses, their purpose was twofold: to reinstate monotheism and prevent another relapse. That is why the full body of commandments contains statutes dealing with every aspect of a person's life. The goal was to have a series of reminders that would help the people focus their energy on worthwhile ends. Accordingly Maimonides takes *Yoma* 67b to mean that the reasons for the statutes are unknown *to the multitude* but not unknowable in principle.[72] Why are they unknown to the multitude? We can only speculate that the multitude would have fallen into the trap of thinking that once the reasons are clear, the prescribed rituals can be forgotten.[73]

To suppose that one can justify every detail of the ritual law is folly.[74] Given the prevalence of animal sacrifice in the ancient Near East, the people who stood at Sinai would not have understood how there can be a religion without it. But having justified the practice in general, one does not have to say why a lamb is needed in one instance and a ram in another. Still Maimonides thinks it is also folly to suppose that God would ask us to do something for which no reason can be given other than obedience to God (*GP* 3.31, pp. 523–34):

There is a group of human beings who consider it a grievous thing that causes should be given for any law; what would please them most

[71] Maimonides, *MT* 1, Laws Concerning Idolatry, 1.2.

[72] Maimonides, *GP* 3.26.

[73] For another possibility, see Stern, "The Fall and Rise of Myth in Ritual: Maimonides versus Nachmanides on the *Huqqim*, Astrology, and the War Against Idolatry," *The Journal of Jewish Thought and Philosophy* 6 (1997), 214–16.

[74] Maimonides, *GP* 3. 26.

is that the intellect would not find a meaning for the commandments and prohibitions. What compels them to feel thus is a sickness that they find in their souls . . . For they think that if those laws were useful in this existence and had been given to us for this or that reason, it would be as if they derived from the reflection and the understanding of some intelligent being. If, however, there is a thing for which the intellect could not find any meaning at all and that does not lead to something useful, it indubitably derives from God.

And concludes:

every *commandment* from among these *six hundred and thirteen commandments* exists either with a view to communicating a correct opinion, or to putting an end to an unhealthy opinion, or to communicating a rule of justice, or to warding off an injustice, or to endowing men with a noble moral quality, or to warning them against an evil moral quality.

It follows that even the statutes were given for the good of the people (Deuteronomy 6:24) and have reasons to support them. If these reasons are not apparent, it is our duty to find them. "*Ḥukkim* [statutes]," as Isadore Twersky put it, "are messages which must be deciphered and decoded; they appear undecipherable only for lack of knowledge, insight, and sensitivity."[75]

Maimonides represents the high point of medieval rationalism and does not speak for Jewish tradition as a whole. But our consideration of Deuteronomy 4 shows that his position has textual support. It would be one thing if Moses said that the laws reflect Israel's wisdom and will be seen as a model of rationality by the people of other nations while the statutes will remain a unique feature of the spiritual life of Israel. But the text says that *both* the laws *and* the statutes will be regarded as a body of wisdom, which implies that nothing has to be accepted on faith alone.

Why is it important that every commandment have a justification? When a commandment has a reason behind it, a

[75] Twersky, *Introduction*, p. 386. Maimonides is not always successful in finding reasons for commandments, the most obvious example being the ritual of the red heifer (Numbers 19:1–22). For more on the problems he faced, see Josef Stern, "The Idea of a *Hoq* in Maimonides' Explanation of the Law," in S. Pines and Y. Yovel (eds.), *Maimonides and Philosophy*, pp. 92–139 as well as Stern, "The Fall and Rise," pp. 185–263. In the latter article, Stern connects Maimonides' view of statutes to his attack on the Sabians. But it is difficult for us to say who the Sabians were.

rational person can appropriate it freely – or, as I have been saying, can look upon herself as its author. No act of submission is involved in such acceptance and no compromise with human dignity is needed to act on it. This does not mean that a commandment ceases to be obligatory if someone decides not to accept it but that acceptance is a rational process rather than a matter of weighing benefit and harm. Again from Halivni: "Biblical law, by providing instances of its motives, signifies that it reckons with the will of the people to whom the laws are directed; it seeks their approval, solicits their consent, thereby manifesting that it is not indifferent to man."[76] If Maimonides is right, not only is it not indifferent to man, it is designed specifically for the purpose of enlisting human support. It follows that if the law were given to creatures whose nature or historical experience were different from ours, some parts of the law would also be different. This does not mean that the law is arbitrary but rather that it is humane.

It is time to take stock. If autonomy means being one's own master in a literal sense – recognizing no authority other than oneself – there is nothing in the Bible or Jewish tradition generally that upholds the validity of autonomous behavior. But if we take autonomy in a deeper sense, and recall Kant's claim that a free will and a will under law are identical, the issue becomes more complex. The Biblical narrative is a story of how an autonomous agent creates other agents and enters into agreements with them. The most important of those agreements is distinguished by the fact that it culminates in a written document. According to the terms, it is an agreement that neither party can change and to which both parties are bound.[77] Once we have a document, we have procedures, uniformity, and expectations of fair play, all things we commonly associate with the rule of law.

To repeat: I am not arguing that autonomy is present in the Bible as an explicit doctrine.[78] Even for something as central as

[76] Halivni, *Midrash*, pp. 13–14. But notice Halivni's misuse of the term "categorically imperative" on p. 13.

[77] Deuteronomy 4:2.

[78] On this point, note Cohen's criticism of Lazarus in *JS* vol. 3, pp. 14–23.

monotheism, it is not clear that the Bible presents a unified view.[79] What I am arguing is that the Biblical narrative revolves around freedom, rationality, and the moral integrity of God, which is to say themes that contributed to the doctrine of autonomy when it was finally articulated. Recall that we are dealing with a narrative in which it is possible for God's will to be expressed not through the proclamations of the high priest but through the words of a simple shepherd. In reading the Bible, one always runs the risk of finding a lesson that was not intended, but this danger confronts anyone who uses an ancient text to advance a theological argument. I will take up the issue of interpretation at greater length in the next chapter in conjunction with the Rabbinic tradition. We will find that even when people are committed to external revelation and make submission to God the crux of the religion, the problem of autonomy raises its head all over again. To my way of thinking, this is not surprising. Given the trajectory on which the Bible puts us, the problem of autonomy is inevitable.

[79] The subject of monotheism in the Torah is complex. In addition to the use of anthropomorphic language, see Exodus 24:10; Isaiah 6:1–3; Ezekiel 1:26–28, where people see God or the image of God often in human form.

CHAPTER 3

From the prophet to the sage

According to the traditional view, all 613 commandments which comprise the body of Jewish law were given to Moses at Sinai and became binding when Israel decided to live under the yoke of heavenly authority. Although human participation is needed for the commandments to be binding, no participation is needed to determine what the commandments are. In this respect, the Torah presents a decidedly heteronomous view of religion.

It is noteworthy that in addition to particular commandments, the Torah claims that the revelation given to Moses is final. Thus Deuteronomy 4:2: "You must neither add anything to what I command you nor take anything away from it, but keep the commandments of the Lord your God which I am charging you." And Deuteronomy 13:1: "All this which I command you, you shall observe and do, you must not add to it or take anything away from it." The rationale is clear: since the law is of divine origin, it is forbidden for humans to interfere with it. But there is an implication that is not so clear: if one cannot add to or subtract from the original body of commandments, then the role of a future prophet is greatly limited.[1] Anyone who tries to change the law will show at once that he does not understand it. Along these lines, the Rabbis interpreted Leviticus 27:34 ("These are the commandments which the Lord gave to Moses") to mean "These are the *only* commandments; thus a prophet has no right to add anything."[2]

[1] For further discussion of this issue, see David Bleich, "*Lo Ba-Shamayim Hi*': A Philosophical *Pilpul*," in Norbert Samuelson (ed.), *Studies in Jewish Philosophy*, pp. 463–488.

[2] *Shabbat* 104a, *Yoma* 80a, *Megillah* 2b.

Similarly Maimonides argues that if a person should arise and perform signs or wonders to get the people to add to or subtract from the original body of commandments, he comes to deny the prophecy of Moses and should be executed.[3]

In addition to the limitation on future prophets, there is a second controversial implication. A prophet is a messenger from God. If the role of future prophets is limited, so is the role of future revelation. Once the contract between God and Israel is agreed to, there can be no changes by either party. Were God to issue additional commandments, on the basis of Leviticus 27:34 and Deuteronomy 13:1, we would be justified in ignoring them.

Suppose, however, that a future prophet did not reveal additional commandments but clarification of the ones we already have.[4] This question is particularly apt given that many of the original commandments are incomplete. To take a few examples, the prohibition against murder does not provide a legal definition. The prohibition against boiling a kid in its mother's milk does not say whether it is permissible to boil it in the milk of another animal. The commandment to love God with all one's heart does not say what one must do to comply. Even if we knew what compliance requires, questions would still remain. Having commanded something, has God also commanded everything it implies? And everything needed to fulfill it? And what about explanations of why it is commanded in the first place? This is another way of asking what the content of the original revelation was. Is it just a list of actions to perform and avoid or is it also a set of principles needed to interpret and generalize from those actions?

From Maimonides' perspective, a future revelation that offers clarification of the original one is still objectionable. In the passage where he recommends the death penalty for prophets who attempt to add to or subtract from the original body of commandments, he also recommends it for prophets who delve into explanations that differ from the tradition received from Moses. His rationale is straightforward. In many cases, it is

[3] Maimonides, *MT* 1, Basic Principles of the Torah, 9.1.
[4] Again, see Bleich, "*Lo Ba-Shamayim Hi*."

difficult to draw a line between a commandment and the social practices or legal knowledge needed to apply it. There is an obvious sense in which interpreting something changes it, especially if the interpretation leads to wider application or additional responsibilities. Since change is prohibited, novel interpretations sent from heaven to earth are prohibited as well.

These issues raise important questions about the nature and scope of revelation. The goal is to appropriate God's law and make it our own. But our appropriation of the law is no better than our understanding of it, and our understanding of it requires insights that go well beyond anything contained in the original text. From whom do these insights proceed and under whose authority are they propagated?

The Rabbinic answer is that God revealed two Torahs to Moses, one oral and one written. From the written Torah, we get the 613 original commandments; from the oral Torah, knowledge of the social practices, legal procedures, and interpretive devices needed to apply them. Rather than two separate bodies of law, they represent two aspects of the same law; each proceeds from God and has the full authority of Mosaic legislation behind it. Thus Maimonides claims the commandments Moses received at Sinai were given *together with* their interpretations and cites Exodus 24:12 ("And I will give you the tablets of stone, the Torah, and the commandment, which I have written, that you may teach them") as his proof text.[5] His argument is that *Torah* refers to the written law while *commandment* refers to its interpretation, the oral law that Moses gave to the elders, who in turn passed it to the priests and prophets and eventually to the Rabbis. Various Talmudic passages go further, maintaining that the Mishnah, the Gemara, even that which a superior student is destined to teach in the presence of his master were contained in the original revelation given to Moses.[6]

Under the aegis of the oral Torah, the Rabbis maintained that their rulings did not constitute changes in the original revelation because all they were doing was filling in details and

[5] *MT* 1, Preface. Cf. *Berakhot* 5a and Maimonides, Introduction to *Commentary on the Mishnah*.

[6] *Berakhot* 5a, *Peah* 17a.

drawing out the necessary implications. Along these lines, a well-known Talmudic passage relates that a gentile went to Shammai and asked how many Torahs he had.[7] Shammai responded with the usual answer: two. Then the gentile asked to become a convert on condition that he had to accept only the written Torah, and Shammai rebuked him. Later the same gentile went to Hillel, who accepted him. On the first day, Hillel taught him the alphabet; on the second day, the alphabet backwards. When the gentile protested, Hillel replied, "You have to depend on me for the letters of the alphabet, don't you? So you must also depend on me for the interpretation of the Torah."

As we saw, the written Torah is not always clear, and even if it were, there is no way to avoid questions of application. When is a specific case an instance of a general rule and when not? When should the law be relaxed and when stiffened? When should the law accommodate itself to local customs and when should it ignore them? To answer these questions, the Rabbis used a variety of arguments. The most obvious, of course, is Scriptural citation; but even here, problems arose. Sometimes they stick to what appears to be the plain meaning of the text, sometimes they resort to figurative interpretation, and sometimes to interpretations that appear to go well beyond the original meaning. For example, the Torah (Exodus 21:23) tells us to take life for life, eye for eye, tooth for tooth, hand for hand, etc.; but the Rabbis understand this to mean monetary compensation only (the value of an eye for an eye).[8] Again the Torah (Deuteronomy 24: 16) tells us that parents should not be put to death for their children nor children for their parents, but every person should be put to death for his own sin. The Rabbis take this verse to mean not that parents and children should not be put to death on account of each other's sins but that parents and children should not be put to death on the basis of *evidence* given by each other and conclude that the testimony of relatives is invalid.[9]

How could they depart from the plain meaning so radically without thinking they had changed it? According to Halivni,

[7] *Shabbat* 31a. [8] *Bava Kamma* 83b. [9] *Sanhedrin* 27b.

the Rabbis did not share our devotion to "the plain sense" (*peshat*) of the text.[10] Where we put the burden of proof on someone who wants to depart from it, they did not. Although the exegetical reasons for this are complicated, the theological one is simple: the Rabbis saw themselves as heir to a sacred tradition that gives them an interpretive license no modern scholar would dream of claiming. In this way, they feel perfectly confident in saying that "an eye for an eye" was never intended to justify violence. As Halivni goes on to remark, the Rabbis do not always view Biblical verses as independent sources of content but rather as support for content that has been determined by other means.[11]

Another way to understand this is to recognize that the Rabbis were not doing exegesis in our sense of the term. Rather than a scientific study based on historical and philological evidence, they are engaged in something they would regard as more important: the job of passing on Torah, where *Torah* refers to an evolving body of laws, statutes, customs, insights, and aspirations, what we would normally group under the term *religion*. So while there is a written text that cannot be altered, it is only one of the resources at their disposal. That is why proof texts cited in connection with a ruling can seem forced or arbitrary to someone unfamiliar with the oral tradition. From our perspective, it appears that they are reading in doctrines of their own invention. From their perspective, they are only using the text to instruct us on a point of law. To take an example, the Torah says three times that you cannot boil a kid in its mother's milk.[12] According to the Rabbis, these occurrences are not redundant even though they appear to say the same thing: the first deals with eating meat cooked in milk, the second with profiting from it, the third with making it.[13]

Beyond appeals to a text, there are a variety of inferences common to legal reasoning in secular as well as religious contexts. Sometimes the Rabbis argue by analogy from known

[10] David Weiss Halivni, *Peshat and Derash*, pp. 8–9.
[11] *Peshat*, p. 13.
[12] Exodus 23:19, 34:26; Deuteronomy 14:21.
[13] *Ḥullin* 115b.

cases to disputed ones.[14] Sometimes they appeal to common sense or to what a reasonable person can be expected to do, e.g. that no woman will lie in the presence of her husband or that a person who is sick will see a doctor.[15] Sometimes they appeal to existing social practices, e.g. that those who are hired to guard fruit are permitted to eat some of it.[16] Sometimes, as we will see, they issue enactments or decrees that are not based on textual exegesis at all but are designed to enhance the public good.[17]

The result, as Martin Golding put it, is that in Rabbinic law, as in most legal systems, it is possible to begin with one set of rules and "derive" others by arguments that are perfectly good for the context in which they occur but less than compelling when viewed as logical deductions.[18] This does not mean that the arguments are arbitrary or irrational; on the contrary, they are based on rules of procedure, consideration for precedent, and accepted principles of exegesis. It simply means that the categories at our disposal are more flexible than those governing logical entailment.

Consider two examples. From the prohibition against boiling a kid in its mother's milk, the Rabbis rule that one cannot eat meat cooked in any milk, that chicken counts as meat even though chickens do not suckle their young, and that if a person accidentally spills a piece of meat into a pail of milk, no violation occurs unless the meat exceeds 1/60th the volume. From Deuteronomy 6:8–9 ("You shall bind them as a sign on your hand, and they shall be as frontlets between your eyes") they rule on the color and shape of tefillin, how they are to be fastened to the arm, which arm they are to be fastened to, the letter that should appear on them, the parchment they should

[14] See, for example, *Sanhedrin* 78b.

[15] *Gittin* 64b, 89b; *Bava Kamma* 46b. For additional examples and an excellent discussion of the oral law in general, see Chajes, *Student's Guide through the Talmud*, trans. Jacob Shachter, pp. 120–21.

[16] See, for example, *Bava Metzia* 93a.

[17] An obvious example is *Megillah 7a*, where the Rabbis rule that the Book of Esther should be read in public on Purim – even though the story of Esther occurred some nine centuries after Sinai.

[18] Martin Golding, "Reasoning and the Authoritative Expansion of the Law: A Study in Jewish Legal Theory," in Samuelson (ed.), *Studies in Jewish Philosophy*, p. 421.

contain, the kind of ink that should be on the parchment, and the kind of thread that should be used to stitch them together.

My point in mentioning these examples is not to suggest that there is something peculiar about Rabbinic law. Rather it is to show that, like other systems, Rabbinic law contains the resources to expand its application. A person could begin with the First Amendment to the US Constitution and show how the federal courts have derived whole bodies of law governing free speech and freedom of religion. Note, for example, how speech was widened to include expression of any form, how standards of application like the clear and present danger rule were developed, and how the courts determined that even an action like flag burning is covered by the original amendment. All this happened without anyone passing a new amendment. What began as a short, tightly worded statement developed into something much more extensive as society changed and new questions arose.

The same holds true of Rabbinic law. According to *Ḥagigah* 3b: "Just as what is planted is fruitful and multiplies, so are the words of the Torah fruitful and multiplying." One ruling creates the need for additional rulings, additional rulings create the need for more guidelines and specifications, and so on indefinitely. Just as the Supreme Court does not think it is amending the Constitution by issuing new rulings, so the Rabbis did not think they were altering the original legislation given to Moses. All they were doing was applying the principles given under the rubric of the oral law. From a historical perspective, the problem is that the Rabbis are the only source we have for determining the contents of this law. But for their sayings and the accounts of their deliberations, we have no way to check them.[19]

Following in the footsteps of Maimonides, the nineteenth-century Talmudic scholar Zevi Hirsch Chajes proposed the following classification of the oral law: (1) Interpretations that have come down from Sinai and can be supported, however tenuously, by appeal to the Biblical text; (2) Laws for which no

[19] On this point, see Michael S. Berger, *Rabbinic Authority*, p. 80.

textual support can be found but are authorized by the authority of tradition; (3) Laws derived by the accepted hermeneutical principles; (4) Laws not based on the text but derived by logical analysis or appeals to common sense; (5) Rabbinic enactments (*takkanot*); and (6) Rabbinic decrees (*gezerot*).[20]

In regard to (1), we saw that the Rabbis were not bound by the standards of modern historical analysis. According to Rabbi Akiva, no word, however insignificant it may seem, is to be regarded as superfluous. Thus every word, every letter, even the shapes of the letters and the crowns on top of them, has a story to tell and is a relevant feature for someone who wants to understand the meaning of the text. That these stories may require extraordinary effort to uncover shows only that the written Torah is of divine rather than human origin. It is well known that some of Akiva's interpretations were so subtle that even his Rabbinical colleagues had trouble following them.[21] From our standpoint, the term "textual support" in Chajes' formulation should be taken loosely to reflect the wide latitude the Rabbis permitted themselves.

As for (2), we saw that many of the commandments that appear in the Torah are abbreviated. For example, Deuteronomy 12:21 says, "You shall kill of your herd and flock, as I have commanded you." But the details of ritual slaughter are not specified. Nor are all the details of the Sukkah, the Shofar, or the Lulav. Here the Rabbis claimed they were filling in missing information on the basis of knowledge that was passed on but not written down. This is perfectly reasonable when you consider that no legal system can be completely explicit about the practices it enjoins. To take one of Maimonides' examples, the Torah claims one cannot offer a blemished animal for sacrifice.[22] But surely this does not mean there must be a separate commandment for everything that counts as a

[20] Chajes, *Student's Guide*, p. 111. For the connection with Maimonides, see p. 4 as well as Maimonides, Introduction to *Commentary on the Mishnah*. Note that Maimonides proposes five categories rather than four. The basic difference is that Maimonides joins together categories (3) and (4).

[21] See *Pesaḥim* 66a and for further discussion, David Novak, "The Talmud as a Source for Philosophical Reflection," *HJP* pp. 66–67.

[22] *The Book of Commandments*, Principle Seven.

blemish. The law simply assumes that people in positions of authority have an adequate understanding of what counts as a blemish and can apply the law in good faith. The problem is that what may have been true in ancient times is not necessarily true in succeeding generations. That is why the Rabbis are sometimes called upon to make explicit what was previously assumed.

The hermeneutical principles referred to in (3) derive from Rabbi Ishmael and have to do with the inferences that can be made from Biblical texts.[23] For the most part the principles tell one when to generalize, when to assert an analogy, and how to handle ambiguity or apparent contradiction. The Torah (Exodus 21:26–7) tells us that if a man strikes a slave and knocks out his eye or his tooth, he must let the slave go free. The third hermeneutical principle allows the Rabbis to say that a man must free his slave if he mutilates any part of the slave's body. By contrast, the Torah (Leviticus 18:6) tells us that no one should marry anyone related to him and then provides a list of forbidden marriages. The fourth hermeneutical principle says that the prohibition applies only to those cases explicitly mentioned. The twelfth principle says that ambiguous words should be explained by their context or by subsequent expressions, the thirteenth that passages which seem to contradict each other can be harmonized only by a third passage.

In regard to (5) and (6), the practice of making enactments and decrees is justified on the grounds that there are occasions when a court needs to take precautionary measures to safeguard the Torah or stabilize the social order.[24] Thus the Rabbis tried to safeguard the commandment prohibiting work on the Sabbath by saying that it is forbidden even to handle tools. If the law tries to safeguard a specific commandment, it is a decree; if it tries to safeguard the Torah as a whole, an enactment. Many of the laws dealing with the Passover seder are enactments, as is the practice of reading the *Haftarah* (prophetic passages) on the Sabbath and festival days. Along

[23] *Sifra*, Introduction.

[24] On safeguarding (building a fence around) the Torah, see *Pirkei Avot* 1.1 as well as 3.17, where Akiva says that the *Massorah* (oral tradition) is such a fence.

these lines, Maimonides points out that there are laws enacted after the giving of the Torah which Moses could not possibly have known about, e.g. reading the Book of Esther, lighting a Hanukkah candle, fasting on the ninth day of Av, setting up *eruvin*, and washing one's hands before eating or praying.[25] In his words: "To assume that Moses was told to command us at Sinai that if at the end of our rule, if such and such occurred with the Greeks, we would be required to light a Hanukkah lamp – this is beyond anyone's imagination."[26] We may conclude that these laws cannot be derived from Mosaic legislation by any interpretive principle and are based on the rulings of subsequent courts.

If one were to list all the laws a Jew is obliged to fulfill, the number would reach many thousand. But, Maimonides continues, laws that are derived from Rabbinic rulings (*de-rabbanan*), as opposed to laws derived from the Biblical text (*de-oraita*), should not be considered additions to the 613 original commandments because they are not put forward on divine authority; rather they are laws ordained by Rabbinic courts for the purpose of praising God and safeguarding the Torah. Only if a person claims that an enactment or decree is valid because it constitutes the will of God is he adding to the Torah. As Novak put it, the enactments are inherently teleological in the sense that they are instituted for the sake of God even though they cannot be derived from anything God has commanded.[27]

One way to understand the oral law, especially that part of it for which there is no explicit textual support, is to say that not only was a body of doctrine passed down but the establishment of judicial authority as well. This point is borne out by a famous passage (*Menaḥot* 29b) in which Moses is transported to Rabbi Akiva's classroom and is troubled because he cannot follow the

[25] *MT* 1, The Rabbinic Commandments.

[26] *The Book of Commandments*, Principle One. Note, as Maimonides does, that even though Moses knew nothing about the events commemorated by Hanukkah, the blessing said before lighting the candles reads: "Blessed are You, O Lord our God, who has sanctified us by your commandments, and commanded us kindle Hanukkah lights." Note too that at *Perek Ḥelek* (eighth principle), Maimonides says that the *lulav*, *shofar*, fringes, and *teffilin* we use replicate exactly those which God showed Moses.

[27] Novak, "The Talmud as a Source," p. 78.

interpretation Akiva is propounding. But Moses' mind is set at ease when, after a student asks Akiva for his source, Akiva replies: "It is a law of Moses given at Sinai." In other words, he answers the question without referring to a specific Biblical verse. His point is that he is part of an unbroken line of succession that gives him the authority to render a judgment on the basis of the tradition he has inherited.

The fact that there are decisions which do not have explicit textual support does not mean that they lack binding force. According to the traditional view, to disregard Rabbinic enactments and decrees is to violate the commandment issued at Deuteronomy 17: 8–11:

> If a juridical decision is too difficult for you to make, between one kind of bloodshed and another, or one kind of claim and another, or one kind of assault and another – any such matters of dispute in your cities – you shall immediately go to the place that the Lord your God shall choose, and consult with the Levitical priests and the judge who is in office at that time. They shall announce to you the decision in the case. Carry out exactly the decision they announce to you from the place that the Lord will choose, diligently observing everything they shall teach you.You shall carry out fully the law that they teach you and the judgment that they announce to you; do not turn aside from the decision which they announce to you, whether to the right or the left.

Although the passage refers to priests and judges, the Rabbis took it to cover their own legislation as well.[28] By the same token, the passage refers to disputed criminal and civil cases; but the Rabbis took it to cover the ritual law as well.

Overall the justification for the oral Torah is that unless the law allows for the passing of authority, the tradition that began with Moses would not be able to deal with new situations and would soon die. Along these lines, Maimonides argues that if a court deems it necessary to suspend a commandment tempo-

[28] See *Shabbat* 23a as well as *MT* 14, Laws Concerning Rebels, 1.2. For a discussion of the latitude the Rabbis took with Deuteronomy 17:8–11, see Berger, *Rabbinic Authority*, pp. 31–39. Note, as Berger does, how important it is for the Rabbis to see themselves as covered under the phrase "the judge who is in office at that time." But the vagueness of the phrase cuts both ways. If the Rabbis can include themselves, what prevents other groups or competing Rabbinical organizations from claiming the same thing for our time?

rarily "in order to bring the multitudes back to religion and save them from general religious laxity," it may do so "taking into account the need of the hour."[29] His justification is that there are times when temporary disregard for some commandments may be needed to preserve the commandments as a whole. According to Maimonides, there are times when a court may have to stiffen the law or the punishment for disobedience if that is needed to achieve the same end.

Even if one believes in the idea of a dual Torah, problems remain. It is one thing to say that if you accept the axioms and postulates of Euclidian geometry, in a manner of speaking you have also accepted their explanations and the theorems that follow from them. The fact is, however, that legal reasoning is rarely that precise. Maimonides argues that matters that are true and false are known by the intellect and, in some cases, susceptible to demonstration.[30] But matters that deal with good and bad belong to those things accepted by habit or convention, what Aristotle calls *endoxa*.[31] This does not mean that we cannot discriminate good from bad on the basis of reasoned argument, that there are no established principles, correct judgments, or body of knowledge to master, only that the learning we are talking about is not demonstrative in the sense in which a logician would use the term. His prime example of this point involves the story of Adam and Eve. Before they ate the forbidden fruit, they had knowledge of metaphysics but lacked knowledge of good and evil. While they were wise in theoretical matters, they had not yet entered civil society and thus lacked the sense to cover their genitals. It follows that even something as basic to society as the prohibition against nudity cannot be derived by demonstration and owes its existence to habit and sound judgment.

Since legal reasoning typically deals with good and bad, or pure and impure, it is inevitable that disputes will arise. For the Rabbis the general way of handling them is to adopt the opinion

[29] *MT* 14, Laws Concerning Rebels, 2.4. Cf. *Yoma* 85b.

[30] *GP* 1. pp. 24–25; 3. 27, p. 511.

[31] Maimonides' term is *al-mashhurat*. Cf. Aristotle, *Nicomachean Ethics* 1094 b11 ff., and especially 1098 b27. Also see *Topics* 100 b21.

of the majority.[32] It is noteworthy however that the Talmud declares that *both* the opinions of the majority *and* those of the minority are sanctioned by God in the sense that both are needed for a deliberative body to arrive at a rational decision.[33] That is why opinions like those put forth by the school of Shammai are recorded and taken seriously. Still we must be careful not to interpret *rational* as *inevitable*. Sometimes a decision is rational even though it is possible to imagine it coming out the other way. In this connection Rava argues that no one should be appointed to the Sanhedrin unless he can prove based on a reading of the Biblical text that reptiles (an unclean animal according to Leviticus 11:29) are in fact clean.[34] In the same passage, Rabbi Johanan claims that a person who cannot produce a hundred arguments for reptiles being clean *or* unclean will not know how to open a capital case with grounds for acquittal. What all this goes to show is that there is an element of contingency in the application of law just as there is in life in general.

When it comes to contingency, Aristotle points out that there are issues on which intelligent people can disagree and that in this context one mark of intelligence is the ability to see puzzles on both sides of a question.[35] Since legal reasoning is often based on analogies or considerations pro and con, "disagreement," as Golding remarks, "is an inevitable feature of the development of the law."[36] If this were not true, if people expected the law to generate unanimity on all matters, an important part of rational inquiry would be vitiated: namely that part that is able to observe human nature, respect precedent, weigh evidence, answer objections, and thrive on the give and take of dialectical argument, what Lord Coke called "artificial" as opposed to natural reason.[37] Put otherwise, it would vitiate that part of human intelligence that is able to render a free and informed judgment without relying on the force of logical compulsion.

[32] *Sanhedrin* 22a. [33] *Gittin* 6b, *Eruvin* 13b. [34] *Sanhedrin* 17a.

[35] Aristotle, *Topics* 101a35–101b4. Cf. Maimonides, *GP* 1.31, p. 66: "For in all things whose true reality is known through demonstration there is no tug of war and no refusal to accept a thing proven."

[36] Golding, "Reasoning," p. 435. On this issue, see *Sanhedrin* 88b.

[37] For the full text and an explanation, see Golding, "Reasoning," p. 439.

According to Maimonides, no dispute arose over the laws in categories (1) and (2) as mentioned above because the existence of a dispute would be evidence that the law in question did not originate with Moses.[38] Rather disputes arose over enactments, decrees, or the application of hermeneutical principles, in which case the vote of the Sanhedrin was binding. The Sanhedrin then was the root of the oral law, and as long as it was in session, Maimonides maintains, there were no controversies in Israel. But when the Sanhedrin ceased to exist, controversies sprang up. He therefore recommends that should a controversy arise and be impossible to resolve, if it concerns a law derived from the Biblical text, the more stringent view is to be followed, if it concerns a Rabbinic law, the more lenient one.[39]

In several passages, Maimonides introduces the standard of popular consent. In the Introduction to the *Mishneh Torah*, he claims that all the customs put into practice by the sages are binding because all Jews consented to the rulings in the Talmud.[40] Later in Book 14, he claims that if enactments and prohibitions designed to safeguard the Torah have been universally accepted, no later court can overturn them.[41] If a court issues a decree thinking it will meet with general acceptance, but it does not, the decree is void. If a court issues a decree and believes it has met with general acceptance when in fact it has not, a later court is justified in revoking it. In general:[42]

Before instituting a decree or enacting an ordinance or introducing a custom which it deems necessary, the court should calmly deliberate the matter and make sure the majority of the community can live up

[38] *MT* 14, Laws Concerning Rebels, 1.1–4.

[39] Ibid., 1.5.

[40] It should be emphasized that Maimonides appears to be talking about ordinances and decrees promulgated on the basis of Rabbinic authority. I say this because the commandments contained in the Torah or derived according to the accepted hermeneutical rules are accepted on the basis of divine authority and for Maimonides do not require human consent. Whether this means that the ordinances and decrees were accepted one at a time or together as a whole is unclear. For further comment, see Berger, *Rabbinic Authority*, pp. 101–05, 114–15.

[41] *MT* 14, Laws Concerning Rebels, 2.3, 6, 7. For further discussion, see David Novak, "Maimonides and the Science of the Law," *Jewish Law Association Studies* 4 (1990), 104–06.

[42] *MT* 14, Laws Concerning Rebels, 2.5.

to it. At no time is a decree to be imposed upon the public which the majority cannot endure.

The authority of the court does not derive from a presumption of infallibility. How could it if many of the issues before the court are such that reasonable people can disagree? By the same token, consent is still part of the equation. Even if one believes, as I do not, that human consent was not an essential part of the experience at Sinai, for Maimonides there is no question that it is an essential part of the enactments and decrees generated later on. At bottom the enactments and decrees are a human response to the challenge of obeying divine law.

Conspicuous by its absence is the suggestion that disputes be resolved by going back to the original source. If both the written and the oral Torah are the products of a divine revelation, why not settle an argument by asking for guidance from above? Why, in other words, should we not consult God when we are doing something for the sake of God? It is to that question that we now turn.

Necessary as the oral law may be to the vitality of the religion, it creates problems of its own. I began by pointing out that the revelation given to Moses at Sinai is final in the sense that no one, including God, can add or subtract anything. We just saw however that under the aegis of the oral Torah, the Rabbis constructed a massive body of enactments, decrees, and laws promulgated without textual support. Does this not constitute an addition? And what, if anything, has become of the role of God?

On the issue of adding and subtracting, Maimonides distinguishes between someone who seeks to interpret or enlarge the law on the basis of a prophetic experience and someone who seeks to do so on the basis of a rational argument.[43] Contrary to

[43] *MT* 1, Introduction ("The Rabbinic Commandments"), and Basic Principles of the Torah, 9.1. Also see Maimonides' Introduction to the Commentary on the Mishnah. In the latter case, Maimonides allows for the possibility that a person may make predictions which come true and therefore be a genuine prophet. But the overall tone of this piece is sobering. The prophet must follow all the commandments, not change any of them, have perfect accuracy in prediction over a sufficiently long period of time, and abhor astrology. If any of these conditions is not satisfied, the person is a false prophet and must be strangled.

what many people might think, it is the former who, in Maimonides' opinion, comes to deny the prophecy of Moses and should be put to death; although the latter may not persuade everyone, we are perfectly justified in listening to his arguments and taking the appropriate action. In the *Mishneh Torah* (1, Basic Principles of the Torah, 9.4), he writes:

> Similarly if [the prophet] nullifies a concept which was transmitted by the oral tradition, or states with regard to one of the Torah's laws that God commanded him to render such a judgment, or that such is the law regarding a particular instance and the decision follows a certain opinion, he is a false prophet and should be strangled. [This is true] even if he performs a wonder, for he is coming to deny the Torah.

The key phrase is "states with regard to one of the Torah's laws that God commanded him." According to Maimonides, it is permissible to argue about the interpretation of the law. He himself made a career of doing just that. But on the basis of this passage, and a related one (*MT* 1, Basic Principles of the Torah, 9.1), it is forbidden to add, subtract, or explain a commandment *if* one claims to be sent by God. Enactments and decrees are not objectionable because they are part of the normal process of applying the law and safeguarding the Torah. So it is divine incursion into the legal process, not the rational extension of it, that Maimonides repudiates. In the Introduction to his *Commentary on the Mishnah*, Maimonides claims that if a thousand prophets of the stature of Elijah and Elisha argued for one position, and a thousand and one sages for the contrary, the law would follow the opinion of the sages, "who are men of logic and knowledge."

To understand the distinction, we need to examine the principle upon which it is based. Though the relevant passage (*Bava Metzia* 59 b) is well known, I quote it at length:

> On that day, upon which a certain argument among the jurists took place, Rabbi Eliezer gave every possible reply to the objections raised, but the others would not accept them. He said to them: "If the correct ruling follows my opinion, let this carob tree prove it." The carob tree was uprooted 100 ells. (Some say 400.) They answered: "No proof can be brought from a carob tree." He then said: "If the correct ruling follows my opinion, let the stream of water prove it." And the stream

of water flowed backwards. They said: "No proof can be brought from a stream of water." He then said: "If the correct ruling follows my opinion, let the walls of the study house prove it." The walls began to fall, and Rabbi Joshua remonstrated with them, and said to the walls: "If scholars are debating the law, what have you to do with it?" They did not fall out of respect for Rabbi Joshua, and they did not straighten themselves out of respect for Rabbi Eliezer, and they are still leaning that way. Rabbi Eliezer then said: "If the correct ruling follows my opinion, let it be proved from heaven." And an echo came out and said: "What have you against Rabbi Eliezer, whose opinion is authoritative everywhere?" Rabbi Joshua rose and said: "'It is not in heaven.'" [Deuteronomy 30:12] What does this mean? Said Rabbi Jeremiah: "It means that since the law was given at Sinai, we pay no attention to an echo, for you have already written in the Torah at Sinai, 'Follow the majority.'" [Exodus 23:2] Rabbi Nathan met Elijah and inquired of him: "What was the Holy One, blessed be He, doing at the time of this discussion between Rabbi Eliezer and the sages?" He answered: "God laughed and said: 'You have bested me, my children, you have bested me.'"[44]

In addition to another case where God backs down in the face of human protest, this passage reiterates the theme with which we began. The revelation given to Moses at Sinai was perfect. In the Rabbis' opinion, it contains both the original text of the law and the principles needed to interpret and apply it. Thus any addition is unnecessary, and any material that comes by way of a new revelation inadmissible. It is on the basis of this doctrine that Maimonides rejects arguments of the form "God told me so" but accepts ones of the form "Here are my reasons."

As David Bleich explains it, Maimonides' position implies that there is no additional Torah left in heaven, nothing yet to be revealed and nothing for which we can beseech God for clarification.[45] Obviously this doctrine creates problems for

[44] Again it is far from clear that Deuteronomy 30:12 was originally intended to be used as the Rabbis use it here. The plain sense of the passage seems to be that the law is not too difficult to understand or too difficult to do. Note, in addition, that the Rabbis do listen to the voice from heaven at *Eruvin* 13b, cf. *Megillah* 32a. For more on the voice from heaven (*bat kol*) and the use of oracles in interpreting Scripture, see Saul Lieberman, *Hellenism in Jewish Palestine*, pp. 194–99. Note how quickly belief in the authority of the *bat kol* becomes nothing more than superstition.

[45] Bleich, "*Lo Ba-Shamayim Hi*," p. 463–66. Cf. *Deuteronomy Rabbah* 8.6. The doctrine that there is no more Torah in heaven created a problem for how to view the

how to interpret doctrines like the coming of the Messiah and the existence of an afterlife. According to one tradition, the only difference between this world and the days of the Messiah is that Israel will no longer be persecuted politically.[46] But others held that there will be sweeping changes or that in the next life, God will teach the Torah in a heavenly classroom.[47] Needless to say, Maimonides' view of the Messiah and the afterlife is very conservative. The Messiah will not change the Torah, and there is no possibility of intellectual progress in the world to come, where each soul will contemplate the intelligibles in a timeless fashion.[48] In short neither the messianic age nor the next life nor anything else will provide the occasion for additional revelation.

This does not mean that Maimonides denies the possibility of future prophets. Since prophetic experience cannot come to one in moments of sadness, Maimonides argues that prophecy was taken away when Israel went into exile.[49] Once the exile is over, there is no reason why prophecy cannot return. But Maimonides would attach two qualifications to this claim. First no prophet can achieve the rank of Moses. Second the kind of prophecy he is talking about is that in which a person masters the entire corpus of the law, goes on to achieve mastery of physics and metaphysics, and devotes him- or herself entirely to God.[50] In other words, he is talking about prophecy as an intellectual phenomenon, not as a medium by which to carry additional revelation from heaven to earth. Though we might turn to a prophet for guidance, in principle it would be no

Messiah and the afterlife. While some Rabbis clung to the idea that prophecy could not settle legal disputes even in the afterlife, others did not. For the legal problems that result from thinking of the Rabbis as divinely inspired, see Berger, *Rabbinic Authority*, pp. 88–91. At an elementary level, if the Rabbis are so inspired, why do they often disagree with each other?

[46] *Berakhot* 34b.

[47] *Sanhedrin* 90a; *Ecclesiastes Rabbah* 11.8, *Leviticus Rabbah* 13.3. For further discussion of this problem, see Ephraim E. Urbach, *The Sages*, pp. 300–14.

[48] See *MT* 14, Kings and Wars, 11.1–4, 12.1–2. Regarding the afterlife, see *GP* 3. 51, p. 628: "After having reached this condition of enduring permanence, that intellect remains in one and the same state."

[49] *GP* 2.37, p. 373.

[50] This point will be discussed in more detail in the next chapter, but see *GP* 3.51, pp. 619–21.

different from turning to a jurist or an astronomer because all the prophet could do is invoke argument and evidence. This is in keeping with the Talmudic dictum (*Bava Batra* 12a) that since the destruction of the Temple, prophecy was taken from the prophets and given to the sages.[51]

It follows that for all its doubts, controversies, and ambiguities, the legal process is the only means we have of resolving questions. There is no way to short-circuit the process by appealing directly to God because God has nothing more to contribute. To say that the prophet would be treated as a sage is to say that the job of interpreting the Torah and deciding cases is entirely in human hands, which is to say that all traces of divine involvement have been replaced by rational argument. Fallible though it may be, rational argument is the only instrument we have, and it is in the strength of rational argument that the future of the religion lies. All this assumes, of course, that the written Torah is in fact the product of divine authorship. So Rabbi Joshua did not appeal to an external authority in saying that the voice from heaven is not authoritative: he appealed to the law as revealed by God. As we saw in the previous chapter, one of the important features of this law is that both the author and the recipients are bound by it.

What triumphs in the end is not God or Rabbi Joshua but the sanctity of procedure. Majorities rule and standards of evidence have to be met. Though we can thank God for endowing us with the ability to think, and ask for the strength to use our intelligence wisely, there is no possibility of courting special favor with God: the rules by which the process works apply to everyone and are available to everyone. Such are the consequences of entering a covenant in which the dignity of all parties is respected.

From the Rabbis' perspective, the decision not to follow the voice from heaven does not put a limit on God. Rather it is a way of insuring that the original revelation given at Sinai is

[51] Note how this passage continues. A sage is even superior to a prophet because if the former makes a statement, it is reported in the name of Rabbi Akiva. Or better yet: a sage makes a statement and finds that it is found that the same rule was a law given to Moses at Sinai.

adhered to. According to their view, revelation is based on two principles: (1) To be a holy people, Israel must accept the yoke of heavenly authority and agree to live under the rule of law; and (2) We cannot keep running to God every time a problem about the meaning or application of the law arises. According to Deuteronomy 17, difficult cases are to be brought before the priests and judges in a manner prescribed by God but not brought before God in the hope of getting divine guidance. Putting (1) and (2) together, we get (3): It is God's will that we live under the rule of law as *we* interpret it. The written law that God gave us is essentially an outline, something that needs to be fleshed out before it can be used effectively. To the question how does God wants us to flesh it out, the answer is simple: as best we can given the tools at our disposal.

It could be said therefore that the law not only brings God and Israel together as partners but provides Israel with a weighty responsibility: to make the law an instrument capable of serving human needs. This is important because people sometimes assume that the covenant between God and Israel is one-sided: that like the sovereign in Hobbes' *Leviathan*, God has the right to make the law and adjudicate it in whatever way seems appropriate. The Rabbis did not believe this. Having made the law, God grants the right to interpret and apply it to human agents.

In regard to moral issues, it should come as no surprise that the Rabbis used the law as a tool for democratization. Animal sacrifice was replaced by prayer, repentance, and study of the Torah. The splendor of the Temple in Jerusalem was replaced by the starkness of the study house or anywhere else that people get together to discuss the Torah. The priesthood was discontinued and replaced by the Rabbis, many of whom were day laborers. The heroic models afforded by Moses, David, and Solomon, though still respected, were replaced by the model of a simple person who stays within his limits. According to a famous aphorism (*Pirkei Avot* 4.1), the wise person is he who learns from everyone; the mighty person, he who subdues his passion; the rich person, he who rejoices in his portion; the person worthy of honor, he who respects his fellow human

beings. The important point is that none of this happened as a result of people reading omens or claiming to have privileged access to God; it all came about as a result of arguments put forward by people willing to study texts, pass on a tradition, and debate with their colleagues.

It is worth repeating that the overall tone of Rabbinic law is decidedly heteronomous. It begins with a text that is the product of external revelation and expresses the eternal will of God. It aims to get us to the point where, to quote Rabbi Gamaliel, we do God's will as if it were ours and nullify our will before God's. Beyond this general characterization, it is clear that the Rabbinic conception of holiness is a prime example of what Kant objected to. The issue is not just the complexity of the law and the subtlety of the arguments used to derive it but the fact that the Rabbis established themselves as guardians. As we saw, many of the enactments and decrees are justified not on the basis of textual exegesis but on Rabbinic authority alone.

By contrast Kant did not want the laity being dragged around by "the small body of textual scholars" and proposed instead that "the pure religion of reason must be the law's interpreter." Since the moral law is written on the heart, the demands of duty are the common inheritance of all humanity. So there is no need for a small body of scholars to invoke subtle arguments and, in Kant's opinion, devious methods to tell us what God wants. Kant then is much more democratic than anything the Rabbis would allow. The crux of his view is that the historical component of the Bible is unimportant compared with the overriding goal of getting people to live better lives.

However liberating Kant's view may seem to modern ears, it runs the risk of being overly simplistic. How can we be sure we know what the Bible says if we make no effort to investigate the beliefs and customs of the original audience? Why should we not suppose that many of those beliefs and customs were passed on to succeeding generations and that it took centuries for them to be made explicit?

The danger of following Kant too closely is that we will come

to believe that lessons intended for a semi-nomadic people living in Asia Minor during the tenth century B.C. can be taken up and applied thousands of years later with no difficulty. Even in the case of the Decalogue, it is helpful, and in some cases unsettling, to know how previous generations interpreted murder, marriage, or idolatry. Some would argue that what is true of the Bible is also true of Kant himself: that it may take centuries for the background and full importance of his most central doctrines to become clear. In this respect the Rabbinic claim that the written Torah deals with customs and practices whose meaning and purpose may not be apparent to the untrained eye is more in keeping with modern sensibilities than is a simple law written on the heart.

Still Kant makes a valid point. Given the enormous license the Rabbis take in interpreting Scripture, how can we be sure we are hearing the voice of God rather than the voices of human authorities who presume to speak for God? The Rabbinic answer is that the terms in which the question is framed are not valid: there is a respect in which we are hearing God's voice in the pages of the Talmud and a respect in which we are not. We are hearing it because both the written and the oral Torah are part of God's revelation. As we saw, there is a sense in which even the minority view in a legal dispute reflects the word of God. We are not hearing it because we are not getting additional revelation but human interpretation and reflection on the original one.

Even this is oversimplified. In theory everything the Rabbis decided was given to Moses and passed down to succeeding generations. We saw however that Maimonides rejected this view on the grounds that no person can be responsible for rulings made a thousand years after his death. For Maimonides human contribution to the law is substantial and inevitable. In the words of Rava: "How foolish are most people, who stand for a Torah scroll but do not stand for a sage."[52] This does not mean that Maimonides, or Rava, or anyone else in the Rabbinic tradition relied on *unassisted* reason as that term is often

[52] *Makkot* 22b. For the connection between Rava and Maimonides, see Novak, "Maimonides," pp. 118–28.

used. In their opinion, they have the weight of Moses and Sinai to back them up. Their authority derives not from their ability to enforce rulings on an unsuspecting public but from their status as interpreters of the divine word and guardians of the divine law. But this does not obscure the fact that they did rely on reason in the practical or "artificial" sense mentioned above for, once divine involvement in the legal process is excluded, there is nothing else to rely on.

One hesitates to say that the Rabbis became a law to themselves because they would never accept that formulation. Recall that the reason for making enactments and decrees is that they are needed to safeguard the original revelation given to Moses. The Rabbis accepted external revelation, which is the crux of heteronomy, but limited it to Sinai. While it is true that the written Torah is not subject to change, unlike a book produced by a human author, it is an obscure text containing a wealth of knowledge that can only be uncovered by using exegetical methods discovered by or passed on to them. As Hillel told the proselyte, if you want to understand the written Torah, you have no choice but to go through them.

It follows that even though God is the author of the Torah, human reason is our only means of access to it. To the degree that legal decisions involve factors like argument from analogy or acceptance by the community at large, no one including God can know what a court will decide in advance.[53] In this respect the human contribution to the law is not only substantial but decisive. In the words of Soloveitchik, it is as if God handed over the divine imprimatur to humans.[54] So while they adopted a heteronomous view of the production of the law, the Rabbis claimed a fair measure of autonomy when it comes to interpreting it. That it is not autonomy in the strict Kantian sense no one will deny, but it is a kind of autonomy nonetheless.[55]

To take one's place in the line of succession that begins with

[53] Cf. Bleich, "*Lo Ba-Shamayim Hi*," p. 476: "Absent the human determination, there is nothing for G-d to know just as, in a parallel manner, there can be no divine knowledge of the determination of a free will unless at some point a choice is actually made by man."

[54] Soloveitchik, *Halakhic Man*, p. 80.

[55] Cf. Hartman, *A Living Covenant*, pp. 38–40.

Moses, and have the authority to interpret the word of God, one does not have to receive a prophetic vision but possesses the reasoning skills outlined above: how to move from the specific to the general, how to reverse it, how to construct an analogy, how to resolve apparent contradictions. With the advent of the Rabbinic sage, the pursuit of knowledge became a duty, and learning for its own sake a spiritual calling. According to Hillel (*Pirkei Avot* 1. 13): "He who does not increase his knowledge decreases it; he who does not study deserves to die; and he who makes worldly use of the crown (of the Torah) shall pass away." As the law became more complex, the concept of study became more systematic. Thus Rava maintains that when a person is brought before the throne of justice, he will be asked: "Did you reason wisely? Did you infer one thing from another?"[56] In his own way, Rava is saying that each person will be asked "Did you think for yourself?"

No doubt Rava's emphasis on the importance of human reason is a continuation of the theme that revelation is a form of enlightenment, a theme that has its roots as far back as Deuteronomy 4. Novak is right to point out that Rava paves the way for Maimonides (*MT* 1, Laws Concerning Study of the Torah 1.8), who proclaims that:[57]

> Every Israelite is under an obligation to study the Torah, whether he is rich or poor, in sound health or ill, in the bloom of youth or aging and feeble. Even a man so poor that he is supported by charity or goes begging from door to door, or a man with a wife and children to support, is under an obligation to set aside a definite period during the day and at night for study of the Torah.

A bit later (1.11), Maimonides elaborates, saying that one third of the time should be spent on the written law, one third on the oral law, and one third "deducing conclusions from premises, developing implications of statements, comparing dicta, studying the hermeneutical principles . . . until one knows the essence of these principles, and how to deduce what is per-

[56] *Shabba*t 31a.

[57] Novak, "Maimonides," pp. 118–22 and "The Talmud as a Source," p. 79. Also see *DH*, vol. 1, pp. 31 ff., where Baḥya derives the duty to investigate the truths handed down by tradition from Deuteronomy 4:39: "Know this day and lay it to your heart that the Lord is God."

mitted and what is forbidden from what one has learned traditionally.''

In the next chapter, we will see that Maimonides goes further, extending the realm of knowledge from the written and oral law to secular subjects like physics and metaphysics. This is all a way of saying that a worshiper must take an active role toward the tradition. It is not enough to obey the law in a passive way; a person must understand the reasons behind it and the principles according to which it was derived. In Maimonides' opinion, he must also understand a portion of the philosophic wisdom the law seeks to incorporate.[58] Acceptance of the law is not a simple matter and comes, if at all, after a lifetime of study and reflection. To return to a familiar theme, acceptance involves appropriation. The person who can move from the specific to the general and infer one thing from another can view the law not as the product of an alien will but as a system of knowledge to which he himself can attest. These ideas do not imply that we are the source of the law in the sense Kant intended. As we will see, Maimonides also resists this conclusion. But it is from the idea that human beings must play an active role in the interpretation of the law that respect for human dignity and eventually the doctrine of autonomy will emerge.

[58] On this point, see *GP* 1. 35.

CHAPTER 4

From the sage to the philosopher

At first blush it would seem anomalous to have a chapter on Maimonides in a book on autonomy. Not only did he regard all the commandments as binding, he extended the reach of the commandments from the realm of behavior to that of belief.[1] According to Maimonides, there are thirteen principles every Jew must accept in order to have any hope of salvation. They include: (1) the existence of God; (2) the unity of God; (3) that God is incorporeal; (4) that God is eternal; (5) that only God should be worshiped; (6) the existence of prophecy; (7) that Moses is the greatest prophet; (8) that the Torah is from God; (9) that the Torah is immutable; (10) that God knows everything we do; (11) that God rewards and punishes people for what they do; (12) that the Messiah will come; (13) that there is resurrection.

In Maimonides' view, there is nothing mysterious about these claims, and no special act of faith is needed to accept them. On the contrary, he was convinced that the first four can be demonstrated by reason alone and that there is ample evidence for the other nine. Although this may seem implausible to a person living in the twentieth century, we should keep in mind that for Maimonides neither prophecy nor the coming of the Messiah involve miracles.[2] We saw earlier that prophecy is an

[1] For a classic study of Maimonides' principles and the religious controversies they sparked, see Menachem Kellner, *Dogma in Medieval Jewish Thought*. Although Maimonides never mentions Baḥya, there is little question that his view is an elaboration of that taken in *Duties of the Heart*.

[2] For Maimonides' views on the Messiah, see *MT* 1, Laws Concerning Repentance, 9.2 as well as *MT* 14, Laws Concerning Kings and Wars, 11. 1–3; 12. 1–2. For further evidence on prophecy, see *MT* 1, Basic Principles of the Torah, 7.1, where prophecy is the natural consequence of intellectual perfection.

intellectual phenomenon involving the activation of the prophet's mind. By the same token, Maimonides thinks the world will pursue its normal course in the messianic age and that there will still be war, famine, disease, and injustice.

Yet even with these qualifications, Maimonides' attitude towards mandatory beliefs is anything but tolerant. I quote the conclusion of his argument to show how serious he was:

> When a person believes all these fundamental principles, and his faith is thus clarified, he is then part of that "Israel" whom we are to love, pity, and treat, as God commanded, with love and fellowship. Even if a Jew should commit every possible sin, out of lust or mastery by his lower nature, he will be punished for his sins but will still have a share in the world to come. He is one of the "sinners in Israel." But if a person gives up *any one* [my emphasis] of these fundamental principles, he has removed himself from the Jewish community. He is an atheist, a heretic, an unbeliever who "cuts among the plantings." We are commanded to hate him and to destroy him.

In short, having the right beliefs makes all the difference. Even though a person may pray to God every day, if he believes that God is corporeal, according to Maimonides, he is not praying to God at all and cannot fulfill the most basic commandments of the religion.[3] This is true no matter how many other commandments he may observe. As for heretics, Maimonides has no hesitation recommending the death penalty.[4] Why then is he a subject of interest?

I want to argue that despite the unyielding nature of Maimonides' view of heresy, his position on other issues pushed him in the direction of a limited form of autonomy. I say *a limited form* of autonomy because Maimonides believes that the highest human perfection, and thus the highest form of piety, is intellectual (*GP* 3.27, p. 511):

> His [a human being's] ultimate perfection is to become rational in actu, I mean to have an intellect in actu; this would consist in his knowing everything concerning all the beings that it is within the capacity of man to know in accordance with his ultimate perfection. It is clear that to this ultimate perfection there do not belong either actions or moral qualities and that it consists only of opinions toward

[3] *GP* 3. 51, p. 620.

[4] In addition to *Perek Helek*, see *GP* 3.51, p. 619 on the subject of heresy.

which speculation has led and that investigation has rendered compulsory.

That rationality has moral consequences like awe, shame, and humility Maimonides has no doubt. But in the last analysis, the truest form of worship is to reflect on metaphysical truths one has arrived at on the basis of one's own reasoning. Though action plays an important part in Maimonides' understanding of human perfection, for the most part, it is a means to or a consequence of this sort of reflection.

The obvious place to begin our investigation is where we left off in Chapter 2: Maimonides' conviction that there is a justification for all the commandments so that a rational person can obey them without compromising her rationality. In his view every commandment serves one of two functions: to provide for the welfare of the soul by encouraging true beliefs or for the welfare of the body by promoting health, moral habits, and social harmony. In a perfect environment, there would be no need for religious ritual because all worship would be informed and completely spontaneous. The problem is that people do not live in a perfect environment and are accustomed to the material things they see every day. That is why in addition to instilling truths and promoting health and harmony, the law must address the need for hymns, prayers, festivals, and special articles of clothing.

While Maimonides' view of the law does away with the element of arbitrariness, it raises the question of what to say about the blessings and curses so prevalent in the sacred literature. If the justification for a commandment is that it will improve your health, get you into heaven, or enable the community to protect life and property, there are grounds for saying that a person who fulfills it is not performing the commandment for its own sake, which means that the resulting morality is heteronomous. To his credit, Maimonides admits that the sacred literature is confusing if read at a surface level. In *Perek Ḥelek* he argues that various groups interpret the Rabbis as maintaining that the reward for fulfilling the commandments is either: (1) the Garden of Eden, where houses are made with precious stones, and rivers flow with wine and fragrant oils; (2)

the coming of the Messiah, in whose time all people will be angels and live forever; (3) resurrection of the dead, a time when people will return to life and enjoy meals with their loved ones; (4) bodily peace together with fertile lands, personal wealth, peace, and security; and (5) all of the above.

From Maimonides' perspective, however, the problem with these views is that they all make the same mistake: they interpret the blessings and curses literally. Of course the sacred books warn people about the evils of injustice and promise extensive rewards for obedience. If they did not, people would conclude that the commandments are optional. "Therefore," he maintains, "in order that the masses stay faithful and do the commandments, it was permitted to tell them that they might hope for a reward and to warn them against transgressions out of fear of punishment."[5] In fact Maimonides himself is not above promising rewards for virtue or claiming that God becomes violently angry with sinners.[6] His justification is that propagating such beliefs is like offering candy to a child to encourage her to complete her school work.

But no sooner does he make such claims than he goes on to say in *Perek Ḥelek*, "All this is deplorable." Citing *Pirkei Avot* 4:7 ("Do not make the Torah a crown for self-glorification nor a spade with which to dig"), he argues that the true or inner meaning of the sacred books is that the Torah must be studied for its own sake and the commandments obeyed for their own sake. In the *Mishneh Torah* (1, Laws of Repentance, 10.1), he is even more emphatic:

> Let not a man say, "I will observe the precepts of the Torah and occupy myself with its wisdom in order that I may obtain all the blessings written in the Torah, or to attain life in the world to come; I will abstain from transgressions against which the Torah warns, so that I may be saved from the curses written in the Torah, or that I may not be cut off from life in the world to come." It is not right to serve God after this fashion, for whoever does so serves Him out of fear. This is not the standard set by the prophets and sages.

[5] *Perek Ḥelek*.
[6] See, for example, *MT* 1, laws of Repentance, 7.6. and 9.1.

So certain is Maimonides of this point that he claims only a deranged fool would deny it. While it may be necessary to bribe someone to get him to start reading the sacred books, Maimonides argues that anyone with a reasonable amount of intelligence will come to see that bribery is demeaning. Again from *Pirkei Avot* 1.3: "Do not be like servants who serve their master for the sake of a reward, but be like servants who serve their master without expecting a reward." Told that there are passages in the Bible designed to frighten or entice the reader, Maimonides would reply that anyone who insists on literal interpretation of these passages and does not see that they are talking about spiritual rather than bodily death has missed the point. To continue with *Perek Ḥelek*: "This group destroys the glory of the Torah and extinguishes its light."

Clearly what we have is a continuation of the internalism that began in the Bible. The goal of human life is to renounce temporal or personal delights in favor of a reflexive attitude in which one approaches God "with fear and trembling . . . conscious of his own lowly condition, poverty, and insignificance"[7] For such a person, blessings and curses cease to matter, and the Biblical passages which mention them pose no threat to spiritual purity. Along these lines, Maimonides claims that Job regarded health, wealth, and children as the ultimate goal of life at the beginning of the story when he knew God only by report but underwent a radical change of perspective when he knew God by speculation.[8] Maimonides therefore takes the phrase "Wherefore I abhor myself and repent in dust and ashes" (Job 42:5–6) to mean "Wherefore I abhor all that I used to desire and repent of my being in dust and ashes."

Maimonides is convinced that the sort of reflection needed to love God in a disinterested way is achieved mainly in silence and solitude. "It is for this reason," he tells us, "that excellent men begrudge the times in which they are turned away from Him by other occupations."[9] In some passages, he claims not only that external matters will cease to be important but that

[7] *MT* 1, Basic Principles of the Torah, 4.12.
[8] *GP* 3. 23, pp. 492–93.
[9] Ibid. 51, pp. 623–24.

they will be seen as a source of shame.[10] It follows that the goal of the commandments is to quell the impulses of matter and allow the mind to concentrate on the true end of the human species, which involves (*GP* 3.8, pp. 432–33) "solely the mental representation of the intelligibles, the most certain and the noblest of which being the apprehension, in as far as this is possible, of the deity, of the angels, and of His other works."

As students of Maimonides know, this theme is the climax of the *Guide of the Perplexed*. In the last chapter, he tells us that ancient and modern philosophers have shown that physical possessions like land, money, tools, or slaves are defective because they are external to the real person and that most of the pleasure derived from them is "purely imaginary." It is imaginary because while a person may have legal ownership of them, in reality they subsist as things unto themselves and can be taken away through misfortune. Health and strength have a greater connection to the individual than physical possessions, but they too are external in the sense that they belong to us not insofar as we are human but only insofar as we are animals. Moral virtues are specific to human beings, but we saw that according to Maimonides they exist in order to enable us to achieve something higher.

The reason rational virtue is the highest perfection is that it pertains to us not as animals or as social beings but as individuals. In other words, rational perfection is the only kind that involves the individual as more than a means to something else: "This is in true reality the ultimate end; this is what gives the individual true perfection, a perfection belonging to him alone; through it man is man." Although the people who achieve this perfection will experience a kind of delight, it is the kind that comes with the contemplation of eternal truths and acceptance of the lowliness of one's position as measured against the vastness of the heavens. There is in it nothing personal, nothing material, and nothing received at someone else's expense.

At this point, the question of Biblical hermeneutics looms large. Like the Rabbis, Maimonides saw his goal as keeping

[10] Ibid. 52, p. 629.

alive a tradition that goes back to Sinai. Although there are passages in the sacred literature that support him, he also recognizes that there are many which do not. His response is to do with these passages what he does with anthropomorphism: point out that the sages often speak in parables and metaphors, so many of the things they say cannot be taken literally. Again from *Perek Ḥelek*:

> When you encounter a word of the sages which seems to conflict with reason, you will pause, consider it, and realize that this utterance may be a riddle or a parable. You will sleep on it, trying anxiously to grasp its logic and its expression, so that you may find its genuine intellectual intention and lay hold of a direct faith.

His operating assumption is that because the sacred books are a source of eternal truth, any interpretation that ascribes to them something known to be false must be rejected.

The problem is that Maimonides was exposed to bodies of learning that went well beyond anything available to the prophets and sages whose sayings he enlists for support. When he talks about truth, he includes secular subjects like physics, metaphysics, and mathematics, things that they would have considered external. His usual way of dealing with this issue is to distinguish between "the science of the law," by which he means the legal study of the law, and "the science of the law in its true sense," by which he means the philosophic principles on which it is based.[11] With this distinction in mind, he argues that when the Rabbis refer to "the account of the beginning" (*ma'aseh bereishit*) and "the account of the chariot" (*ma'aseh merkavah*), they are really talking about the sciences of physics and metaphysics.[12] Just as Scripture expresses philosophic ideas in parables and metaphors, the Rabbis, in Maimonides' opinion, do the same. Thus anyone who wishes to understand the law in all its forms must study secular subjects as well as sacred. Or better yet, she must see that insofar as God is the source of all existence, physics and metaphysics are sacred as well.

We saw that according to Maimonides, a person is obliged to devote a certain amount of time each day to deducing conclu-

[11] *GP* I. Introduction, p. 5.
[12] Ibid., pp. 6–7.

sions from premises, developing implications of statements, comparing dicta, and studying the hermeneutical rules so that he can infer what is forbidden and what permitted. Now we see that this may not be enough. To achieve the highest level of piety, a person must pursue his studies beyond questions of what is permitted and what is forbidden to theoretical questions about God, the heavens, and the physics of the earthly realm.[13] At each point the student must ask whether a sacred text is to be taken literally or figuratively, whether it complies with reason or whether it does not. If it does not, he must revise his interpretation to bring the text back into line with what is known to be true.

Nowhere is this principle more evident than in Maimonides' discussion of creation. Though he defends creation, calling it the foundation of the law, he admits that if one could prove the eternity of the world, he would revise his understanding of the Book of Genesis to take account of it (*GP* 2.25):[14]

> Know that our shunning the affirmation of the eternity of the world is not due to a text figuring in the *Torah* according to which the world has been produced in time. For the texts indicating that the world has been produced in time are not more numerous than those indicating that the deity is a body. Nor are the gates of figurative interpretation shut in our faces or impossible of access to us regarding the subject of creation of the world in time.

But, he continues, since there is no proof that the world is eternal, we can continue to interpret Genesis 1 as defending creation. This is all very well except that it opens Maimonides to the charge that the deciding factor in reading the sacred literature is the outcome of a philosophic argument. Since philosophy recognizes no authority other than reason, the problem of autonomy arises again – this time in its epistemological form.

The problem of bringing sacred texts into compliance with reason is more than just theoretical because, as Maimonides

[13] *MT* 1, Laws of Repentance, 10.6.

[14] For Maimonides' endorsement of creation, see *GP* 2. 25, p. 328; 3.50, p. 613. Maimonides' view of creation is a hotly debated topic. For a more extensive treatment of the issues, see *Searching for a Distant God*, ch. 4.

certainly knew, there are passages that seem to be committed to dubious principles. In a famous letter to the Rabbis of Southern France (*GP* 3.51), he maintains that astrology is false no matter what the sacred books say about it:

> What we have said about this from the beginning is that the entire position of the stargazers is regarded as falsehood by all men of science. I know that you may search and find sayings of some individual sages in the Talmud and Midrashim whose words appear to maintain that at the moment of a man's birth, the stars will cause such and such to happen to him. Do not regard this as a difficulty, for it is not fitting for a man to abandon the prevailing law and raise once again the counter arguments and replies (that preceded its enactment). Similarly it is not proper to abandon matters of reason that have already been verified by proofs, shake loose of them, and depend on the words of a single one of the sages from whom possibly the matter was hidden. Or there may be an allusion in those words; or they may have been said with a view to the times and the business before him. You surely know how many of the verses of the holy law are not to be taken literally. Since it is known through proofs of reason that it is impossible for the thing to be literally so . . . A man should never cast his reason behind him, for the eyes are set in front, not in back.

Maimonides' reference to "proofs of reasons" is probably overstated. In a universe containing heavenly intelligences and the flow of emanated forms from heaven to earth, it is far from clear that the position of the stars does not affect people's lives.[15] Certainly there were intelligent people who thought it did. Be that as it may, he argues that if the sacred literature makes claims about astronomy, it must be judged in light of the best scientific evidence available. If those claims cannot be reconciled with that evidence, they must be rejected no matter whose authority they rest on.

[15] For more on this topic, see Tzvi Langermann, "Maimonides' Repudiation of Astrology," *Maimonidean Studies* 2 (1991), 149–51. For more on Maimonides' astronomy, see Menachem Kellner, "On the Status of Astronomy and Physics in Maimonides' *Mishneh Torah* and *Guide of the Perplexed*," *British Journal for the History of Science* 24 (1991), 453–63 and "Maimonides on the Science of the *Mishneh Torah*: Provisional or Permanent?" *AJS Review* 18 (1993), 169–94. For the difficulties in distinguishing Maimonides' brand of Neoplatonism from that of astrologers like the Sabians, see Josef Stern, "The Fall and Rise of Myth in Ritual: Maimonides versus Nachmanides on the *Huqqim*, Astrology, and the War Against Idolatry," *The Journal of Jewish Thought and Philosophy* 6 (1977), 216–25.

But even true claims based on someone else's authority are suspect. This point emerges from the Parable of the Palace (*GP* 3.51), a passage where Maimonides compares stages of intellectual achievement with admission to the court of a king. At the lowest level are people with no doctrinal beliefs of any kind; in other words, people informed by neither demonstration nor tradition. In Maimonides' opinion, they are outside the city and occupy a position less than human beings but superior to apes. Those who are within the city but have turned their backs to the palace are people with beliefs that are incorrect. By Maimonides' estimation, they are worse than people with no beliefs at all.

Those who long to enter the palace but never actually see it are the majority of adherents to the religion, people whom Maimonides calls "ignoramuses who observe the commandments." We can take this to mean that they uphold the law but have no understanding of the rationale behind it. Earlier in the *Guide* (*GP* 1.36, p. 84) Maimonides complained that "the multitude grasp only the actions of worship, not their meanings or the true reality of the Being worshipped through them." Those who come up to the palace but walk around it are Talmudic scholars "who believe true opinions on the basis of traditional authority . . . but do not engage in speculation concerning the fundamental principles of religion and make no inquiry whatever regarding the rectification of belief." In other words, these people can give a legal justification for the commandments but have no knowledge of the philosophic principles on which they are based.[16]

Only those who have "plunged into speculation" are allowed

[16] Cf. Maimonides' remarks in the Introduction to the *Book of Commandments*: "With these thoughts uppermost in my mind, and knowing moreover how widely accepted is this enumeration of the commandments by the *Halakhot Gedolot* [an eighth century compilation] among the people, I knew that if I were just to list the true and proper enumeration, without advancing proofs for it, the first person who will chance to read it will suppose that it is a mistake – his proof being that it is contrary to what some author had written. Unfortunately that is the mentality of even the elect of our times: that they do not test the veracity of an opinion on the merit of its own content but upon its agreement with the words of some preceding authority, without troubling to examine the source itself. And if it is true of the elect, how much more so of the populace."

to enter the antechamber. Although Maimonides recognizes different gradations of speculation, he goes on to say that:

> He, however, who has achieved demonstration, to the extent that it is possible, of everything that may be demonstrated; and who has ascertained in divine matters, to the extent that that is possible, everything that may be ascertained; and who has come close to certainty in those matters in which one can come close to it – has come to be with the ruler in the inner part of the habitation.

I follow Menachem Kellner in thinking that this group refers to a subset of Talmudic scholars, namely those who have mastered both secular and religious subjects.[17] The important point is that people whose opinions are formed by demonstration are closer to God than people whose opinions are based on traditional authority.

Demonstration, it should be added, is impersonal in the sense that once a demonstration has been found, the identity of the person who found it is irrelevant. In the realm of demonstration there is truth and nothing else. Thus Maimonides says without hesitation that "one should accept the truth from whatever source it proceeds."[18] In its time this was a controversial remark given that there is no explicit requirement for Jews to study secular subjects like science, mathematics, and philosophy, and that Maimonides allows for the possibility that a gentile might know more about these subjects than a Hebrew sage. Yet none of this deters him. As Marvin Fox points out: "Reason is supreme within the limits in which it can work authoritatively. No claims of revelation, no body of dogmas, no set of practices, even when supported by deeply rooted convictions, can supplant or be allowed to take precedence over reason and the insights to which it leads us."[19]

This does not mean that Maimonides wants people to disregard traditional authority, but that he wants them to see that uncritical reliance on it puts the worshiper in a passive position from which he can know God only by report. Along

[17] Menachem Kellner, *Maimonides on Human Perfection*, p. 21.

[18] *Eight Chapters*, Introduction; for an English translation see *A Maimonides Reader*, ed. Isadore Twersk. Also see *MT* 3, Sanctification of the New Moon, 11.17.

[19] Fox, *Interpreting Maimonides*, p. 35.

these lines, Baḥya maintains that a person who believes in God's unity on authority alone is like a blind man led by one who can see.[20] But, he continues, what if the guide has also accepted the doctrine on someone's authority? In that case we would have a company of blind men "each of whom has his hand on the shoulder of the one in front of him." If the leader should go astray, or if anyone should stumble by mistake, the whole company would meet with disaster. He concludes: "If a person accepts the doctrine of unity on the ground of tradition alone, he can never be sure that he will not come to associate the worship of the one God with the worship of another being." In the same way, Maimonides (*GP* 3.51, p. 620) criticizes someone who thinks and talks about God "following a mere imagining or following a belief adopted because of his reliance on the authority of someone else."

By making demonstration a requirement for entering the king's palace, Maimonides is not suggesting that every issue can be resolved by demonstration. Hence the qualification: demonstration, *to the extent that it is possible*, *of everything that may be demonstrated*. Creation, to take an obvious example, is not subject to demonstration and can be resolved by only dialectical argument and close attention to the Biblical text. But on these points Maimonides still expects people to know *why* demonstration does not work and to examine the alternatives. At *Guide* 1.32, p. 68, he writes:

> For if you stay your progress because of a dubious point; if you do not deceive yourself into believing that there is a demonstration with regard to matters that have not been demonstrated; if you do not hasten to reject and categorically to pronounce false any assertions whose contradictories have not been demonstrated; if, finally, you do not aspire to apprehend that which you are unable to apprehend – you will have achieved human perfection and attained the rank of *Rabbi Akiva*.

This amounts to saying that a person must trust reason when it speaks authoritatively and be self-conscious of its limitations when it does not. As in Kant, rational activity is an end in *it*self,

[20] Baḥya, *DH* vol. 1. ch. 2, pp. 63–64.

from which it follows that we have an obligation to think for *our*selves.

The highest level in the parable belongs to those who, after achieving perfection in physics and metaphysics, "turn wholly to God . . . renounce what is other than He, and direct all the acts of their intellect toward an examination of the beings with a view to drawing from them proof with regard to Him." In other words, these people become so occupied with God that their mind is turned toward heaven no matter what they do. Quoting Song of Songs 5:2 ("I sleep, but my heart waketh"), Maimonides argues that when Moses and the patriarchs were concerned with everyday matters, inwardly their thoughts were still on God. Thus Moses went without food and water when he was on the mountain because, in Maimonides' opinion, "his intellect attained such strength that all the gross faculties of his body ceased to function."

This entire conception of worship follows from Maimonides' conviction that the ultimate perfection for a human being is to have an intellect in actu. To accept a doctrine – even a true one – on someone else's authority is to trust in something other than God. Worse, it is not to understand the principle but merely to repeat it. That is why reason must be allowed to follow its own course. It is noteworthy in this connection that Maimonides stresses several times that he is not spoon-feeding his audience but providing them with "chapter headings" – brief flashes of insight from which they must make the proper inferences and construct their own picture of the universe.[21] In Platonic terms, his purpose is not to put sight in blind eyes but to point the soul in the right direction and hope that it will find the source of light by itself.[22]

Overall the transition from a passive to an active state is a transition from a life ruled by external factors to a life ruled by internal ones. Whether it is Job repenting before God or Moses

[21] *GP* 1. Introduction, pp. 6–7.

[22] For the metaphor of turning or pointing the soul, see Plato, *Republic* 518 c-d; *Seventh Letter* 341 b-e, cf. *GP* 1. Introduction, pp. 6–8 as well as 1. 57, p. 133: "For this reason, we give the gist of the notion and give the mind the correct direction toward the true reality of the matter."

on the mountain with God, Maimonides thinks that intellectual perfection is marked by a disregard for worldly matters and a longing for spiritual ones. At *GP* 3.51, p. 623, he writes:

> While performing the actions imposed by the Law, you should occupy your thought only with what you are doing, just as we have explained. When, however, you are alone with yourself and no one else is there and while you lie awake upon your bed, you should take care during these precious times not to set your work on anything other than the intellectual worship consisting in nearness to God and being in His presence.

Since intellectual worship is another name for the development of reason, Maimonides' goal is to have reason gain as much self-sufficiency as our mortal natures allow. As we saw, this is the ultimate end, the perfection of our nature as rational beings, that through which "man is man." As we will see in the next section, it is also what makes us most like God.

One way to understand Maimonides' view of worship is to see it as part of a broader picture. At the center of the picture is God, a being who is perfect and completely self-sufficient. Maimonides (*GP* 1.57, p. 132) takes this to mean that God exists but not through a quality distinct from the divine essence, that God lives but not through life, is powerful but not through power, and knows but not through knowledge. His explanation is that the qualities we are talking about "refer back to one notion in which there is no idea of multiplicity." Thus God's existence, life, power, and knowledge are one. More specifically God knows all things by virtue of knowing the divine essence. For humans knowledge originates in external sources so that our knowledge and ourselves are separate.[23] In God it is otherwise. Maimonides therefore insists that "God is the One who knows, is known, and is the knowledge (of himself) – all these being One."[24]

What is true of God's knowledge is also true of God's will. In most cases humans undertake action to acquire something external. That is why humans need incentives and have to put

[23] *MT* 1, Basic Principles of the Torah, 2.10.
[24] Ibid., cf. *GP* 1.68.

up with obstacles or impediments. But again it is otherwise in God. According to Maimonides (*GP* 2.18, p. 301):

> If, however, the act has no purpose whatever except to be consequent upon will, that will has no need of incentives. And the one who wills is not obliged, even if there are no impediments, to act always. For there is no external end for the sake of which he acts.

Since God does not try to realize an external end, there are no incentives for God and no reason why God is constrained to will or not will. Nor are there any affections or internal dispositions that incline God in one direction rather than another.[25] God is not obliged to act, or to rest, or to do anything other than what the divine will has decided for itself. It follows that the only force operating on God's will is the will itself. God is completely autonomous, and everything in the universe is a consequence of that autonomy.[26]

Below God are the heavenly intelligences, whom Maimonides identifies with angels.[27] The intelligences are alive and have a mind and will of their own. Though their knowledge of God is superior to ours, it is not equal to God's for nothing but God can comprehend God.[28] The intelligences contemplate God in uninterrupted silence and do not respond to temporal factors like the need to care for or replenish a body. The lowest of the intelligences, the Active Intellect, is described by Maimonides as "the intellect that overflows toward us and is the bond between us and Him."[29]

Overflow (*fayd*) is a standard metaphor for emanation. In medieval epistemology, knowledge is explained by the degree to which the mind apprehends forms that proceed from God to the heavenly intelligences, and from the heavenly intelligences to the minds of individual people on earth. We can think of it as

[25] *GP* 1.35, pp. 79–80; 1.54, pp. 124–25.

[26] There is a long-standing tradition that argues that, like Spinoza, Maimonides rejects the idea of divine volition. According to Warren Harvey: "Maimonides' teaching that God's will, wisdom, and essence are one and inscrutable effectively strips the concept of God's will of any cognitive meaning." Against this interpretation, see *Searching for a Distant God*, ch. 4.

[27] See *MT* 1, Basic Principles of the Torah, 2. 3–8; *GP* 2. 3–6.

[28] *GP* 1. 59, p. 139.

[29] Ibid. 3. 52, p. 629.

a waterfall in which knowledge cascades from one metaphysical level to another. As Maimonides characterizes it (*GP* 2.11, p. 275):

> Governance overflows from the deity . . . to the intellects according to their rank . . . from the benefits received by the intellects, good things and lights overflow to the bodies of the spheres; and . . . from the spheres – because of the greatness of the benefits they have received from their principles – forces and good things overflow to this body subject to generation and corruption.

Behind the theory of emanation is the idea that God's bounty is infinite. A thing that is perfect of its kind manifests perfection within certain limits. When this happens, its perfection remains a part of it and is not passed on to something else. But sometimes a thing has so much perfection that there is a residue left over that can enrich or enhance the things around it. In God's case, there is so much perfection that intelligible form radiates through the cosmos without ever diminishing the original source.

With the doctrine of emanation comes a theory of mental activity. According to that theory, the human mind passes from potential to actual cognition when it participates in or receives the divine overflow. Prophecy is the condition in which an individual receives so much of the overflow that the rational faculty of the prophet's mind has a residue of its own that it passes to the imaginative faculty.[30] Since the imagination is tied to material things, it is the last stage in the process. According to Maimonides (*GP* 2.45, p. 403), Moses' prophecy was so perfect that it did not involve the imagination at all.

For a perfect intellect, the mind, the act of apprehension, and the intelligible form apprehended are identical – just as they are in God.[31] In keeping with his Aristotelian heritage, Maimonides believes that knowledge is gained when the mind achieves union or contact with the object known. This does not mean that if I apprehend a tree, I am identical with a material thing growing in the ground but that the form that activates my mind and the form that shapes the object are the same. Unless they

[30] Ibid. 2. 36, p. 369.
[31] Ibid. 1. 68. For the Aristotelian roots of this doctrine, see *De Anima* 3.4–5.

were the same, my mind would be activated by a form different from the one that shapes the object, which would mean that the object has been misrepresented. With this theory in mind, Maimonides interprets references to nearness or touching in the Bible as metaphors for intellectual apprehension.[32] For example, when the Bible (Exodus 24:2) says that Moses alone will come near to the Lord, the meaning is that Moses alone is in a position to understand the Lord or receive the divine overflow. Prior to the receipt of forms, the mind, in Aristotle's words, "can have no nature of its own."[33] It could be said therefore that to think is literally to acquire one's mind, to establish an identity between the rational faculty of the soul and the order and structure of the world.

I mention this because it explains why Maimonides thinks the purpose of the commandments is to get us to take less interest in external matters like land, slaves, and money, which he describes as "outside the self," and more interest in the acquisition of the rational virtues. The simple fact is that he regards the commandments as a way of getting us to become less like a material being and more like a spiritual one. In the most immediate sense, rationality means establishing unity with the Active Intellect. Beyond the Active Intellect, and every other intellect, there is God. The less interest we take in external matters, the more God-like we become. Accordingly (*GP* 1.54, p. 128): "The utmost virtue of man is to become like unto Him . . . as far as he is able."

Since the essence of God is beyond our comprehension, there is a respect in which imitation of God is always limited. But Maimonides allows a more restricted form of imitation insofar as it involves the transition from a life focused on earthly matters to a life focused on spiritual ones. In this context imitating God means rising above stimulus and compulsion and devoting oneself to rational contemplation. Just as God does not have to take care of bodily needs, so Maimonides thinks we should devote as little attention to them as we can and try to get ourselves to the point where we are ashamed of them.[34] Just as

[32] *GP* 1. 18. [33] *De Anima* 429a17–25. [34] *GP* 1. 52, p. 629.

God has no sensory apprehension, so we should distrust the imagination and try to contemplate the universe without it. Finally just as God does not display emotion, so the governor of a city should be completely impartial: she should not grant mercy or inflict punishment because she feels sympathetic or indignant but because the circumstances justify them.[35]

To return to Maimonides' conception of prophecy, it is impossible for a human being to survive without food and water or to ignore everyday matters and reflect on the intelligibles without interruption. The reason Maimonides' view is so exaggerated is that he is using a superhuman model to explain the purpose of human life. Again we are reminded of the opening chapters of Genesis: a spiritual being with perfect knowledge undertakes spontaneous action that is neither a response to external factors nor a manifestation of internal dispositions. In a similar way, Moses, the greatest of the prophets, achieves more knowledge than any other person, and goes without food or water for forty days and nights, during which time he is engaged in silent contemplation. If God brings the world into being, Moses' efforts are "to bring into being a religious community that would know and worship God."[36] Though the affairs of the community may seem like a distraction, inwardly Moses' mind is always turned to God.[37] The implication is that Moses has come as close as a person can to becoming a spiritual being.

For the rest of us, who cannot hope to achieve this level of concentration, there is still the basic fact that we are free to determine the course of our lives without internal or external compulsion.[38] Maimonides rejects astrology on the grounds

[35] Ibid. 1. 54, p. 126. [36] Ibid. 3. 51, p. 624. [37] Ibid. 3. 51, p. 623.

[38] No one seriously doubts that individual freedom is an important part of Maimonides' legal philosophy. But Shlomo Pines, "Notes on Maimonides' Views Concerning Free Will," *Studies in Philosophy*, *Scripta Hierosolymitana* 6 (1960), 195–98, and Alexander Altmann, "Free Will and Predestination in Saadia, Bahya, and Maimonides," in S. D. Goitein (ed.), *Religion in a Religious Age*, pp. 25–52, argue that Maimonides adopts a determinist position in the *Guide*. The crux of their argument is Maimonides' claim at *GP* 2.48, p. 410 that everything must have a cause. The textual and philosophic difficulties of the Pines–Altmann interpretation have been exposed by Josef Stern, in "Maimonides' Conceptions of Freedom and the Sense of Shame," in C. Manekin and M. Kellner (eds.), *Freedom and Moral Responsibility*, pp. 217–66.

that the stars have no effect on the decisions we make. In the *Mishneh Torah* (1, Laws of Repentance, 5.1), he assures us that:

> Free will is bestowed on every human being. If one desires to turn toward the good way and be righteous, he has the power to do so. If one wishes to turn toward the evil way and be wicked, he is at liberty to do so. And thus it is written in the Torah, "Behold, the man is become as one of us, to know good and evil" (Genesis 3:22) – which means that the human species had become unique in the world.

In the next chapter, he goes on to say there is no one who coerces a person or decrees what he is to do "but every person turns to the way which he desires, spontaneously and of his own volition." In fact freedom applies not only to what we do but, in Maimonides' opinion, to what we think. If we can be praised or blamed for what we think, then, he argues, we must be free to make up our minds as we see fit.[39]

Owing to the limits of the human situation, there are times when we cannot help but respond to material forces and therefore can never achieve perfect autonomy. But to the degree that we perfect our natures as rational beings, Maimonides thinks we can prevent material forces from exerting undue influence. We are then masters of our destiny and must take responsibility for the actions we perform and the beliefs we hold. In this respect Maimonides' philosophy is a continuation of the idea that the human soul is the stage on which the battle between good and evil is played out. The person ruled by passions and bodily functions sacrifices self-mastery to things that are here one moment and gone the next. By contrast, the person motivated by love of God goes through life with an inner strength based on convictions no change of events can disturb.

If we take emanation as a medieval term to describe what we refer to as appropriation – if by the receipt of intelligible forms, Maimonides means the mind's way of grasping eternal truth – then those who reach the highest level of worship will exercise a

[39] On the issue of responsibility for what we think, see *Eight Chapters* 2: "As regards the rational faculty, uncertainty prevails (among philosophers), but I maintain that observance and transgression may also originate in this faculty, in so far as one believes a true or false doctrine."

degree of autonomy. Outwardly they will continue to obey the required rituals. The more they think about God, Maimonides (*GP* 3.51, p. 620) tells us, the more their worship will increase. To be sure their worship will be self-conscious and completely self-motivated. They will reflect on the intelligibles and always be in the presence of God. There will be no need to ask them to control their desire for food, drink, or sex because they have long ceased to be concerned with those things. Nor will there be any need to talk about sanctions for disobedience because disobedience will have lost its appeal. According to Maimonides, they will attend to external affairs like political and economic issues "with their limbs only." For these people piety is another name for rational self-mastery. In Maimonides' words (*GP* 3.8, p. 432):

> Among men, there are individuals who aspire always to prefer that which is most noble and to seek a state of perpetual permanence according to what is required by their noble form. They only reflect on the mental representation of an intelligible, on the grasp of a true opinion regarding everything, and on union with the divine intellect . . . Whenever the impulses of matter impel such an individual toward the dirt and the generally admitted shame inherent in matter, he feels pain because of his entanglement, is ashamed and abashed because of what he has gone through, and desires to diminish this shame with all his power and to be preserved from it in every way.

Such is Maimonides' conception of a free and rational life in which the intellect holds sway. Though it will culminate in awe, shame, and humility before God, Maimonides does not say it will culminate in submission if that is taken to mean acceptance of something without understanding. On the contrary, these people will understand the reasons behind every commandment and see that every commandment represents the best course of action for the circumstances it was designed to cover. No action will be undertaken simply because God willed it and no position adopted simply because a person in authority proclaimed it. Each soul will obey the commandments because it has freely accepted them. Whether this means they will exhibit the particular kind of autonomy Kant describes in the *Foundations* remains to be seen.

Maimonides saw that religion is more than a system of divine decrees and that the law must be rational to be worthy of respect. He saw that the only kind of obedience that fulfills the law is impersonal and disinterested. And he saw that reason, though respectful of authority, cannot be a slave to it. On matters that can be decided by reason, internal revelation supersedes external. But we must keep in mind that Maimonides' view of reason is unabashedly hierarchical. The Parable of the Palace begins with people who receive so little of the divine overflow that, in his opinion, they are subhuman. It proceeds to "ignoramuses" who obey the law without knowing why and culminates with people whose faculties of concentration are so astute that they think about God even when attending to other matters. Needless to say, the people who enter the ruler's court represent a tiny segment of humanity – so tiny that Maimonides doubts that he himself can aspire to it. Overall he tells us that (*GP* 3.18, p. 475):

> Divine providence does not watch in an equal manner over all the individuals of the human species, but providence is graded as their human perfection is graded. In accordance with this speculation it follows necessarily that His providence . . . that watches over the prophets is very great and proportionate to their degree in prophecy and that His providence that watches over excellent and righteous men is proportionate to their excellence and righteousness.

As for the mass of humanity, Maimonides is convinced that they have neither the desire nor the training to exercise any degree of independent thought. As we saw, many of them are satisfied with the idea of an angry God who punishes sin and responds to personal entreaties.

We must be careful not to interpret these remarks as a way of bringing an ethics of stimulus and compulsion back into the picture. In saying that God's providence watches over prophets and righteous people to a greater degree than the rest of humanity, Maimonides is not saying that the former earn a larger share of material rewards. Not only is this claim implausible in its own right, it flies in the face of everything he says about the love of truth for its own sake. His point is that anyone who attains the level of a prophet will come to see that the

ultimate evil is not the loss of physical pleasure but the inability to use one's mind. To fall from God's providence means that one does not participate in the divine overflow. The passage quoted above continues: "For it is the measure of the overflow of the divine intellect that makes the prophets speak, guides the action of righteous men, and perfects the knowledge of excellent men with regard to what they know." The divine overflow is always present; the question is whether we have put ourselves in a position to receive it.

With the advent of the scientific revolution, the theory of emanation collapsed, and with it the theory of mental activity on which Maimonides' epistemology is based. Descartes' goal was to extend knowledge of the world around us by examining the ideas we have within us. Even the understanding of idea changed. Rather than something whose archetype is located in the mind of God, it became something formed and evaluated in the mind of man.[40] The crucial point is the shift from knowledge as transmission to knowledge as constitution. In Descartes' words, "the fact, for example, that we judge that this or that idea, which we now have present to our thought, is to be referred to a certain external thing, not because these external things transmitted the ideas themselves to the mind through the organs of sense, but because they transmitted something which gave it the occasion to form these ideas, by means of an innate faculty, at this time rather than at another."[41] By forming its ideas rather than receiving them from an external source, the mind becomes active in a way neither Maimonides nor his contemporaries could have anticipated. From this point onwards, the subject matter of philosophy is not the world but our consciousness of it. "The order of ideas," as Charles Taylor put it, "ceases to be something we *find* and becomes something we *build*."[42]

[40] For this formulation, I am indebted to Anthony Kenny, *Descartes: A Study of His Philosophy*, p. 96.

[41] Descartes, *Philosophical Works*, trans. by E. S. Haldane and G. R. T. Ross, pp. 442–43. Note that according to this view, all ideas are innate.

[42] Charles Taylor, *Sources of the Self*, p. 144. In some respects, the emphasis here is misleading: it should say "something *we* build." Cf. Kant (*CPR* B xviii, p. 23): "We can know *a priori* of things only what we ourselves put into them."

From Kant's perspective, Maimonides' intellect in actu is still too passive because it does not take into account what the mind contributes to experience to make it intelligible. That is why Maimonides does not use metaphors like authorship or self-legislation to describe the activity of the mind. Looking back on his ancient (*alte*) predecessors, Kant (*CF* 127–29) remarks that they:

> were quite mistaken in the role they assigned man in the world, since they considered him a machine within it, entirely dependent on the world or on external things and circumstances, and so made him an all but passive part of the world. Now the critique of reason has appeared and assigned man a thoroughly *active* existence in the world. Man himself is the original maker of all his representations and concepts.

Or more fully (*CF* p. 131):

> Understanding . . . is a thoroughly active power of man; all his representations and concepts are purely *his* works: he thinks spontaneously with his understanding, and he therefore makes *his* world.

Although it is not clear what Kant means by "ancient," there is little doubt his remarks apply to Maimonides. No matter what Maimonides says about the intellect in actu, it is not spontaneous in the sense in which a modern philosopher like Descartes or Kant understands the term.

If it is not spontaneous, it cannot be autonomous either. We saw that one can look at the principle of autonomy from either of two perspectives: from the standpoint of the will in its relation to the law or from the standpoint of the will as the source of the law. Maimonides anticipates the former. Though he is talking about only a few individuals, he recognizes the possibility that a person with extraordinary accomplishments can understand the wisdom inherent in the law and will it for its own sake. He also recognizes that the process of coming to this knowledge takes one beyond appeals to authority and involves the use of reason. To that extent he has a reasonable facsimile of authorship.

But a facsimile is all he has because there is another respect in which not only Maimonides but the rest of traditional Judaism would part company with Kant. While Maimonides

would agree that prophets become a perfect embodiment of the law, no traditional commentator would agree that human beings actually make law for themselves. We also saw that Maimonides includes as one of the central dogmas of Judaism the claim that the Torah was given to Moses by God.[43] Though we may not know all the details of how it was transmitted, and though Maimonides goes to great lengths to deemphasize the miraculous dimension of prophecy, he never doubts that God and God alone is the author of the law, at least in its written form. According to *Perek Ḥelek*:

> We are to believe that the whole Torah was given us through Moses our Teacher entirely from God. When we call the Torah "God's Word," we speak metaphorically. We do not know exactly how it reached us, but only that it came to us through Moses, who acted like a secretary taking dictation.

The reference to dictation is also metaphorical since Maimonides insists that Moses' apprehension was entirely intellectual. But it is clear that Moses' goal was not to become a law to himself but exactly the opposite: to receive the divine law and communicate it to others. Again in *Perek Ḥelek*, Maimonides quotes Numbers 16:28: "This is how you shall know that the Lord sent me to do all these things, and that they are not the products of my own mind."

According to Maimonides then, Moses is one link in a chain of transmission that proceeds from God to the prophet and eventually to the average worshiper. Although he allows one to challenge religious authority when science can show it is mistaken, overall he respects that authority and sees himself as an integral part of it. In this scheme, only God is completely spontaneous, and therefore only God can be the source of the law in the full sense. Human beings can interpret and extend the law but only because God has authorized them to do so. When it comes to the issue of origin, everything else, including the heavenly intelligences, is in a passive and therefore an obedient position.

For Kant, this is simply not true. Note that the passage about

[43] *Perek Ḥelek*, eighth principle.

ancient philosophers cited above continues "and ought to be the sole author of his actions." According to this conception, reason does not find value in the world nor can one agent transmit value to another. Rather value is something that a free and rational will creates *for* itself by giving the law *to* itself. In this respect even the reason of an average person is spontaneous. That is why everyone is both subject and sovereign, both the giver and the recipient of moral legislation. According to Kant, God's responsibility is to see that those who do their duty have the possibility of achieving happiness, not to create and transmit the demands of duty to lesser beings.

We saw that Kant accepts internal revelation and refers to God as the author of a law that has been written on the heart.[44] Religion, it will be recalled, is the recognition of all duties as divine commands. But at this point, the qualification Kant attaches to his definition becomes critical (*RWL* p. 142): religion *subjectively regarded* is the recognition of all duties as divine commands. According to Kant, religion cannot furnish theoretical knowledge of the existence of God. From the standpoint of reason alone, we can neither prove nor disprove that we are the beneficiaries of a supernatural revelation.[45] In one respect, the question does not matter for even if we could be certain that God commanded us to obey it, the law does not become binding until we legislate it. As J. B. Schneewind observes: "Kantian autonomy does not allow moral law to be constituted by the command of one rational being to another."[46] The only way it can be constituted is for each rational being to will it for herself.

If Cartesian epistemology is secular, so is this aspect of Kant's ethics. The fact that the law originates with God and is implanted within us is of no moral significance.[47] It can be fruitful to regard duties as divine commands because if someone does believe in God, he gains an added disposition to

[44] For example, *CF* 137.
[45] *RWL* 143, cf. *CF* 63.
[46] See J. B. Schneewind, *The Invention of Autonomy*, p. 522.
[47] Cf. Allen W. Wood, *Kant's Ethical Thought*, p. 317: "The duties we regard as divine commands are simply the duties we have as human beings to human beings."

obey them. But in Kant's opinion, that is all it provides: in no sense does it furnish an essential fact about the law's validity. We can believe, as Kant does, that God endowed us with a free and rational will, but from his perspective, to be endowed with a will is nothing more than to be given the tools necessary for self-legislation. Ultimately Kant's position is the one he expresses in the *Foundations of the Metaphysics of Morals* (448, p. 67): "Reason must regard itself as the author of its principles, independently of foreign influences." It follows that while God may inscribe the law on our hearts, we remain sovereign to the degree that we impose the law on ourselves.

Maimonides would object that Kant has taken a perfection that belongs exclusively to God and distributed it universally across the kingdom of ends. One way to understand the difference between them is in terms of its political connotations. Maimonides views the world as an extended monarchy where knowledge is passed from the king to his court, from the court to the local magistrate, from the local magistrate to the peasants. The further an individual gets from the king, the less knowledge he or she receives. In fact some people are so far away that they do not get any knowledge at all and are doomed to perdition.

From a Biblical perspective, the institution of monarchy presents a difficult problem. Although Deuteronomy 17:14–15 claims that it is permissible to appoint a king, it does not say that it is mandatory. In fact the context ("like all the nations that are around me") suggests that monarchy is less than optimal and represents a partial rejection of God – a sentiment shared by Gideon (Judges 8:22–23) and Samuel (1 Samuel 8:4–22). For those who opposed monarchy, the optimal form of government was a loose confederation of tribes united by their devotion to one God. As we saw, Deuteronomy 29:10–13 could even be read as envisioning a form of democracy. Be that as it may, Maimonides interprets Deuteronomy 17:14–15 as a positive commandment to appoint a king.[48] Although there are

[48] *MT* 14, Laws of Kings, 1.1–2. Maimonides' explanation for why Samuel opposed monarchy is that the people asked for a king in a contentious way, in an effort to rid themselves of Samuel, rather than out of desire to do God's will. See Gideon's speech at Judges 8:22–23.

limits to what the king can do and obligations he must fulfill, Maimonides speaks as if the issue is clear-cut. Even in the Days of the Messiah, Israel will be ruled by a king.

By contrast the thrust of Kant's theory is clearly democratic. Everyone, not just the intellectual elite, is both subject and sovereign in the kingdom of ends: subject because the law binds categorically, sovereign because no member of the kingdom is subject to the will of another. Though the kingdom of ends is an ideal, it is based on the assumption that God and humans are members of a community in which everyone is the author of the law or can regard herself as such. No special knowledge is needed to enter the community because awareness of the law as well as the ability to legislate it for oneself are an integral part of our nature as rational beings. That insight forms the basis of Rawls's contention that a perfect agreement requires free and equal parties who cannot use their social position or intelligence to ask for special privileges.

If Maimonides' concern is that not enough people possess the intellectual acumen needed to understand the law, Kant's is the opposite: that clerics and Scriptural scholars have blocked our access to it by introducing extraneous or misleading considerations. According to Kant (*RWL* p. 95): "Each individual can know of himself, through his own reason, the will of God." In some respects this idea is not totally new. At Deuteronomy 29: 10–13, everyone from the leaders and elders of the tribes to hewers of wood and drawers of water is asked to enter into a covenant with God. But Kant wants to take the theme of universalism even further. He wants to say that because everyone can legislate the law *for* herself, everyone must be regarded as an end *in* herself. Again this idea is not completely new. We saw that the prohibition against shedding innocent blood was given long before Sinai and that the Torah abounds with passages that stress the dignity of the poor, the non-Israelite, even Israel's traditional enemies.

Yet Kant wants to go further still. He wants to do away with Biblical scholars and introduce an idea that has little precedent in the sacred literature: tolerance. Since each person is capable of legislating the law, Kant wants to say that religious auth-

orities have no right to force people to accept dogmas or obey rules against their will. In this respect, sovereignty is more than a theoretical possibility: it translates into freedom of conscience on all spiritual matters and the right to interpret the sacred books for oneself. As we will see in Chapter 6, Kant's idea of a morally pure religion is first and foremost a religion that can be comprehended by everyone. If statutory laws are objectionable and run the risk of turning religion into superstition, so too, in Kant's eyes, are statutory beliefs.[49] Unlike Maimonides, who regards belief in the existence of God as mandatory, Kant thinks all that is needed is the *idea* of God with the admission that no one can certify the objective reality of that idea by theoretical means.[50]

As Schneewind points out, Kant's egalitarianism derives from Rousseau.[51] There was, as Kant admits, a time when he despised the ignorant, but Rousseau freed him of this prejudice so that he learned to honor all human beings and to argue for the rights of humanity.[52] In any case, his understanding of morality as a claim we make on ourselves paves the way to a conception of freedom that is plainly at odds with a divinely based monarchy.

Despite his conviction that every person is made in the image of God and worthy of respect, Maimonides would have little patience for the claim that every person, both great and small, must be regarded as sovereign. Recall that for him providence does not watch in an equal manner over all people but is graded as their perfection is graded. Where Kant sees universality, Maimonides would see anarchy. But it is equally clear that Kant's position holds a special appeal to a people who have suffered from centuries of religious persecution. In the aftermath of the Spanish Inquisition, appeals for tolerance could hardly be ignored. Still it is one thing to preach tolerance to outsiders, another to incorporate it in one's own religion. If emancipation meant freedom from the ghetto and the dogmatic

[49] Kant, *RWL* p. 162.
[50] Ibid. p. 142.
[51] Schneewind, *Autonomy*, pp. 483–507.
[52] Kant, *Gesammelte Schriften*, vol. xx, p. 44.

orthodoxy of the Inquisition, for many Jews it also meant freedom from what they regarded as the dogmatic orthodoxy of their own religion. How and if tolerance could be reconciled with the legislation revealed at Sinai are the next questions to be taken up.

CHAPTER 5

The rise of modernity: Spinoza and Mendelssohn

In the previous chapter, we saw that in Maimonides' view Biblical exegesis is based on a simple assumption: since the Torah is from God, it must be a source of truth. From this it follows that one cannot ascribe to it anything that can be shown on independent grounds to be false. We should keep in mind however that Maimonides' epistemology did not leave much room for intellectual revolutions. In his opinion earthly physics was perfected by Aristotle, and only a fool would argue with it. Since metaphysics is speculative, and the human mind is limited by its attachment to the earthly realm, he does not envision much in the way of progress there either. Essentially the same is true for astronomy, a discipline about which he claims that "man grasps nothing but a small measure of what is mathematical."[1] Though he admits there has been some progress in astronomy since Aristotle's day, and that a new theory may be able to account for anomalies like planetary orbits, given the distance of the heavenly bodies, and their superiority in place and rank, this is an admission in principle only.[2] As for knowledge of God, it is well known that he thought we will never have more than a form of learned ignorance. It could be

[1] Note that for Maimonides (*GP* 2. 24, p. 326), even a better theory will not "tell us in which way the spheres truly are" but "posit an astronomical system in which it would be possible for the motions to be circular and uniform and to correspond to what is apprehended by sight, regardless of whether or not things are thus in fact." For more on Maimonides' skepticism about astronomy, see Menachem Kellner, "On the Status of Astronomy and Physics in Maimonides' *Mishneh Torah* and *Guide of the Perplexed*," *British Journal for the History of Science* 24 (1991), 453–63.

[2] *GP* 2.19, p. 309; 2.24, p. 327.

said therefore that in Maimonides' view, we know almost everything we are going to know.

Suppose that his admission in principle turned out to be an admission in fact. Suppose, in other words, that a person could account for planetary orbits and a wide range of other phenomena by proposing a radically new theory – so radical that it could not be reconciled with a geocentric view of the universe. If the scientific evidence were convincing, Maimonides would have to say something similar to what he said in regard to Hanukkah: that even though Moses was not aware of the theory, we have no choice but to accept it. Recall his letter on astrology. But this would imply that Biblical astronomy is wrong and that no amount of tinkering can save it. As anyone can see, the scenario I have outlined is exactly what happened during the scientific revolution, and the first great thinker to discuss its implications for Biblical exegesis was Spinoza.

If Maimonides' goal was to show that religion requires the study of physics and metaphysics, Spinoza's was to show that they must be kept completely separate. Like Maimonides, Spinoza claims to find nothing expressly taught in the Bible that is repugnant to human understanding. But in order to say this, he has to restrict the scope of what that teaching is. Instead of esoteric doctrines that only the wisest can comprehend (*TTP* p.9) "the prophets taught nothing, which is not very simple and easily to be grasped by all." Why can it be grasped so easily? The crux of Spinoza's answer is that it has nothing to do with theoretical subjects like physics and metaphysics. According to him, prophets are distinguished by the power of their imagination, not by the perfection of their understanding.[3] That is why prophetic teachings have little to tell us about natural science and are limited to issues that pertain to behavior, or in his words (ibid.) to "obedience to God in singleness of heart, and in the practice of justice and charity."

This analysis carries over to Spinoza's understanding of the election of Israel. In his view (*TTP* p. 45) all legitimate objects of desire fall into one of three categories: (1) knowledge of things

[3] *TTP* pp. 24–25, 27–28.

through their causes; (2) government of the passions; and (3) a secure and healthy life. The means for obtaining the first two are not peculiar to any nation but shared by the entire human race. But the means for obtaining the third have to do with forming and preserving the social order and vary widely from one nation to the next. This allows Spinoza to conclude that (*TTP* p. 46): "Even a cursory perusal will show us that the only respects in which the Hebrews surpassed other nations are in their successful conduct of matters relating to government." In other words, God's revelation to Israel was essentially political; rather than divine science in Maimonides' sense of the term, it consisted of divine law.

In regard to Maimonides' attempt to search the Torah for philosophic truths about God, creation, and the heavenly realm, Spinoza (*TTP* p. 9) is equally explicit: "I became thoroughly convinced, that the Bible leaves reason absolutely free, that it has nothing in common with philosophy, in fact, that Revelation and Philosophy stand on totally different footings." To consult the Bible for lessons on physics and metaphysics would be just as foolish as consulting it for guidance on higher mathematics. Again (ibid.): "Revelation has obedience for its sole object, and therefore, in purpose no less than in foundation, and method, stands entirely aloof from ordinary knowledge; each has its separate province, neither can be called the handmaid of the other." Such a separation not only frees theoretical knowledge from the need to cohere with the Bible, but, in Spinoza's opinion, frees the Bible from the tendency of commentators to interpret it in light of external evidence or metaphysical speculation.

This does not mean that in Spinoza's opinion we should not consult the Bible at all. It simply means that when we consult it, we must be careful that we get the Bible itself, rather than opinions that have been read into it by commentators with an axe to grind. Not surprisingly, Spinoza's method for interpreting the Bible is exactly the opposite of the one employed by the Rabbis (*TTP* p. 8): "I determined to examine the Bible afresh in a careful, impartial, and unfettered spirit, making no assumptions concerning it, and attributing to it no doctrines,

which I do not find clearly therein set down.'' By sticking to the plain sense of the text, we assure ourselves that we are recovering the original intentions of the people who wrote it. For those who do not follow this method, those who ''interpolate the Bible'' and put forward a message that is ''faulty, mutilated, tampered with, and inconsistent,'' Spinoza has nothing but contempt.[4]

What do we do when the literal meaning or plain sense clashes with what we know to be the case? Maimonides' answer was that we have to adopt a figurative or metaphorical interpretation. We saw that in his opinion many of the evils that plague religion are due to an obsession with literalism. Once again Spinoza (*TTP* p. 102) disagrees :

> Although the literal meaning is repugnant to the natural light of reason, nevertheless, if it cannot be clearly overruled on grounds and principles derived from its Scriptural ''history,'' it, that is, the literal meaning, must be the one retained: and contrariwise if these passages literally interpreted are found to clash with principles derived from Scripture, though such literal interpretation were in absolute harmony with reason, they must be interpreted in a different manner, i.e. metaphorically.

To take Spinoza's example, if the Torah has Moses say that God is jealous, we must not determine its meaning by asking how reasonable this doctrine seems to us; rather we must ask whether there is internal evidence Moses believed that God has emotions. In Spinoza's terms (*TTP* p. 101) we have to separate questions of meaning from questions of truth.[5] If there is evidence that Moses believed God has emotions, occupies space, or resides in a heavenly abode, we have no right to report anything else as the meaning of the text that bears his name. In a nutshell, the burden of proof has been passed from those who want to retain the plain sense of the text to those who do not.

Unfortunately we pay a high price for making this move.

[4] Ibid. pp. 98, 165.

[5] According to Steven B. Smith, *Spinoza, Liberalism, and the Question of Jewish Identity*, p. 66: ''the unstated premise of Spinoza's biblical hermeneutic is that Scripture cannot speak the truth.'' As Smith goes on to say, it can issue moral commands that are useful to people, but it does not make claims about God or metaphysics that can stand up to rational scrutiny.

Traditional interpreters like the Rabbis and Maimonides claimed they were filling in details the written text leaves out. By contrast Spinoza argues that if we look at the text critically, we will discover that we know far less about it than most religious authorities are willing to to admit.[6] In the first place, there are ambiguities connected with Hebrew grammar and the fact that the original text was written without vowels. Of the events that surround the narratives, or the identity of the authors of anonymous books, we know very little. Nor do we know much about the hands into which these books eventually fell. It follows that (*TTP* p. 111) "being in ignorance on these points we cannot possibly know the aim or intended aim of the author" and therefore (*TTP* p. 112) "the true meaning of Scripture is in many places inexplicable, or at best mere subject for guesswork."

To this Spinoza adds an important qualification: the true meaning of the text is guesswork when we are dealing with matters that can only be imagined, not when we are dealing with matters conceivable through themselves. To take Spinoza's example, we do not have to know anything about the history of Euclid's life to grasp the meaning of his theorems. By the same token, Spinoza thinks we do not have to know anything about the history of Biblical authors when they deal with issues that are known by "natural reason." While natural reason cannot explain everything we want to know about the Bible, Spinoza (*TTP* p. 114) argues that this is not due to a defect in its nature but to "the carelessness (not to say malice) of men who neglected the history of the Bible while there were still materials for inquiry." In other words, the problem derives from the fact that religious authorities used the text to claim divine sanction for their own opinions rather than to investigate the beliefs and expectations of the original authors.

While this view represents a sweeping indictment of the

[6] In Spinoza's opinion, this applies to the Christian Bible as well as the Hebrew. According to Leo Strauss, *Spinoza's Critique of Religion*, pp. 116–17, Spinoza assumes throughout that the Hebrew and Christian Bibles are on equal footing. This assumption shifts the emphasis of his investigation to what they have in common rather than features that are distinctive to each.

Rabbis, whom Spinoza often refers to as "Pharisees," there is one part of his argument with which they would agree: if you take away the oral tradition and interpret the Bible in terms of its plain sense, you will find that much of what you have is guesswork.[7] That is why the oral tradition is so important. No book can contain all the evidence needed for its interpretation.[8] If we did not have knowledge of the social customs or linguistic habits of ancient Israel, if, in other words, we had to rely on Spinoza's method in a rigorous fashion, all we could derive from the Bible are a few general rules about justice, charity, and the search for salvation – in short the *mishpatim*.

Not surprisingly Spinoza argues that the sum and chief precept of divine law is to love God as the highest good, not from the fear of pain or expectation of pleasure.[9] A bit later he amends this by saying that we should love God above all things, and our neighbor as ourselves.[10] While this law is proclaimed by the prophets, its validity can be deduced from a consideration of human nature and owes nothing to historical narratives.[11] Nor does it require anything in the way of ritual. For Spinoza too God's word is written on our hearts.[12]

At this point one can almost hear the voice of Kant coming from backstage. If a commandment to love God is all we can derive from the Bible, why bother with the Bible at all? Why not

[7] For Spinoza's view of Judaism, see Stuart Hampshire, *Spinoza: An Introduction to His Philosophical Thought*, p. 151: "It is almost unnecessary to say that he nowhere shows the slightest personal or nationalistic bias or bitterness, in spite of his excommunication and of his inherited memories of centuries of persecution and fanaticism. Whether he is writing of the nature of prophecy, of miracles, of the allegedly divine origin of Jewish law, or of God's special relation to the Jews, he writes always from the standpoint of pure reason." Compare this account with that of Seymour Feldman, "Spinoza," *HJP* p.625: "Although the *TTP* is both brilliant and original, it also reveals Spinoza in a most uncharacteristic light: it is replete with bitter, cynical, indeed even hateful, emotions which he claimed in the *Ethics* are antithetical to the free person and for which he has always been praised as not exhibiting. These unseemly features are most evident in his discussion of Jews and Judaism, such that it is difficult to avoid the judgment that Spinoza was one of the original Jewish anti-semites, or self-hating Jews."

[8] According to Yirmiahu Yovel, "Bible Interpretation as Philosophical Praxis: A Study of Spinoza and Kant," *Journal of the History of Philosophy* 11 (1973), 203, Spinoza's claim to interpret Scripture solely on the basis of internal evidence should be understood as a methodological principle rather than a hard and fast rule.

[9] *TTP* p. 60. [10] Ibid. p. 172. [11] Ibid. p. 61. [12] Ibid. pp. 165–66.

use natural reason to discover the way to salvation and read the Bible only for historical interest? The answer is that, to a great extent, this is what Spinoza wants: a text whose main function is to encourage the faithful to abandon superstition and accept the life of reason. Though the Bible can corroborate conclusions reached by natural reason, since it is a historical narrative, it can never validate them. In his words (*TTP* p. 61): "the truth of a historical narrative is very far from being a necessary prerequisite for our attaining our highest good." The best Spinoza can say is that reading the Bible is useful for the purpose of informing ourselves about "men's customs and circumstances." Take away the passages that affirm the conclusions of natural reason and the Bible is no better than any number of books on human behavior written in a similar time and place.

Although other Jews had stressed the role of reason in interpreting sacred texts, before Spinoza no Jew had argued for such a strong version of rational autonomy.[13] For Maimonides, the Torah, though full of secrets and difficult to understand, is still authoritative. The reason he was willing to rely on external sources to determine its meaning was that he wanted to preserve its authority: in his eyes it can never be wrong. If our understanding of the world should change, our understanding of the Torah must change with it. For Spinoza it is just the opposite: the Torah is often wrong. In fact, its only claim to being sacred is that it expresses the divine law according to which God is to be loved above all else. Beyond this, large portions of it are faulty, mutilated, and inconsistent.

According to Spinoza (*TTP* p. 116), the truths necessary for salvation "can be easily understood in any language." So when it comes to salvation and the qualities of character needed to obtain it, we do not need commentaries or esoteric doctrines.

[13] For Spinoza's relation to or dependence on Hobbes, La Peyrere, and Fisher, see Richard Popkin, "Spinoza and Bible Scholarship," in Don Garret (ed.), *The Cambridge Companion to Spinoza*, pp. 383–407. As for Spinoza's relation to Ibn Ezra, note Popkin's remark at p. 386: "There is nothing to suggest Spinoza's view that he was a pre-Spinoza Spinozist." For an account of the Jewish community in Amsterdam, see Popkin, "The Jewish Community of Amsterdam," *HJP* pp. 600–11.

Just as the masses were capable of grasping the intention of the prophets in ancient times, so, he thinks, they are capable of grasping the substance of divine law in ours. Along these lines, Spinoza (ibid.) proudly affirms that "there is nothing, then, in our method which renders it necessary that the masses should follow the testimony of commentators, for I point to a set of unlearned people who understood the language of the prophets."

Although this passage talks about commentators, the real target is Maimonides, the man whom Spinoza regards as the champion of the esoteric method. If Maimonides were right, Spinoza protests, the words of the prophets would go over the heads of the masses leaving them with no choice but to receive their knowledge of the Bible from the testimony of philosophers. Clearly Spinoza read the Parable of the Palace. In addition to Maimonides' elitism, what bothers him is the idea that changes in physics or metaphysics necessitate a change in the way we read the Torah. We saw that for Maimonides this is true of the opening lines of Genesis. But then our understanding of these lines is dependent on scientific controversies completely external to the text. Worse, the view we ascribe to the Torah is not deducible from ordinary knowledge common to all humanity but from theoretical knowledge of which the prophets were ignorant.

One way to understand the difference between Maimonides and Spinoza is to compare their respective views of prophecy. We saw that for Maimonides prophecy is explained in terms of emanation. As he constantly reminds us, the prophets speak in language that everyone can understand – at least at a superficial level. But this does not mean that the full significance of their works can be grasped by staying at that level. On the contrary, since the prophets achieved the highest degree of perfection available to humans, we must use every rational virtue at our disposal to decipher their true or hidden meaning. As Baḥya tells us: "The wise thinker will endeavor to strip the husk of the terms – their materialistic meaning – from the kernel, and will raise his conception, step by step, till he will at last attain to as much knowledge of the truth as his intellect is capable of

apprehending."[14] If this is so, there is no reason why we should not look to the Bible for guidance on theoretical questions or why philosophers (in the form of prophets) should not instruct the rest of humanity about its meaning.[15]

For Maimonides then there is a large theoretical component to religion; in fact, the theoretical component is weightier than the practical because the latter is best understood as a means to the former. The reason we have to turn to sources outside the text to grasp its meaning is that the prophets did not write in simple declarative sentences: they employ visual imagery and any number of allegorical devices to convey their meaning. If all we could rely on is "the plain sense," we would soon find that most of the wisdom contained in the Bible would be lost. As Spinoza points out, the Bible nowhere says that God is incorporeal, and in many passages says exactly the opposite.[16] If we had nothing else to go on, we would miss what Maimonides thinks is the main point the prophetic tradition is trying to make.

This difference is indicative of another. We saw that Maimonides requires all Jews to obtain a minimal degree of theoretical knowledge and to accept thirteen basic propositions about God, Moses, the Torah, and the afterlife. We also saw that he proposed the death penalty for heretics. Although Spinoza (*TTP* p. 176) admits that the Bible contains some doctrines that fall within the compass of philosophy, e.g. the existence of God, he insists that these doctrines are "very few and very simple." We saw that revelation has obedience for its sole object and deals with what Spinoza terms "simplicity and truth of character." But simplicity and truth of character cannot be forced on a person by civil or religious authorities; rather the means for achieving them are "faithful and brotherly admonition, sound education, and, above all, free use of individual judgment."[17] The importance of individual judgment is critical and

[14] *DH* 1, p. 105. Cf. Aquinas, *Summa Theologica* 1.1.10.

[15] Spinoza recognizes this at *TTP* p. 117: "He [Maimonides] supposes that the prophets were in entire agreement one with another, and that they were consummate philosophers and theologians."

[16] Ibid. p. 17.

[17] Ibid. p. 118.

opens the door to a rousing defense of personal freedom (*TTP* pp. 118–19):

> Therefore, as the supreme right of free thinking, even on religion, is in every man's power, and as it is inconceivable that such power should be alienated, it is also in every man's power to wield the supreme right and authority of free judgment in this behalf, and to explain and interpret religion for himself.

It is here that "Think for yourself" comes to mean "Do not listen to religious authorities." Recall that for Spinoza, the Bible leaves reason "absolutely free," free to do physics and metaphysics without religious sanctions and to interpret the Bible narrative as it sees fit.

Although Kant probably did not read the *Theologico-Political Treatise*, he was obviously sympathetic with the arguments it contains. First there is the claim that we turn to religion for its practical rather than its theoretical value. Second there is the conviction that religious authorities have gotten in the way of a rational, i.e. moral, interpretation of the Biblical text. For Kant too sacred texts can ratify conclusions reached by natural reason but cannot change them or improve them. Third there is the stress on the freedom of the individual to choose her own path on religious matters. Finally there is the conviction that Judaism is weighted down by meaningless rituals and questionable interpretations.

But there is an important respect in which Kant would part company with Spinoza and side with Maimonides. As Yovel points out, Kant does not share Spinoza's devotion to literalism.[18] As we saw, Kant is convinced that the sole reason for reading the Bible is to improve people's lives; the historical dimension, which in his opinion contributes nothing to this end, can easily be dispensed with. For Kant, an interpretation of the Bible may appear forced, or actually *be* forced given the plain sense of the text; but if reason requires it, and the text can possibly support it, it is preferable to literalism.[19] In fact Kant argues that this sort of interpretation has been practiced for

[18] Yovel, "Bible Interpretation," pp. 189–212. For another interpretation that joins Maimonides and Kant, see Smith, *Spinoza*, pp. 182–83.

[19] *RWL* pp. 100–101.

years and is quite legitimate given the need to bring sacred texts in line with universal reason. Apart from Kant, it is worth noting that even in our time scholars are anxious to weaken or allegorize passages that glorify violence, racism, or sexism. So Kant would agree with Maimonides that the gates of interpretation are always open. That is because Kant also accepts the idea of *a* truth (albeit a moral one) binding on all humanity. For Kant every attempt to find this truth articulated in the Bible is legitimate.

Even if we adopt Spinoza's methodology, we may question whether his understanding of "the plain sense" of the text would match that of the ancient Israelites. Consider Deuteronomy 6:5: "You shall love the Lord your God with all your heart, with all your might, and with all your soul." To the original audience, this probably would have meant that they must obey all the commandments, including the rituals, with complete devotion, and that if needs be, they should be prepared to give their life for God. By contrast Spinoza takes it to imply an intellectual love of God based on awareness of general ideas.[20] That is because Spinoza is convinced on independent grounds that the intellectual love of God is the highest good. Does he have a right to attribute this view to the text? Not if he sticks to his historical method; yes if he is willing to join Maimonides, who also interprets the passage in an intellectual fashion. But if he joins Maimonides, what becomes of the idea of interpreting the Bible solely on the basis of internal evidence?

The problem is that like many philosophers, Spinoza respects the Bible and thinks it reflects the word *of* God at the same time that he wants to advance a philosophic view *about* God. This would be fine if he did not also believe that revelation and philosophy are distinct. At present Biblical scholars and philosophers are housed in separate departments. But in Spinoza's case they coexisted in the same man. The question then is how far from Maimonides did Spinoza stray? The simple answer is not as far as he may have wished. But this should not prevent us from seeing that Spinoza did make an enormous difference.

[20] *TTP* p. 61.

Clearly he overstates his case by claiming that revelation and philosophy stand on "totally different footings." It would be better to say, as Spinoza does later (*TTP* p. 195), that they do not have to be accommodated to each other and that he was the primary person responsible for their disengagement. The fact that Biblical scholarship is now a historical subject with no direct ties to philosophy and no ties whatever to physics and astronomy shows that succeeding generations adopted his method even if he sometimes did not.

More important for our purposes, Spinoza rejects the idea that salvation can be defined as belief in a fixed set of propositions. Recall that Maimonides thought a person who believes the thirteen basic principles of Judaism has a share in the world to come no matter what other commandments he may have violated; conversely a person who obeys all the other commandments but denies one of the principles does not. For Spinoza the only knowledge a person must have is that which pertains to God's justice and charity.[21] With respect to more abstract matters, he argues that the Bible does not give a definition of God or an account of other attributes. Thus (*TTP* p. 180):

> We may draw the general conclusion that an intellectual knowledge of God, which takes cognizance of His nature insofar as it actually is, and which cannot by any manner of living be imitated by mankind or followed as an example, has no bearing whatever on true rules of conduct, on faith, or on revealed religion; consequently that men may be in complete error on the subject without incurring the charge of sinfulness.

Again the Bible was not intended for philosophers but for the untutored masses. In fact the idea of required beliefs is wrong from the start because in Spinoza's view opinions themselves are neither pious nor impious: they become so only to the extent that they lead to obedient or rebellious behavior.[22] The issue then is not what a person believes but how a person behaves. Provided a person behaves in an appropriate fashion and does not preach malice, he or she is free to understand religion in whatever way she pleases.

From a Jewish standpoint, the problem with Spinoza is and

[21] Ibid. p. 177. [22] Ibid. pp. 180–81.

will always be that he spoke as someone who was excluded from the community and who defended the superiority of Christ's teachings to those of Moses. But the idea of religious freedom could not be written off as the ravings of a heretic. It was only a matter of time before the Enlightenment produced a thinker who remained within the tradition but still defended freedom of conscience.

Mendelssohn's place in this discussion is justified not only because he is the founder of modern Jewish thought but because he admired Spinoza, in particular the idea that revelation is concerned with matters of behavior rather than metaphysical truths.[23] Like Spinoza, Mendelssohn looked back on centuries of religious intolerance and formed a powerful conviction about the freedom of the individual from coercion (*J* p. 70): "Neither church nor state has a right to subject men's principles and convictions to any coercion whatsoever." When it comes to matters of faith, the only right the state or the church have is the right to teach and the power to persuade.[24] In words that clearly echo Spinoza, he (*J* p. 61) assures us: "The right to our own convictions is inalienable."[25] As such, it cannot be given away in the decision to join the social contract or taken away by a center of authority. With respect to authority, he is equally explicit (*J* p. 85): it "can humble but not instruct; it can suppress reason but not put it in fetters."

The question Mendelssohn faces is whether such an enlightened view of freedom can be reconciled with the Judaism to

[23] For more on the connection between Mendelssohn and Spinoza, see Julius Guttmann, "Mendelssohn's *Jerusalem* and Spinoza's *Theologico-Political Treatise*, in *Studies in Jewish Thought*, ed. A. Jospe, pp. 361–86; Alexander Altmann, "Introduction," to Moses Mendelssohn, *Jerusalem* ed. Allan Arkush, pp. 22–25; Michael Morgan, *Dilemmas in Modern Jewish Thought*, pp. 14–26; Seymour Feldman, "Spinoza," *HJP* pp. 627–29. For an extended and very helpful discussion of Mendelssohn's relation to Spinoza, Locke, Leibniz, Reimarus, Lessing, Cranz, and other Enlightenment figures, see Allan Arkush, *Moses Mendelssohn and the Enlightenment.*

[24] Cf. Moses Mendelssohn's *Gesammelte Schriften*, vol. III, p. 194: "True, divine religion arrogates to itself no power over opinions and judgments . . . it knows only the power to win over by arguments, to persuade and create felicity by persuasion."

[25] Cf. Spinoza *TTP* p. 245: "Inward worship of God and piety in itself are within the sphere of everyone's private rights, and cannot be alienated." Keep in mind that Mendelssohn (*J* p. 38) believes that the state *should* be concerned with the eternal or spiritual welfare of its citizens. For Mendelssohn's confusing and possibly contradictory view of the tolerance of atheists, see Arkush, *Moses Mendelssohn*, pp. 116–18.

which he remained committed. It is one thing to say that an oppressed minority has the right to its own convictions when the issue is how it should be treated by civil and religious authorities from the outside, quite another to defend this right when the issue is how it should be treated by authorities from the inside. Does the Bible not prescribe harsh penalties for those who violate its commandments? How can this be reconciled with the view that the church has no authority to use coercion?

Spinoza defended freedom at the cost of rejecting the ceremonial law. The ceremonies, he tells us (*TTP* p. 70), "are of no aid to blessedness, but only have reference to the temporal prosperity of the kingdom; for the rewards promised for their observance are merely temporal advantages and delights, blessedness being reserved for the universal Divine law." It follows that when the ancient kingdom of Israel was abolished, temporal prosperity could no longer be assured and the ceremonial law ceased to matter. In this day and age, he continues, all that is needed for religion or blessedness are universal claims about simplicity and truth of character. Since these claims apply to all humanity, there is nothing in them that separates Israel from the other nations of the earth. Again from Spinoza (*TTP* p. 61): "The natural light of reason does not demand anything which it is itself unable to supply." Mendelssohn's challenge is to defend freedom at the same time that he remains a loyal follower of his religion.

To return to the issue of revelation, Mendelssohn argues that there is a basic difference between Judaism and Christianity. It is true that Judaism believes in a revelation that is miraculous and supernatural, but, contrary to what Maimonides taught, it contains (*J* p. 90) "no doctrinal opinions, no saving truths, no universal propositions of reason. These the Eternal reveals to us and to all other men, at all times, through *nature* and *thing*, but never through *word* and *script*." By "universal propositions of reason," Mendelssohn has in mind theoretical claims dealing with the existence, providence, and unity of God, practical claims dealing with virtue and human rights, and belief in eternal life. There is no question that he regards all of them as

true. His point is that it would make no sense for God to reveal these things by speaking to a particular people at a particular time. If for example there are truths necessary to make sense of the natural order or to live a healthy and productive life within it, why would God give them to one group rather than to humanity at large?

Mendelssohn therefore rejects the idea that there are eternal truths reason cannot discover on its own and can acquire only on the basis of a special communication from God. In his words (*J* p. 94): "I therefore do not believe that the powers of human reason are insufficient to persuade men of the eternal truths which are indispensable to human felicity, and that God had to reveal them in a supernatural manner." In fact Mendelssohn argues it is impossible to reveal eternal truths in a supernatural manner because no one could understand or accept such a revelation unless he were already convinced of the existence of a supreme being. A person could be stunned or overwhelmed, but according to Mendelssohn (*J* p. 98) "he could not have been made aware of what he had not known before."[26] Like Maimonides and the Rabbis, he assumes that basic truths about the existence of God and the general conduct of human life must have been known long before Sinai.

But Mendelssohn's Rabbinic heritage is only part of the picture for he is also a child of the Enlightenment. Like Kant, he believes that God has given each of us the wherewithal to think for ourselves. Felicity, he tells us (*J* p. 94), is the common destiny of all the inhabitants of the earth, and the means for attaining it are available to everyone "as widespread as mankind itself, as charitably dispensed as the means of warding off hunger." When it comes to the eternal truths on which felicity rests, reason is completely autonomous. Not only does it not need revelation, but even if a revelation were given, in Mendelssohn's opinion, it would not accomplish anything. Unlike Kant, he does not stop here for if all we need is reason,

[26] For the Leibnizian and Spinozistic background to Mendelssohn's view, see Alexander Altmann, *Von der mittelalterlichen zur modernen Aufklärung*, pp. 236–39.

there would be no point to Sinai and thus no point to Judaism. To succeed in his project, he has to find a respect in which supernatural revelation accomplishes something that reason alone cannot.

He begins by calling attention to the particular form of revelation that Jews adhere to. Rather than revealed religion or a system of eternal truths, the distinctive feature of Judaism is a system of revealed legislation, a body of commandments and ordinances whose purpose is to teach people how to live. In this respect, he is in agreement with Spinoza except that where Spinoza understood Mosaic revelation as exclusively political, Mendelssohn understands it as primarily religious.[27] In other words, Mendelssohn wants to show that there is a need for the ceremonial law even after the destruction of the Second Temple.

In regard to the practical nature of revelation, he points out (*J* p. 100) that there is no commandment in the Torah that says "You shall believe or not believe," only "You shall do or not do." Although some people take Mendelssohn to mean that Judaism has no doctrinal component at all, this is not his view for as he himself maintains (*J* p. 99), the Torah "also includes . . . an inexhaustible treasure of rational truths and religious doctrines." Rather his view (*J* p. 97) is that "Judaism boasts of no *exclusive* revelation of eternal truths that are indispensable to salvation." In addition to the eternal truths mentioned above, Judaism teaches that the world was created by a supreme being and that this being commands us to pursue righteousness for its own sake. Important as they are, these teachings are not the distinguishing feature of Judaism; they belong to *natural religion*, by which Mendelssohn means that they are the common heritage of every person. For that reason, they do not come to us by way of historical revelation but by way of what he terms "rational acknowledgement."

When it comes to the commandments and ordinances that comprise the distinctive feature of Mosaic revelation, Mendels-

[27] For more on this point, see Guttmann, "Mendelssohn's *Jerusalem*," p. 364.

sohn agrees with Maimonides that Judaism is a religion of reason.[28] In a letter to Elkan Herz, he writes:[29]

> We have no dogmas that go beyond or against reason, nor do we add anything but commandments, statutes, and straightforward rules to natural religion. Our religious principles and tenets are grounded in reason, and therefore not in conflict with it. Rather than contradict the findings of rational investigation, they are fully congruent with them.

In *Jerusalem* (p. 99), he insists that the commandments and ordinances are not arbitrary but serve a definite purpose: they either "refer to, or are based upon, eternal truths of reason, or remind us of them, and rouse us to ponder them." Maimonides defended the ceremonial law by saying truth alone is not enough to win people's hearts. As we saw, Abraham tried to propagate monotheism on the basis of rational arguments, but the Israelites forgot them during the Egyptian captivity and resorted to idol worship.[30] Seeing this, God gave Moses a body of rituals to help the people stay committed to the principles of the religion.

To a great extent Mendelssohn offers a similar view except that his position is based on a theory of the origin of language. Originally people used physical signs and representations like statues and hieroglyphic lettering to express themselves. Unfortunately these things encouraged people to think that the sign resembled the thing signified and therefore offered powerful inducements to idolatry. A modern alphabet overcomes this problem only by creating another. While there is no resemblance between the letters and what they signify, by displaying knowledge so openly and superficially, a modern alphabet spares people the task of examining the issues for themselves. Thus a person can read or talk about God in any number of

[28] For a discussion of the connection between Mendelssohn and Maimonides, see Arnold Eisen, "Divine Legislation as 'Ceremonial Script': Mendelssohn on the Commandments," *AJS Review* 15: 250–56. I take issue with Eisen's claim (253) that Maimonides did not share Mendelssohn's skepticism about language. See for example Maimonides' view of the limits of language at *GP* 1.57. Alternatively Mendelssohn could not have been completely skeptical about language or the truths of natural reason would be in jeopardy.

[29] Mendelssohn, *Moses Mendelssohn: Selections from His Writings*, p. 121.

[30] Maimonides, *MT* 1, Laws Concerning Idolatry, 1.2.

ways without ever coming to grips with the nature of divinity. In short, the alphabet inspires glibness. Like Maimonides, Mendelssohn argues that philosophers tried to overcome these difficulties but failed because (*J* p. 116) "their rational explanations had no influence on the religion of the people."

Clearly something other than a set of permanent signs is needed if abstract knowledge is to be more than just a possibility. Mendelssohn's claim is that God mandated a body of sacred rituals to correct the situation (*J* p. 119): "Each was closely related to the speculative knowledge of religion and the teachings of morality, and was an occasion for a man in search of truth to reflect on these sacred matters or to seek instruction from wise men." Unlike pictures and statues, rituals have no imagery and thus do not encourage one to confuse the sign with the thing signified. Unlike verbal formulas which a person can memorize and repeat, they encourage social intercourse and thus a living, oral instruction.

According to Arnold Eisen, there is a further advantage to rituals in that they are fluid and not fixed.[31] "Man's actions," as Mendelssohn (ibid.) points out, "are transitory" in a way that hieroglyphic script and written communication of any sort are not. For this reason Judaism contains an oral tradition whose purpose is to "explain, enlarge, limit, and define more precisely what . . . remained undetermined in the written law." When times and circumstances change, rituals can take on new meanings. This does not mean that Mendelssohn is committed to a strict one-to-one correspondence between a given ritual and a particular truth for this is exactly the sort of rigidity he sought to reject. Rather the meaning of a ritual, in Eisen's words, "lay in what those who practiced it grasped." In this way a certain amount of pluralism is not only possible but desirable. The only requirement is that the meaning people attach to the ritual fosters an environment in which they are motivated to reflect on the eternal truths and historical events that form the backbone of the religion. This is another way of saying that while the

[31] Eisen, "Divine Legislation," pp. 253–55.

rituals cannot be validated by reason, they presuppose it and reinforce it.

There are however two things the ceremonial law does not do. It does not add doctrinal content to what reason can establish on its own. Although Mosaic legislation asked the people to obey God, it did not provide any new knowledge *about* God. As we saw, Judaism boasts of no exclusive revelation of eternal truths.

Nor does the ceremonial law make contemplation of eternal truth mandatory. According to Mendelssohn (*J* p. 118): "The law, to be sure, did not impel them [ancient Israelites] to engage in reflection; it prescribed only actions, only doing and not doing." Rather than make belief in eternal truths mandatory, the law was intended to create an environment in which people would accept them of their own accord. Thus Mendelssohn parts company with Maimonides on the question of articles of faith, or as he calls them (*J* p. 101) "shackles of faith."

In defense of his anti-dogmatic position, Mendelssohn makes two points: (1) Maimonides' thirteen principles were not readily accepted and generated a great deal of controversy when they were proposed; and (2) No one was branded a heretic for proposing that their number be reduced. Both points are substantially correct. Still the problem of dogma is difficult because while Judaism has no *official* creed, it is not clear whether this is because it rejects the idea of required beliefs or because after the destruction of the Second Temple, no institution had the power to enforce them.

As for Mendelssohn himself, it is clear that the Maimonidean principles dealing with the existence, unity, incorporeality, and eternity of God belong to what he considers natural religion. So do the principles dealing with divine providence, reward and punishment, and eternal life. The principles dealing with the prophecy of Moses, the divine origin of the Torah, and the immutability of the Torah are more complicated because Mendelssohn's Christian critics could be expected to accept some version of them as well. The coming of the Messiah is a subject unto itself.[32] From Mendelssohn's perspective, the question is:

[32] On this issue, see Arkush, *Moses Mendelssohn*, pp. 263–64.

How can someone deny the principles dealing with the prophecy of Moses and the divine origin of the Torah and still maintain that the commandments are binding? The simple answer is that he cannot. I will have more to say on this issue below. For the present, the point is not whether Mendelssohn himself accepts Maimonides' principles because there is every reason to think he does. Mendelssohn would put truths that can be grasped by reason in a separate category from those dealing with Mosaic revelation, but that is another matter. However we classify these truths, he does accept them.

Mendelssohn's caveat would be that even though he accepts them, no one has a right to force them on someone else. On the other hand, since Mendelssohn believes that human felicity requires belief in God, divine providence, and the afterlife, in the last analysis, his position is much closer to Maimonides' than it appears. Judaism, as Alexander Altmann points out, has basic principles (*Grundsatze*); what it does not have in Mendelssohn's view are dogmas in the Christian sense, which is to say *revealed* dogmas.[33] So it possible to ascribe dogmas to Judaism as long as one holds that our knowledge of them comes by way of reason and therefore is available to everyone.

Still it remains true that the distinguishing feature of Judaism is divine legislation. To his credit Mendelssohn is honest enough to admit that there is a respect in which Judaism has failed, or more precisely, the people have failed to live by it. We saw that the purpose of the commandments is to promote reflection on the truths necessary for human well-being. In ancient Judaism there was no distinction between civil and religious authority so that every commandment served the needs of both. Accordingly (*J* p. 128):

> The ceremonial law was the bond which was to connect action with contemplation, life with theory. A person's relation to society and his relation to God coincided and could never come into conflict. God,

[33] Altmann, *Von der mittelalterlichen*, p. 221. Cf. Arkush, *J* p. 217: "Mendelssohn by no means denied the fact that both the 'old' and the latter-day Judaism subscribes to a set of definite beliefs. What he holds to be alien to Judaism is the liturgically expressed status which Christianity accords to the creeds."

the Creator and Preserver of the world, was at the same time the King and Regent of this nation.

In this context any crime against God was also a crime against the state and had to be punished. Since the law did not impel people to engage in reflection, these crimes did not concern heresy but rebellion against the social order.

Unfortunately the Mosaic constitution deteriorated, and like the episode with the Golden Calf, "human folly again interfered to change, through misunderstanding and misdirection, the good into evil and the useful into the hateful." First the people asked for a king, who supplanted God and pursued his own personal interests; then the people suffered the fate of being conquered by a foreign power. Once in exile, they could no longer assume that civil and religious authority were united; instead Israel had to submit to pagan authority in the form of Roman rule.

The question is: What happens when religious and civil authority are separate? Obviously Jews cannot obey those laws that pertain to the sacrificial cult because the Temple was destroyed. What do they do with the other laws? The simple answer is that the people still need to be reminded that God is not material, that providence is real, and that virtue is its own reward. The problem is that many commandments appear to have no relation to eternal truth in any of its guises. How does the commandment that prohibits one from eating pork refer to, remind us of, or rouse us to ponder any of these claims? Or the commandment that prohibits one from wearing wool and flax together, or the one that mandates ritual baths?

To these questions, Mendelssohn has essentially one answer: Jews are permitted to speculate about the reasons for the commandments but not at liberty to violate them. Since the law is founded on a supernatural revelation, it can be abrogated only by another supernatural revelation. It follows that (*J* p. 133) "as long as we can point to no such authentic exemption from the law, no sophistry of ours can free us from the strict obedience we owe to the law." If someone should ask why Jews owe strict obedience to the law, Mendelssohn falls back on the traditional answer: because of their birth. In a revealing

passage, he writes (*J* p. 134): "*He who is not born into the law need not bind himself to the law; but he who is born into the law must live according to the law, and die according to the Law.*"

The obvious conclusion is that despite beginning with a defense of autonomy, Mendelssohn ends up supporting a version of heteronomy – at least as far Jewish law is concerned. The reason Jews are obliged to obey the law is based on the facticity of their birth, and this reason is based on the facticity of Sinai. As we saw, Sinai is outside the bounds of what reason can establish; its authority derives from its place in the sacred history of the people and ultimately must be taken on faith. Michael Morgan is therefore right to say that for Mendelssohn, "reason takes us so far and then history takes over."[34] But history is something over which we have no control. No one asked to be born a Jew. Nor, as Mendelssohn describes it, is revelation based on the rational necessity of its consent. Recall that according to him, an eternal truth cannot be given in a historical manner. On the contrary, the law was given in a miraculous manner (*J* p. 127) and "imposed upon the nation and all their descendants as an unalterable duty and obligation."

Mendelssohn's advice to us his fellow Jews is simple (*J* p. 133): "Remain unflinchingly at the post which Providence has assigned to you." In his opinion the law is binding on a Jew even if she renounces the religion and converts to Christianity. He realizes that a person may attach a different meaning to ritual from that of her ancestors, and in that sense, there is a degree of autonomy. But in no case can a person decide that the ritual is no longer needed and abandon it. At this point one is inclined to ask what happened to freedom of conscience. Mendelssohn's answer is that while no human authority, religious or secular, has the right to force Jewish law on someone who does not want to observe it, it is still true that a person is obliged to observe it until such time that God releases her from her obligation to do so. In this sense her obligation is imposed from without and has nothing to do with the dictates of

[34] Michael Morgan, "Mendelssohn," *HJP* p. 677.

conscience. In Kantian terms it is heteronomous even if it asks people to pursue virtue for its own sake.

Having looked at Mendelssohn's answers to these questions, one is motivated to pose another: What happened to the idea that Judaism is a religion of reason? Since there is natural religion on one side, and historical or revealed religion on the other, does it not follow, as Fritz Bamberger suggested, that historical or revealed religion contains merely the nonrational elements?[35] In support of this suggestion, consider Mendelssohn's account of the records on which the sacred history of the religion is based (*J* p. 127):

> These historical records contained the foundation for the national cohesion; and as historical truths they can, according to their nature, not be accepted in any other manner than on *faith*. Authority alone gives them the required evidence; these records were also confirmed to the nation by miracles, and supported by an authority which was sufficient to place the *faith* beyond all doubt and hesitancy.

There is nothing self-contradictory in the idea that God revealed a body of law to Israel alone. In this sense the law is not *ir*rational. But if revelation is miraculous, there is certainly no way reason can confirm it, and in that sense Mendelssohn's account of revelation goes beyond reason. Not surprisingly, he concludes by saying that revelation has to be taken on faith.

This answer might be enough for a Christian because Christianity, as Mendelssohn never tires of pointing out, is founded on dogmas. To take an obvious example, Aquinas argues that while neither creation nor the doctrine of the trinity can be established by reason, both are logical possibilities, and therefore both must be taken on faith.[36] Although the miracle Mendelssohn is talking about is historical rather than metaphysical, belief in it is as important a dogma for him as creation and the trinity are for Aquinas. Without it, his account of Judaism would make no sense.

It could be argued that Mendelssohn anticipates this criticism by pointing out, in a manner reminiscent of Judah Halevi, that

[35] Bamberger, "Mendelssohn's Concept of Judaism," in *Studies in Jewish Thought*, ed. A. Jospe, p. 359.

[36] Aquinas, *Summa Theologica* 1.46.2.

Sinai was a public event witnessed by an entire nation.[37] But since the only evidence we have for this event is the text whose authority Mendelssohn is trying to establish, his argument begs the question. In fact it is not clear that Sinai should be considered a historical event at all because the issue is not whether the people witnessed lightning and thunder but whether they received a divine message binding them and their posterity to a body of law. Since no empirical evidence can corroborate such a claim, it would be more accurate to say that Mendelssohn is talking about *sacred* history rather than secular history. As Allan Arkush points out, he has no argument against skeptics who claim that there is no reason to suppose that the Bible is sacred.[38] The fact remains however that for Mendelssohn belief in Sinai is a dogma.

The standard objection to Mendelssohn's view of religion now looms large: Why were the laws revealed at Sinai given only to Israel? Let us grant that the purpose of the law is to promote the felicity of the Jewish people by connecting action with contemplation and life with theory.[39] Surely Jews are not the only people who need to be reminded of the eternal truths that present themselves to reason. Let us also grant that we are not always in a position to understand the specific nature of the connection between action and contemplation, how not eating pork contributes to human salvation. Still one is inclined to ask why God did not reveal the ceremonial law to other people as well.[40] Why single out Israel as the sole recipient of this wisdom and allow other people to eat anything they want? Why, in other words, is the giving of legislation exclusionary if it serves a necessary function? Alternatively, if Christians can achieve salvation without the ceremonial law, why should Jews continue to obey it? Recall Spinoza's point that the natural light of reason does not demand anything which it is itself unable to supply.

[37] Cf. Judah Halevi, *Kuzari*, vol. 1, pp. 86–7. For further discussion of the connection, see Allan Arkush, *Moses Mendelssohn*, pp. 170–77.

[38] Arkush, *Moses Mendelssohn*, pp. 177–80.

[39] *J* p. 128.

[40] For this criticism, see Guttmann, "Mendelssohn's *Jerusalem*," pp. 374–75 as well as Alexander Altmann, *Moses Mendelssohn*, p. 547.

To carry the standard objection a step further, why should Jews continue to obey the ceremonial law? Mendelssohn lived at the beginning of the Age of Emancipation. As Eisen observes, he was clearly in a position to see that the social context in which many Jews found themselves was about to change.[41] Where once obedience to religious law could be coerced by a community committed to traditional values, many Jews were about to enter a secular culture where religious observance is a matter of choice. No doubt Mendelssohn's view of the authority of the church (i.e. any church) reflects this shift: not only does it have no right to enforce its will on those who do not wish to obey, but in a modern state, it has no power to do so either: participation in spiritual matter is completely voluntary.

Mendelssohn could have attempted a rational defense of the commandments as Maimonides had done in the *Mishneh Torah*. But aside from the enormous scope of this undertaking, it would have created a special problem. Rational arguments are universal: a rational defense of a precept implies that every intelligent person ought to obey it. As is well known, Maimonides defended the prohibition against eating pork on hygienic grounds that have nothing to do with the circumstances of a person's birth. But if every intelligent person ought to obey the law, we must ask again why God did not make it more accessible. Aside from his general defense of religious ritual, Mendelssohn's way out of this problem is to repeat that the authority of Sinai must be taken on faith. The commandments are reasonable even if we are not entirely sure how.

Beyond the issue of faith, Mendelssohn claims (*J* p. 138) that "diversity is evidently the plan and purpose of Providence."[42] In other words, there is intrinsic value in keeping the Jewish people together and the only way to accomplish this is to have

[41] Eisen, "Divine Legislation," pp. 256–57.

[42] Kant (*RWL* p. 154) seems to have missed the point of Mendelssohn's argument as well as the part that claims Jews are obliged to obey the law until God releases them of their obligation. In other words, there is nothing in Mendelssohn's position to support the claim that Jews would be prepared to join Christians in a purely moral religion like the one Kant himself envisioned. For speculation on why Kant understood Mendelssohn so badly, see Arkush, *Moses Mendelssohn*, pp. 274–81. For the historical background to the problem, see Arnold Eisen, *Rethinking Modern Judaism*, ch. 1.

Jews remain committed to the ceremonial law even if many of them are not clear why. According to tradition, Israel is supposed to be a light to the other nations. If so, it is important to remind the people of their mission. In a letter to Herz Homberg, he writes that even if some of the rituals have lost their meaning, "they do not cease to be necessary as a bond of union."[43]

So far from an answer, this response is nothing but a restatement of the question: Why is diversity the plan and purpose of providence given that there is one set of eternal truths on which everyone's salvation depends? It is as if God, having given humanity the truths necessary to achieve felicity, becomes exclusionary when dealing with the tools needed to reflect on them. To put the question another way: Why is the continued existence of Israel necessary? Surely it cannot be to furnish truths that the other nations are capable of discovering on their own. On the other hand, if it is to furnish the tools necessary to access these truths, then the revelation at Sinai is indispensable, in which case it is hard to see what purpose diversity is intended to serve.

The source of these problems is Mendelssohn's attempt to make a sharp distinction between reason and revelation. For Maimonides, there is no real difference.[44] Although both are subject to the imperfections of the human intellect, his purpose in writing the *Guide* is to show that properly understood, they correct each other and reinforce each other. We should keep in mind however that Maimonides' conception of reason and revelation is hierarchical. In the Parable of the Palace, the only people who reach the inner court of the king are those who have achieved mastery of both. The issue of what separates Judaism from other religions is not his primary concern. There is an eternal truth to which reason and revelation both point. This truth can be gleaned from either source if we know how to read it properly. Although Judaism is the purest expression of this truth, with one notable exception, Maimonides is no more

[43] See *Moses Mendelssohn: Selections*, p. 147.

[44] It is well known that Leo Strauss takes exception to this claim. For my critique of Strauss's interpretation, see the Appendix to my *Searching for a Distant God*.

anxious to claim exclusivity than a physicist or a mathematician would be.[45]

Simply put, Maimonides' position is that the more people who accept monotheism the better. There is even evidence that he was willing to allow for the possibility of gentile prophets.[46] While this may strike some as surprising, we saw that Maimonides does much to play down the miraculous dimension of prophecy. Unlike Judah Halevi, he describes it in natural terms that have nothing to do with the nationality of the recipient.

With Mendelssohn it is otherwise. First, reason is not hierarchical in the sense intended by Maimonides. Though some people are more adept at grasping eternal truths than others, we saw that in Mendelssohn's view, the ability to grasp the minimal amount of truth necessary for salvation is widely distributed across the human race. Revelation, on the other hand, is highly specific: it is given to a particular nation and remains binding on them until God decides to undo it. Second, reason and revelation do not provide the same kind of truths. Though the revelation may buttress reason, its primary concern is practical: it neither adds to nor subtracts from what reason has validated on its own. Third, reason knows nothing of miracles, while revelation is just that. From Mendelssohn's standpoint, if revelation could be submerged into reason, there would be no justification for the particularity of the Jewish people.

It follows that if Spinoza separated reason and revelation in order to liberate each from the other, Mendelssohn tried to show that they can live together in peaceful coexistence. Since nothing in Judaism contradicts the principles of natural religion,

[45] The exception is *MT*, Laws of Kings, 8. 10–11, where Maimonides claims that gentiles must accept Mosaic authority. This passage has puzzled commentators for centuries. Although it is usually taken as evidence of exclusivity, it is possible that Maimonides was reaching out to Christians, who accept Mosaic authority anyway. Mendelssohn's response, which is now the traditional one, is to say that Maimonides was speaking for himself and not the religion as a whole. For further comment, see Altmann, *Von der mittelalterlichen*, p. 222.

[46] See Maimonides' "Epistle to the Jews of Yemen," in A. S. Halkin (ed.), *Crisis and Leadership: Epistles of Maimonides*, pp. 111 and 113. For further discussion of gentile prophecy as well as the place of gentiles in the messianic age, see Menachem Kellner, *Maimonides on Judaism and the Jewish People*, ch. 4–5.

there is no reason why Jews cannot take their place in secular society along with everyone else. Since there is no exclusive revelation of truth to Israel, there is no reason for gentiles to feel threatened by having them as neighbors. Just as Jesus advised people to give unto Caesar that which is Caesar's and unto God that which is God's, so Mendelssohn thinks no wiser advice can be given to Jews. It would be one thing if Jews wanted to force their law on other people, but that is hardly the case. Because it was given in a historical manner, Jewish law applies only to the immediate recipients and their descendants.

According to Mendelssohn the synagogue does not even have the authority to force obedience on its own members. To the question "Why remain a Jew?" his answer comes down to his acceptance of the miracle of Sinai. But this acceptance has a decidedly personal character: he can persuade his fellow Jews to follow suit, but in the liberal state that he defends, neither he nor anyone else can take away a person's right to do otherwise.

If the price Spinoza paid for separating reason and revelation is abandonment of the ceremonial law, the price Mendelssohn pays is particularization of the ceremonial law. In one sphere we have free and rational discussion that requires no special help from God, in the other a set of rituals imposed on Israel by a miraculous intervention that took place thousands of years ago.[47] In one sphere, doctrine; in the other, observance. If one draws its inspiration from the mind of God, the other derives its authority from the will of God. The starkness of the contrast raises the question of whether any religion, be it natural religion, liberal Christianity, or something else, can survive on doctrine alone and whether the distinctive feature of Judaism can be observance alone. Stripped to the barest essentials, each becomes oppressive in its own way: the former by demanding acceptance of doctrines that are presented in a historical vacuum, the latter by demanding obedience to rituals that have no obvious connection with any teaching or philosophy.

In view of the tensions and ambiguities that arise from Mendelssohn's view, few people accept it in the form in which it

[47] Michael Morgan makes roughly the same point in regard to Mendelssohn's two conceptions of the self in *Dilemmas*, pp. 32–36.

was presented. The best assessment of it is that offered by Guttmann: "*Jerusalem* has enduring significance as a first attempt to justify Judaism before the cultural consciousness of modernity."[48] Here for the first time we have a conception of reason that leaves no doubt about its autonomy. At its best, reason can identify all the truths needed to achieve salvation, and even when it is not at its best, it possesses an inalienable right to its own convictions. Once a controversial privilege extended only to a handful of people, the right to think for oneself now extends to all humanity. While God holds Israel responsible for the commandments revealed at Sinai, there is no reason to think that God is angry with people for expressing heterodox opinions and will take away any hope of salvation if they do. But if humans have to be tolerant, why not God too? Indeed, if diversity is the plan and purpose of providence, why not God most of all? Note, for example, that after criticizing Maimonides' dogmatism, Mendelssohn (*J* p. 101) quotes the Rabbinic saying according to which both the majority and the minority in a legal debate express the words of the living God.

Faced with this conception of reason, any religion has to ask itself whether it wants to be an island of particularity in a sea of universality or whether its purpose is to realize in fact the values that reason affirms in principle. As usual there are proof texts and spokespeople for both views, including Mendelssohn himself. While some passages emphasize the particular nature of God's revelation to Israel, others imply that the goal of Judaism is to reinforce the teachings of natural religion. Recognizing the two ways in which Judaism could respond to the challenges of the Enlightenment, Mendelssohn tried to preserve a measure of both. For those who like the idea that Judaism is an island, he was too optimistic about the powers of reason and should have gone back to the view that all knowledge of salvation proceeds from God. For those who favor universality, he compromised the power of reason by believing in supernatural revelation, an idea whose time had long since passed. Thus Cohen (*RR* p. 358) asks: "How could both of these ideas

[48] Guttmann, "Mendelssohn's *Jerusalem*," p. 383.

arise for Mendelssohn, side by side, and gain a firm hold, if one of them opened up, to the Jews and Judaism, culture and religion of reason, while the other bound them to the biblical-rabbinical yoke?'' From either perspective, Mendelssohn was a pivotal thinker who drew attention to the most important issue of the day: the problem of autonomy. We must now address that problem by returning to its founder.

CHAPTER 6

The height of modernity: Kant and Cohen

There is no need to restate Kant's view of autonomy because it has provided the focal point of this entire study. But in light of our consideration of Spinoza and Mendelssohn, it would be helpful to look at Kant's view of religion and revelation. The first thing to notice is that Kant too is a proponent of the practical turn. Although it is well known that he rejected the traditional arguments for God's existence, his criticism of them goes deeper than is usually thought. It is not just that they fail as arguments but that even if they succeeded, they would still not give us what we want from the idea of a perfect being. According to Kant (*CPR* A818/B846): "It was the moral ideas that gave rise to that concept of the divine Being which we now hold to be correct – and we so regard it not because speculative [theoretical] reason convinces us of its correctness, but because it completely harmonizes with the moral principles of reason." The crux of our idea of God is that of a moral agent who asks for justice and is willing to grant mercy. Anything less would furnish us with the idea of a powerful or intelligent being but not a divine one. In another context, Kant goes further, arguing that an idea of God derived from contemplation of nature is not only a fantasy image but "a superstitious object of ceremonial adoration and hypocritical high praise."[1] The question before us is what religion would look like if it abandoned all traces of superstition and hypocrisy and were completely rational in Kant's sense.

We should understand that by a rational religion, Kant

[1] Kant, *Lectures on Philosophical Theology*, trans. by Allen W. Wood, p. 161.

means a moral one, which is to say a religion based on reason's attempt to realize an end. In the *Critique of Pure Reason*, he showed that theoretical reason is limited and cannot demonstrate any of the central claims of metaphysics: that the will is free, that the soul is immortal, and that God exists. Just because these claims cannot be demonstrated, it does not follow that we can forget about them. In fact Kant insists that from a practical perspective, we cannot help but assume they are true. Unless the will is free, the question "What should I do?" makes no sense. Unless the soul is immortal, we would not have sufficient opportunity to realize the highest good. Unless God exists, we would have no reason to think that the highest good can be realized at all. In simple terms, Kant did not seek to destroy metaphysics but to transform it from a theoretical discipline to a practical one. Thus all questions relating to freedom, immortality, and the existence of God must have a bearing on behavior.

Along these lines Steven Schwarzschild once remarked that from a Kantian standpoint, reason begins with the awareness that the world is lousy and ought to be made better.[2] We can understand this by recognizing that reason presents us with a task: not only to know the world but to perfect it. The job of perfecting the world would be incoherent unless we could conceive of circumstances better than the ones we observe. Practical reason then is based on two conditions: (1) awareness of the moral ideal; and (2) recognition that existing behavior falls short of it. Without the former we would be forced to accept the world as it is, with all the compromises and injustices it contains; without the latter we would be satisfied with our past efforts and lulled into complacency. In this scheme God represents the highest moral standard possible: a being who wills the moral law for its own sake all the time.

Once we admit that our idea of God is a moral one, several

[2] Steven S. Schwarzschild, "An Agenda for Jewish Philosophy in the 1980s," in Norbert Samuelson (ed.), *Studies in Jewish Philosophy*, p. 108. Cf. Christine Korsgaard, *Sources of Normativity*, p. 1: "And it is puzzling too that these ideas of a world different from our own call out to us, telling us that things should be like them rather than the way they are, and that we should make them so."

consequences follow. First, there is no sensory experience that can acquaint us with God or inform us of what God wants. "If God actually spoke to a human being," Kant (*CF* p. 63) insists, "the latter could never *know* that it was God who spoke to him. It is absolutely impossible for a human being to grasp the infinite through the senses, so as to distinguish him from sensible beings and be *acquainted* with him." Strictly speaking Kant is not denying that supernatural revelation has occurred because to do so would overstep the bounds of reason.[3] The issue is not whether there has been a supernatural revelation but, even if there has, what moral lesson we can derive from it. Since the moral law has no sensory content and is known by reason a priori, to ask about moral lessons is to shift the focus of the discussion from external to internal revelation. Once this shift is made, all references to voices, visions, or signs are irrelevant.

Second, while reason can acquaint us with the lesson God is trying to impart, Kant thinks it cannot acquaint us with irrefutable evidence that there is a God. As we saw, he denies that assertorial knowledge of God's existence is required for religion.[4] At a minimum level, all that is required is what he calls "an *assertorial* faith, practical and therefore free." This means that all a person has to do to accept Kant's rational religion is admit the legitimacy of the *idea* of God, which means that he must agree that it is *possible* there is a God. Anything more transgresses the bounds of reason and thus cannot be required. Not surprisingly, Kant is opposed to articles of faith or anything else that tries to compel belief in a supernatural being. In the words of Allen Wood: "I can be a religious person in Kant's sense even if I am an agnostic, so long as my awareness of moral duty is enlivened with the thought that if there is a God, the fulfillment of my duties is commanded by him."[5] That is why religion is not a form of knowledge but the moral disposition to see all duties as divine commands.[6]

[3] *RWL* p. 143. [4] Ibid. p. 142.
[5] Wood, "Kant's Deism," in P. Rossi and M. Wren (eds.), *Kant's Philosophy of Religion Reconsidered*, p. 8.
[6] *RWL* pp. 96, 142.

To understand Kant's position, we must recognize that he does not believe something many Christians regard as fundamental: he does not view faith as a divine gift that enables one to assent to propositions for which there is no evidence. We saw that for Aquinas there is no proof that can be given that the world was created or that God is triune.[7] Both have to be accepted on the basis of an inner light that illuminates "things that appear not."[8] But Aquinas does not treat faith as a second-class form of apprehension. On the contrary, faith perfects natural reason as grace perfects nature.[9] To the believer, the creation of the world in time and the existence of a triune God are accepted with a conviction no appeal to evidence can shake.

While Kant also speaks of faith, what he has in mind is not a metaphysical dogma but a hope or expectation that we can realize the highest good. Even his famous claim to have limited knowledge in order to make room for faith (*CPR* Bxxx) should be read in this light. As long as religion remains within the limits of reason, there is no room for the acceptance of dogma on the basis of an inner light. Like many thinkers of his time, Kant saw the willingness to accept dogma as a form of credulity that opened the floodgates to hypocrisy and fanaticism. Concerning dogma as divine revelation, he asks (*RWL* p. 177):

> Do you really trust yourself to assert the truth of these dogmas in the sight of Him who knows the heart and at the risk of losing all that is valuable and holy to you? I must needs have a very disparaging conception of human nature . . . not to anticipate that even the boldest teacher of faith would have to tremble at such a question.

That is why Kant cannot tell someone who rejects the proofs for the existence of God to take them on faith. While there are moral arguments that can be offered for God's existence, Kant admits that it is possible for a person to fulfill all her duties

[7] See Aquinas, *Summa Theologica* 1.46.2: "That the world did not always exist we hold by faith alone: it cannot be proved demonstratively; which is what was said above of the mystery of the Trinity." For more on the comparison between Aquinas and Kant, see Denis Savage, "Kant's Rejection of Divine Revelation and His Theory of Radical Evil," in Rossi and Wren (eds.), *Kant's Philosophy of Religion Reconsidered*, pp. 62–3.

[8] Aquinas, *Summa Theologica* 1. 46. 2. This passage is a paraphrase of Hebrews 11:1.

[9] Aquinas, *Summa Theologica* 1.1.8.

without accepting any religious claim.[10] Though it may not be likely, it is possible. In this way, belief in God is purely voluntary.

Without external revelation or a freely given gift that enables us to see into spiritual matters, where does our idea of God come from? According to Kant, there is only one answer: through reason operating in its practical capacity. It is only by consulting our sense of duty that we can determine what a morally perfect being is and what it demands of us. In this respect, the educated are no closer to God than the simple. The crux of Kant's position is that the idea of God as moral legislator can be understood by everyone.[11] Just as Maimonides argued that any interpretation that imputes a false doctrine to the Torah must be rejected, so Kant argues that anything that contradicts what morality requires of us cannot be from God.[12] As we saw, he is even willing to embrace interpretations of the Bible that seem forced as long as they preserve the moral purity of the text.

In principle religion has no need of heavenly voices, statutes, clergy, articles of faith, or anything other than a disposition to do our duty. Though it may seem that he is clinging to an overly restrictive understanding of reason, Kant has a ready answer to his critics. By doing away with anything that is historically situated, religion becomes a way of bringing people together rather than pulling them apart. A religion founded on historical revelation (*RWL* p. 94) "can extend its influence no further than tidings of it can reach, subject to circumstances of time and place and dependent upon the capacity [of people] to judge the credibility of such tidings." But a rational religion can extend its influence to all humanity. The question is: How can we expect all of humanity to listen to what such a religion has to say?

At this point Kant takes what could best be described as a Maimonidean turn. As rational as a morally pure religion might be, owing to what Kant calls "a peculiar weakness in

[10] *RWL* p. 3: "Hence for its own sake morality does not need religion at all (whether objectively, as regards willing, or subjectively, as regards ability [to act]); by virtue of pure practical reason it is self-sufficient."

[11] *RWL* pp. 169–70.

[12] *CF* 46–48, pp. 80–84.

human nature," and identifies as a "desire of all men for something *sensibly tenable*," it does not provide a sufficient basis for establishing a religion.[13] Just as Maimonides argued that people would abandon a religion – in fact *did* abandon one – that contained nothing but abstract arguments on behalf of monotheism, so Kant argues that the same fate would befall a religion that contained nothing but arguments for doing our duty. Since people are accustomed to honoring and glorifying worldly leaders, in Kant's opinion they are inclined to think they ought to honor and glorify God in a similar way. For Maimonides, God made concessions to human nature by adding hymns, benedictions, special clothes, and a sacrificial cult to the pure monotheism of Abraham. For Kant, we have no choice but to add statutory content and appeal to historical revelation to supplement what reason can establish on its own. The difference is that Maimonides saw the statutes as kernels of wisdom commanded by God and regarded them as valid for all time. Even animal sacrifice, the paradigm case of a divine concession, will be reinstated when the Messiah comes and the Temple in Jerusalem is rebuilt.[14] By contrast, Kant regards statutes as morally indifferent and looks forward to the day when mankind will get along without them.[15]

Just as there was no reason to restate Kant's view of autonomy, there is no reason to go over the stock objections to his idea of a rational religion: that he does not believe in God, that he regards Judaism as a statutory religion, and that history shows us there are people who do not have the moral law written on their hearts. The real question posed by Kant is what Judaism would look like if it saw itself as a rational religion in his sense. If Kant could look past the sectarian disputes, forced conversions, and statutory excesses of Christianity to find the core of a religion devoted to the highest moral principles, what would happen if someone took a similar approach to Judaism? Mendelssohn tried, but once he got beyond natural religion to the distinctive features of Judaism, he defended an exclusive revelation and the heteronomy of divine commandments.

[13] *RWL* pp. 94–100. [14] *MT* 14, Laws of Kings, 11.1. [15] *RWL* p. 112.

From Kant's perspective heteronomy is a denial of human dignity and has no place in a moral religion. Though it may seem that we are honoring God by compromising our freedom and agreeing to obey the voice of external revelation, in fact the opposite is true. According to proponents of heteronomy, God created humans, endowed them with reason, and then issued commandments with no regard for rationality. We saw that the Bible says no such thing and that the right to think for oneself has always been a crucial part of Jewish tradition. To compromise one's freedom is to compromise that part of us that is able to rise above desire and inclination and seek God, the part that can distinguish right from wrong and commit itself to working for the former. Again Kant's point is that we should not form our idea of God by observing kings and queens. As a morally perfect being, God does not want heteronomous behavior as a form of tribute but rational behavior based on our awareness of the moral law.

There is no point in trying to argue that the historical experience of Judaism, Christianity, or any other religion lives up to this idea. At best a historical religion is related to it as a working legislature is related to the idea of a perfect democracy. The real issue is what a historical religion would look like if we tried to reconstruct it along Kantian lines. Here we should note that purely external revelation has always been problematic. The Bible is committed to it *if* we agree to interpret it literally, but there are centuries of commentary urging us to avoid literal interpretation. The Rabbis solved the problem by saying that while revelation at Sinai was external, since the destruction of the Second Temple, external revelation is no longer authoritative. From that point, all we have are arguments and procedures. Maimonides agreed that the infinite cannot be grasped by the senses and that revelation was given through reason. Mendelssohn tried to preserve a role for external revelation but created any number of problems by doing so. So a reconstruction of Judaism along Kantian lines might not be as revolutionary as one might think – or so it seemed to the next thinker we are going to consider: Hermann Cohen.

Cohen is important not only because he represents the next

step in the tradition I am examining but because he saw his thought as the logical extension of Maimonides and Kant. For Cohen, Kant's attempt to transform religion from a theoretical to a practical subject is nothing but a rediscovery of Maimonides' attempt to do the same thing. In connection with Exodus 33, where Moses asks to see the glory of God but is told he can only see God's goodness or "backside," Maimonides (*GP* 1. 54) argued that we can never know the essence or true reality of God and must settle for the consequences or effects that flow from God, God's "attributes of actions" or, more simply, the "ways and works" of God.[16] He then identifies the attributes of action with the qualities enumerated at Exodus 34:6–7: mercy, graciousness, forgiveness, faithfulness, etc. But for these qualities, Maimonides maintains, God would be a total mystery.

Cohen took this to mean that long before Kant, Maimonides took the practical turn by abandoning the question of what God is and replacing it with what God does. According to Cohen (*RR* p. 95) the attributes of action "are not so much characteristics of God, but conceptually determined models for the action of man." If God is merciful, gracious, and forgiving, we are to devote our lives to the same things. Rather than a substance, God should be understood as an archetype. In Cohen's eyes (*RR* p. 96), the logical outcome of this transition is that holiness becomes morality: to know God is to undertake the task of purifying one's behavior. To know God, in other words, is to accept the duty of fulfilling the moral law.

The upshot is that there is no such thing as a religion that asserts its independence from morality, at least not if the religion deserves to be called rational. "The religion of reason," Cohen (*RR* p. 32) asserts, "cannot recognize a distinction in content between religion and morals." And (*RR* p. 33): "Religion itself is moral teaching or it is not religion." And even more fully (*RR* pp. 32–33):

> In the same way, the concept of the unique God belongs to Jewish moral teaching. Jewish sources make it unmistakably clear that it was in teaching about man, not only about man as an individual but also

[16] For further discussion of this point, see Seeskin, *Searching for a Distant God*, ch. 2 and 5.

about nations and mankind, that the idea of the unique God came to be discovered. All the particulars in the wide variety of "statutes and ordinances," every moral regulation, every moral precept, every moral institution, all are rooted in the "Hear, O Israel." *There is no distinction in the Jewish consciousness between religion and morals.* [Cohen's emphasis]

The independence of religion and morality would imply that there are two kinds of reason that study the human behavior, a consequence that Cohen totally rejects.[17]

With respect to the statutory part of the law, Cohen (*RR* p. 345) offers a variation on Maimonides' secondary intention theory by arguing that the part of religion that is not the moral law "is at least thought of and expressly characterized as a means to the promotion of, and education in, the moral law." So while the moral law may be the supreme guide for human conduct, Cohen maintains it is not always the most immediate one. To his credit, he admits that the relation of means to the ultimate end may be disputable in some cases owing to disagreements in judgments or interpretations. But, he insists, there is no disputing the overall connection and therefore there can be nothing in the religion of reason whose sole purpose is to insure obedience.

Contrary to what Cohen's critics allege, it does not follow that religion and ethics are identical. Cohen conceives of ethics as the science of morality (*Wissenschaft der Sittlichkeit*), in other words, as a discipline that investigates the principles that underlie behavior.[18] Ethics treats people as bearers of the concept of humanity. From an ethical standpoint, the individual does not exist as such. All that exists are the duties the individual is called on to perform. Religion, as Cohen says several times, is not ethics and treats the individual *in* her individuality.[19] To understand what he is getting at, we need only recall that the validity of the moral law has nothing to do with our attempts to realize it. Even if everyone should fail, it would be the same stern, unindulgent principle that Kant described in the *Critique of Practical Reason*.

Most important for our purposes, the moral law does not

[17] *RR* p. 13. [18] *JS* vol. III, p. 36. [19] Ibid.

address the question of how to deal with the guilt that arises when we come to grips with our own disobedience. All it can do is restate the original obligation. "If the moral law were the only court before which man in his autonomy had to answer for himself," Cohen (*RR* p. 187) writes, "then the abstraction of this tribunal would have no competence and no means to liberate man from his sin." Without liberation from sin, we would be thrown into despair. Why strive for something you can never reach? The consequence of despair is that our prospects of fulfilling the moral law would approach zero.

It is here that the need for religion arises and with it the idea of a loving God who forgives sin and gives us the opportunity to start over. This, as Cohen likes to say, is the share that religion has in reason for clearly we must consider not only what the ideal demands of us but whether the ideal has life and actuality.[20] The goal of religion is not to undermine ethics or to provide an alternative path to human perfection. On this point, Cohen is quite clear (*RR* p. 168):

> We repeat: if we claim that religion is concerned with man's guilt, and if we impart to religion the origin of the I as individual, we do not dissolve its connection with ethics, but, on the contrary, make the connection effective, so that ethics itself must demand the transition to religion, just as it will also have to demand that transition for the concept of God.

The passage from ethics to religion, as Andrea Poma remarks, is not so much a transition as an enlargement.[21] Cohen himself goes so far as to say that religion "verifies" ethics insofar as it assists in its realization.[22] To the degree that religion did establish its independence from ethics, it would cease to be rational and amount to superstition.

For Cohen, the goal of religion is to sanctify ourselves, by which he means to get ourselves to the point where we will choose the moral law for its own sake.[23] In the *Critique of Practical Reason* (122, p. 126), Kant called holiness or self-sanctification "the supreme condition of the highest good." Cohen agrees

[20] *RR* pp. 20–21. For discussion of this point, see Andrea Poma, *The Critical Philosophy of Hermann Cohen*, pp. 161–64, 199–202.
[21] Ibid., p. 213. [22] *RR* p. 32. [23] Cf. *RWL* pp. 60–61.

and describes self-sanctification as the infinite goal to which all human action points.[24] This means that every prayer, commandment, and ritual must be explained in accordance with it. With respect to this goal, ethics and religion are not just compatible but united. Cohen can therefore say with complete confidence that (*RR* p. 161) "the love of man for God is the love of the moral ideal." Unlike Mendelssohn, he does not have one realm for natural religion and a separate one for revealed religion. There is only one law and one goal; what differences there are between ethics and religion have to do with the method we use to articulate them.

Another way to see Cohen's point is to recognize that because ethics exists at the level of theory, it deals with relations of entailment and presupposition. If ethics looks at God as the one who guarantees that the moral law *can* be realized, religion looks at God as the one who actually helps us to realize it. If ethics sees duties as objective commands grounded in practical reason, religion sees them as commandments that express the will of God. Because it deals with individuals, religion is not scientific in Cohen's sense. But Cohen's project is similar to Maimonides' in that he has a method of getting from one to the other: to show how ethics has borrowed from religion in formulating its conception of God and the human subject and how religion settles questions that ethics raises but cannot answer.

On the use of Biblical sources, Cohen adopts a Kantian methodology based on the autonomy of moral reason (*RR* p. 4):

> Even if I am referred to the literary sources of the prophets for the concept of religion, those sources remain mute and blind if I do not approach them with a concept, which I myself lay out as a foundation in order to be instructed by them and not simply guided by their authority.

Needless to say, the religion he constructs out of these sources is an idealization. From passages that describe God as a being

[24] On this point, see *RR* p. 204: "Like ethics, religion too must always be concerned only with tasks which, as such, are infinite and therefore require infinite solutions." Also see *RR* p. 305: "Self-purification remains an infinite task for the individual; it cannot have its termination in death."

who resides in heaven and rules the world like a king, Cohen derives a message about divine authority; from the life of a charismatic leader who leads the people to Sinai, Cohen derives a message about humanity. As he puts it (*RR* p. 79): "Man, not the people, and not Moses: man, as rational being, is the correlate to the God of revelation." The question is what man as rational being must do to become fully rational. Though Cohen's answer is complicated, we will see that it never involves submission to an external will.

It should be understood that Cohen's religion of reason makes no claim of exclusivity. His argument is not that Judaism is *the* religion of reason or that, following Mendelssohn, Jews are the beneficiaries of a separate revelation above and beyond what was given to everyone else.[25] Rather it is that the religion of reason is a construction, which is to say an ideal to which Judaism, Christianity, Islam, and other faiths aspire but inevitably fall short. His project is to show that such a religion can be put together from the historical sources of Judaism just as Kant had shown that it can be put together from the Gospels. Cohen admits that as the first monotheistic religion, Judaism is in a unique position.[26] But in his eyes, this sense of uniqueness was never intended to be exclusive. Suffice it to say that Cohen was just as convinced as Kant that in religious matters, universality is a mark of truth.

Cohen's view of autonomy parallels his view of the relation between ethics and religion. That autonomy is the basic principle on which all ethical thinking rests he has no doubt.[27] "God's law," he tells us (*RR* p. 339), "does not contradict the autonomy of the moral will. There is a difference only in the method of formulating the concept, which is the difference between ethics and religion."[28] As the above quotation makes clear, this is true for the laws or ordinances as well as the

[25] *RR* p. 34: "I do not assert that Judaism alone is the religion of reason."

[26] Ibid.

[27] *JS* vol. III, p. 36. Also see *RR* p. 32: "Therefore, in this book we have already anticipated our method, according to which the religion of reason attains and preserves its own peculiar task, insofar as it acknowledges and verifies for its own method the autonomy of ethics."

[28] *RR* p. 339.

statutes. While there is no religion without ethics, it is still true that religion is not a science. For religion the moral law is not something for which we take responsibility but an expression of the will of God. God, in other words, is the one who discloses the law and commands us to fulfill it.

The question of autonomy takes us back to the question of authorship. The solution is to see that insofar as God is the ground or source of reason, reason's ability to legislate for itself "in no way implies, let alone impels, an abdication of this sovereign."[29] As Cohen puts it:[30]

> Judaism simply denies any possible conflict between the concepts of God and of moral reason. Moral law must and can be both: the law of God and the law of reason.

To the familiar objection that God may operate according to a morality that we do not understand, Cohen (*RR* p. 109) replies: "There is no other morality but that of man," by which he means that there is no other morality but that imposed by reason. In his own way, Cohen follows the Rabbis by holding God to a rational and publicly accessible standard.

With this point in mind, Cohen argues that the Jewish understanding of autonomy is summed up in a famous remark by Rabbi Akiva: "Blessed are you, O Israel, who purifies you, and before whom do you purify yourselves? It is your Father in Heaven."[31] Cohen takes this to mean that God's will is manifest to the degree that we undertake the task of purifying ourselves, or as he puts it, the task of sanctifying ourselves. Though this process takes place *before* God, it is something that we must do for ourselves. Like sin or responsibility, moral purity is not transferable. When we say that God bestows holiness, what we mean is that God commands us to *pursue* holiness.[32] Like Kant, Cohen believes that we must make ourselves into what we are

[29] Cohen, "Affinities between the Philosophy of Kant and Judaism," in *Reason and Hope*, ed. E. Jospe, p. 81.

[30] Ibid.

[31] *JS* vol III, p. 22. For Akiva's remark, see *Yoma* 85b. It is by no means clear that Cohen's reading of the passage is correct. It could and often is taken to mean that God purifies the people (passive) rather than the people purify themselves (reflexive).

[32] *RR* p. 103.

going to be.[33] Unless this were true, we could not be held responsible for what, in a moral sense, we become.

It follows that to command holiness is to ask humans to appropriate the law of holiness and pattern their lives after it. As we saw, Cohen believes the law comes from God; the duty, from man. God cannot impose a duty singlehandedly. Nor can we, insofar as we accept that duty, be passive participants in the process of purification. Kant sometimes expresses this point by saying that while God is the legislator of the law, we are still the author.[34] For Cohen too once we grant that God created us as rational creatures, anything that implies that we are in a passive position with respect to God is objectionable.[35] Even nearness to God is understood by Cohen reflexively as a process of "self-nearing."[36]

Also like Kant, he is convinced that rationality is not ready-made but has to be constituted by the self.[37] Not only must we obey the law, but, more importantly, we must identify ourselves with the law and affirm it as our own. This means that we must command ourselves not in spite of our being commanded by God but because of it.[38] The strength of Cohen's analysis is that ultimately the question of who is responsible for the law is beside the point: God is responsible insofar as God is the ground or source of morality, we are responsible insofar as we appropriate it and identify ourselves with it.

In regard to revelation, Cohen tries mightily to divest Sinai of its miraculous quality, which is to say that he is part of the tradition that takes external revelation as a myth whose purpose is to express the idea of internal revelation. Miracles are anomalies, cases where reason is stymied. By contrast revelation is not a case where reason is stymied but the precondition for our having reason in the first place. We saw

[33] *RWL* p. 40. [34] *MM* 227, pp. 52–53.
[35] See note 42 below. [36] *RR* p. 164.
[37] I will have more to say about Cohen's understanding of the self in the next section. For an excellent scholarly treatment of this issue, see Steven S. Schwarzschild, "The Tenability of H. Cohen's Construction of the Self," *Journal of the History of Philosophy* 13 (1975), 361–84.
[38] See *RR* p. 343: "The power of sanctification is not in the commandments themselves; instead God is asked to further our sanctification and let it be achieved through the commandments."

that Cohen does not view revelation as an event that took place in the desert thousands of years ago but as an archetype of God's relation to humanity. The question then is not a causal one, *how* did God communicate to Moses, but a moral one, *what* is the significance of the communication?[39] Cohen's answer is that revelation is not the handing down of a body of positive law as much as the creation of reason in the most general sense.[40] In creation, humans come to be; in revelation they come to be rational. Along these lines, he refers to the Rabbinic tradition that maintains that the whole content of the Torah, including everything a master would ever teach a student, was given to Moses at Sinai.

The obvious objection is that he has gone too far. Like Maimonides he has found a philosophic message in a text that to some is innocent of philosophy. To this objection Cohen replies that the process of idealization is not an innovation but a necessary process that began as early as the book of Deuteronomy, where the law of Sinai is repeated and the process of self-conscious reflection already under way. Here the people are "reminded" that they saw no form at Sinai (Deuteronomy 4:11).[41] Where once Moses was a herald, in the book of Deuteronomy (5:28) he becomes a teacher.

More important, the making of a covenant with God is described in such a way that its significance extends far beyond the events in the desert. On this point, Cohen (*RR* p. 76) calls attention to Deuteronomy 5:3, where Moses says: "It is not with our fathers that the Lord made this covenant but with us, all of us who are alive today." Since the audience addressed in Deuteronomy consists largely of the descendants of the people who stood at Sinai, the passage appears to be stating an obvious falsehood. The traditional explanation is that "not with our fathers" means "not with our fathers *alone*."[42] In other words, the message of Deuteronomy 5:3 is addressed not just to the

[39] *RR* p. 78: "The tendency of revelation is to detach its meaning from the *fact* on Sinai and base it rather on the *content*."

[40] *RR* p. 72.

[41] This passage is almost certainly a corrective on Exodus 24:10.

[42] See Rashi's commentary on Deuteronomy 5:3.

people in the desert but to their descendants, indeed, to every Jew who will ever live. Cohen concludes that even the traditional interpretation is idealized to the extent that it holds that revelation involves more than the actual participants in the story and extends indefinitely into the future.

The tendency to idealize Sinai is also apparent in the many passages where God says that revelation takes place *this day*.[43] Why does the text imply that one day is special when, as the name (*deuteros-nomos*) implies, the act of revelation is repeated for a new generation? Again the traditional explanation is that "this day" really means "any day." Like creation, revelation is not a one-time event. Citing Deuteronomy 5:3, Cohen (*RR* p. 76) concludes:

> In this sentence the whole historical thread is rejected with the strongest emphasis, and, yet, much less still is abolished; rather, it is immediately attached to the men of the present. Thereby the spirituality of revelation is detached from the single event in primeval times, and in all clearness established in the living renewal of the national continuity.

In effect what Cohen does with revelation is what philosophers like Kant, Rawls, and Cohen himself tried to do with the social contract: take a historical narrative and transform it into a moral argument. As we saw, Deuteronomy 4:6–8 is a direct appeal to the rationality of the commandments, a fact that Cohen (*RR* p. 79) claims proves beyond a doubt that the tendency to idealize revelation is already present in the Torah.

For Cohen, the zenith of idealization occurs in the "Torah is not in heaven" speech of Deuteronomy 30. The Torah is not *in* heaven nor, in Cohen's view, is it *from* heaven; rather its origin is in the hearts and mouths, which is to say, the rational speech of the people. This does not mean that Cohen denies that God is the ground and source of moral truth. In saying that the Torah is not from heaven, he means that it was not transmitted from heaven by causal means, that it was not handed down from God to Moses in the way that a court hands down a verdict. Again the purpose of the passage is not to contest revelation but to

[43] See for example Deuteronomy 4:8, 5:3, 11:26, 27:9, 29:13.

idealize it by moving from an external to an internal dimension. Rather than taking us away from God, Cohen thinks he is bringing us closer to an idea of divinity that preserves its moral purity. As he rightly notes, *revelation* is not the normal term Jews use to describe this relationship but rather *matan torah*, the giving of the Torah. There is then nothing that suggests a mystery or unveiling. "God," Cohen concludes, "gives the Torah as he gives everything, life and bread, and also death."[44]

In Cohen's view he is part of a tradition that began in Deuteronomy, continued with the prophets, reached an even greater degree of self-consciousness in the Rabbis, achieved philosophic sophistication in Maimonides, and now finds its natural expression in him. At bottom revelation follows a certain logic. God created a rational being. If anything is going to be revealed to this being, it must be through reason. Thus revelation is the creation of reason. From a philosophic perspective, the giving of Torah does not leave the recipients in a state of passivity. It is not that God gives the law and insists on obedience above all else. Rather it is that God has awakened in humans the ability to think, to take responsibility, and to make moral discriminations for themselves. As Maimonides wrote, the highest human perfection is to have an intellect in actu. Now that the highest form that such an intellect can take is interpreted as the development of practical reason, Cohen is convinced he is right in step with his predecessors.

In looking back over Cohen's predecessors, it is clear that the doctrine of autonomy creates a problem that Cohen tries to address: the connection between rationality and self-sufficiency. We saw that Maimonides compares his limited form of autonomy to leaving the ignorant masses behind and entering the court of a king. The person qualified to enter the court has freed himself from sensory influences and trained his mind not to accept anything on traditional authority. While such a person will need the help of teachers and spiritual leaders to get there, once he arrives, Maimonides thinks he will spend much of his time in silent reflection. Accordingly (*GP* 3.51, p. 621): "Every

[44] *RR* p. 84.

excellent man stays frequently in solitude and does not meet anyone unless it is necessary." We saw that such people will begrudge the time in which they are turned away from God, and when they have to deal with other people will do so with their limbs only.

We also saw that Maimonides' model of perfection is the forty days and nights when Moses was alone on the mountain. This model in turn is patterned on the idea of a God who stands apart from the created order and, in Maimonides' opinion, bears no relation to it in any respect.[45] For Maimonides, as for many of the scholastics, God is the archetype of rationality and self-sufficiency, which means that in the last analysis, the two are identical. To repeat: God knows all things by virtue of knowing the divine essence. The goal of human life is to emulate God as much as our natures allow. That is why the ideal state is one in which a person reflects on God in silence. Obviously there are times when silent reflection is not possible. Sometimes the body must be attended to, and sometimes a leader must cater to the needs of the community. While there are virtues that attach to each, Maimonides often writes as if they are secondary to the primary virtue, which is contemplation.[46] In the next life, when material distractions are no longer present, we will contemplate God forever.

Kant does not think of human perfection as contemplative and does not suggest that members of the kingdom of ends will have to go into seclusion. Even in *Foundations of the Metaphysics of Morals* (30, p. 49), where his subject is the presuppositions of morality rather than a full treatment of the duties that comprise it, he still claims that the ends of any person who is an end in himself must also be my end. This means that each of us must choose our ends in such a way that they recognize others and can be shared by others. So there is no possibility of an inner court. Still some have argued that when you recognize the full extent of Kant's internalism, his disagreement with Maimonides is not as great as it looks. Recall that to think for oneself is to find the touchstone of truth within oneself. Though Kant

[45] *GP* 1.52, p. 118.
[46] See for example *GP* 3. 27, p. 511.

argues that the highest good cannot be achieved by a single individual and requires the existence of a community (*RWL* p. 89), he is talking about a community of like-minded people who have dedicated themselves to the same goal: realization of the moral law.

Robert Paul Wolff maintains that while communication may occur in a perfect community like that afforded by the kingdom of ends, if it does, it will be accidental to the achievement of unanimity because on moral issues, unanimity will be a priori.[47] Since each person need only look within her own heart to see what morality requires, the opinions of others and the commands of God will be irrelevant. To be sure, everyone will respect everyone else's humanity. But one can respect another person's humanity without becoming her friend or turning to her for help. In fact one can respect someone's humanity and despise her as an individual. To a communitarian, respect for other people's humanity may be a necessary condition for an ideal society, but it is hardly sufficient. Beyond a guarantee that everyone's rights will be respected, there is the need for sympathy, friendship, and joy in other people's happiness – all things that cannot be decided a priori.

The answer is that not only did Kant not ignore sympathy, friendship, or joy in other people's happiness, he argued that they are duties we must fulfill.[48] We have a duty to promote the happiness of others and to help those in need of assistance. But we should be clear what this means: they are not duties if we conceive of them as emotional responses over which we have no control. The person who sees a beggar on the street and is overcome with guilt has not yet performed a morally significant act. Rather they are duties if they involve the will, if, for example, we do not just have but make a conscious effort to cultivate feelings of compassion. This is another way of saying that sympathy, friendship, and joy are virtues only if they involve the assertion of maxims. If I am sensitive to the suffering of others, it must be because it is right to relieve that suffering.

[47] Robert Paul Wolff, *The Autonomy of Reason*, p. 183. Against Wolf, see Wood, *Kant's Ethical Thought*, pp. 153–55.

[48] *MM* 448–57, pp. 243–51.

Contrary to the way his critics portray him, Kant did not think that feelings are bad in themselves. They are bad only if they get in the way of rational self-control and prevent us from subjecting our behavior to critical scrutiny. Rather than obstacles to self-control, we can also think of them as inducements. In this connection Kant argues that we have a duty not to avoid places where the poor congregate, hospitals, and debtors' prisons.[49] His justification is that sympathy for others can do what the representation of duty alone cannot: it can spur us toward action.

Discussion of these issues leads to the distinction between perfect and imperfect obligations. To keep a promise is a perfect obligation because it is owed to a particular person and requires a specific response. On the other hand, beneficence towards others is an imperfect or wide obligation because it does not specify when, to whom, or in what way it should be discharged – all that is open to individual discretion. Even in the kingdom of ends, there is no reason to think people will have infallible knowledge of how these and similar obligations ought to be fulfilled. On the contrary, there is every reason to think we will have to rely on the advice of others and involve ourselves in the plight of others. I will have more to say about imperfect obligations in the remaining chapters. For the present, it is sufficient to note that Kant did not think all moral issues could be settled a priori by the application of a single rule or that our feelings toward others play no part in moral life.

Be that as it may, Kant's emphasis on self-legislation often creates the impression that autonomy is the opposite of community so that the autonomous person must be a walking monad.[50] The challenge is to show that rationality does not imply complete self-reliance. Consider the Biblical model: after creating the world, God enters into a series of covenants with its

[49] What makes this passage difficult is Kant's reference to the stoic at *MM* 457, p. 250. For recent attempts to resolve the problems posed by this passage, see Henry Allison, *Kant's Theory of Freedom*, pp. 166–68 and Marcia Baron, *Kantian Ethics Almost Without Apology*, pp. 194–226.

[50] In addition to Wolf, *The Autonomy of Reason*, see George Schrader, "Autonomy, Heteronomy, and Moral Imperatives," *The Journal of Philosophy* 60 (1963), 65–77 as well as David Novak, *Jewish Social Ethics*, pp. 46–48.

inhabitants. Although we can think of God's perfection as self-contained, the Bible appears to say that this is not the only way it manifests itself. We can also think of divine perfection along the lines of giving or sharing. The latter is important because if it is our nature to be rational beings, it is also our nature to be dependent beings, to recognize that not every external influence poses a threat to our autonomy and that some actually help us to attain it.

Needless to say, Cohen is very much a part of the internalist tradition. In connection with prayer, he writes (*RR* p. 272):

> For all spiritual, for all moral action, the mind needs to withdraw into itself; it needs the concentration of all its inner forces and prospects. As the solitude of the soul becomes a necessity in opposition to the whirl of sense impressions, so the soul psychologically is in need of withdrawal into itself, into its most inner depth, if it is to rise to the dialogue with the godhead.

True as these words are, they cannot be Cohen's final view of the matter as the reference to dialogue makes clear.

To understand the final view, we must see that Cohen takes strong exception to the claim that rationality implies isolation. If God is an archetype of morality, then morality requires that God and humans be bound together in a reciprocal relation called *correlation* (*RR* p. 98):

> And what is the essence of morality? It consists of the correlation of God and man. Correlation is therefore based on holiness and therefore is entirely different from separation. Morality branches off into the reciprocal relations of men and therefore also into the correlation with God. Holiness develops into an embodiment of all these branchings out of the correlation.

Thus God, the holy one, *is* for the sake of the holiness of man. In interpreting this passage we should keep in mind that Cohen is not Plotinus. In saying that holiness is different from separation, he is not proposing mystical union with God, an idea that he abhorred.[51] Correlation is a relation in which both God and man retain their status as individuals; as the term implies, they are correlated not fused.

[51] *RR* p. 164, cf p. 212.

God, as Cohen (*RR* p. 105) insists, has to remain God, and man, man. Both are moral agents who have entered into relation with one another and are understood in terms of each other. That is why after making this point, Cohen goes on to say that each of the terms of the relation are dependent on each other. As God is our creator, in Cohen's opinion, we, as it were, are God's discoverer.[52] This does not mean that God is contingent but that given Cohen's idealism, the only way we can understand God is as a being in relation. By the same token, if it is not good for man to be alone, Cohen comes close to saying that it is not good for God to be alone either.

In Cohen's eyes all this follows from the decision to treat God as a moral agent rather than a substance thinking itself. As a moral agent, God cannot remain static. On the contrary, God must recognize the dignity of other agents and help them in their own quest for perfection. Citing Isaiah 5:16 ("God the Holy One is sanctified through righteousness"), Cohen (*RR* p. 110) parts company with much of the ancient and medieval tradition by saying:

> God is not determined as holy through the secrets of his essence. And, generally speaking, not through knowledge does he become the holy God, but only through the act of sanctification; his holiness is effected through action, which man has to accomplish.

In other words, God's holiness is not self-contained; it reaches its fulfillment in the holiness of man and therefore requires that God reach out to man.[53] Hence the words of the Midrash cited earlier: "If you sanctify yourselves, I shall account it to you as if you had sanctified Me."[54]

As we saw, humans are not passive in their relationship with God – either in theory or in the pages of the Bible. Correlation is a dynamic relation in which each side reaches out to and takes responsibility for the other. God calls for the sanctification of man; by sanctifying himself, man sanctifies God as well. It should be understood that in this context, sanctification is not the same as simple obedience. It is not just that we have a law to obey but that we affirm the validity of the law and devote

[52] Ibid. p. 88. [53] Ibid. p. 103. [54] Sifra to Leviticus 19:1.

ourselves to fulfilling it. In short, the command to sanctify ourselves is God's way of asking for a partner. According to Cohen, it is only when we accept that partnership that God can really be God.

The significance of Cohen's understanding of God is that he resists the temptation to succumb to nostalgia. Rather than reject the God of the philosophers for the proverbial God of Abraham, Isaac, and Jacob, Cohen accepts the former without hesitation. More important for our purposes, the God of the philosophers not only is compatible with but requires a modern view of mental activity according to which reason is both critical and reflexive. Like God's creation of the world, sanctification is twofold: it involves both a decision to act and the intention to repeat the decision. For Cohen, as for Kant, self-sanctification is an infinite task that must be renewed day by day. It is this sense of renewal that constitutes the holy spirit in man and puts man in correlation with God. Accordingly (*RR* p. 104): "The holy spirit in man must therefore be active in the same way in the continuous new creation as the holy spirit in God, which is also dependent on the correlation."

To the charge that autonomy requires isolation, the proper response is to say that it is not Cohen but his opponents who treat God as a monad. As soon as God commands in a way that belittles the importance of human acceptance, the reciprocity on which correlation is based would be lost. Recall that for Cohen revelation is not a miracle but the creation of reason in us. If this is so, passive acceptance of revelation is a contradiction in terms.[55] If human acceptance were not a critical factor in revelation, if the law were imposed from above without taking into consideration the autonomy of the recipients, God would not be dealing with humanity as a partner but as a dictator whose will must be followed without exception. It is this conception, not Cohen's, that erects a barrier between

[55] *RR* p. 88: "Already the creation as the creation of reason does not leave man in passivity, for this would be in contradiction to the concept of correlation. And revelation even more so cannot make man passive. For this would contradict the concept not only of correlation but even more so of reason, which revelation has to reveal." For further comment, see Poma, *The Critical Philosophy*, pp. 185–86.

heaven and earth and destroys the idea of a moral community. From a philosophic perspective, the problem with heteronomy is not only that it demeans us, but that by demeaning us, it demeans the God who created us and reached out to us.

Having argued for a relational concept of God, Cohen now does the same for humanity. He begins by pointing out that the man who correlates with God is not simply an exemplar of humanity – what Cohen calls *the next man* (*Nebenmensch*) – but man in the sense of fellowman (*Mitmensch*).[56] While it is true that correlation connects the individual to God, it is not the individual as such but the individual insofar as he has made an effort to sanctify himself. Like autonomy, correlation is not ours for the asking; it is something we have to strive for. That is why Cohen insists that man *as rational being* is the correlate of the God of revelation. To understand how this works, we must see that, as Cohen puts it, the concept of fellowman conceals a correlation of its own: that between one human being and another. It is here that we enter the realm of I and Thou.

Recall that God's perfection is not self-contained. If God must reach out to us, then, Cohen argues, we must reach out to others if we are to have any hope of imitating God. Reaching out is explained as the process by which we view the other person not only as a man but as a fellow, not just an exemplar of humanity but a person with whom our own fate is bound up. For Cohen, this occurs at the point where we are moved by the other person's suffering and feel pity (*Mitleid)*: "There arises the question of whether it is not precisely through the observation of the other man's suffering that the other *is changed from the He to the Thou*."[57]

It is worth noting that in the philosophic tradition, pity is often viewed as a suspect or unwanted emotion. In classical tragedy the hero suffers on stage, and the audience suffers vicariously by watching him. But according to Aristotle, the reason we go to the theater is not to enhance our feelings of pity but to purge them. Seneca claimed that pity is akin to wretchedness because the person who feels it regards himself as

[56] *RR* p. 114. [57] Ibid. 17.

superior.[58] If I help someone, Seneca argues, it should be with a clear and unruffled mind, not with tears or passion. A similar view can be found in the *Guide of the Perplexed* and Spinoza's *Ethics*.[59] At one point even Kant (*MM* 457, p. 250), who considers it a duty to sympathize with the fate of others, regards pity as benevolence toward someone who is unworthy of us and concludes that it has no place in human relations.

According to Cohen, the Hebrew prophets were obsessed with the suffering of innocent people, and, like Abraham, felt justified in calling God to account for it.[60] It is true that there is no necessary connection between suffering and desert; but this is a generalization that does nothing to quiet the prophet's concern. Nor is the prophet quieted by tears and turmoil that do not translate into action. Although the details of man's relation to God may be mysterious, Cohen insists, his relation to his fellowmen is not. Thus speculation about the afterlife must be put aside when confronting the poverty of my neighbor. Against the philosophic tradition, Cohen claims I should not have an unruffled mind and should feel anguish. All this is in keeping with his conviction that it is not death but poverty that typifies human suffering. If death is personal, poverty is not. That is why the prophet's concern for the fate of the widow, the orphan, and the underprivileged expresses itself in a desire to reform society, which brings the problem of human suffering to a head.

With anguish for the poor the prophet moves beyond the abstract equality of all people under the moral law to concern for the particular people standing before him. Instead of the "humanitarian abstraction" of the Stoic, we get a natural

[58] Seneca, *Moral Essays*, vol. 1, pp. 441–43. For discussion of the relation between Seneca and Kant, see Baron, *Kantian Ethics*, pp. 223–24.

[59] *GP* 1.54, p. 126; Spinoza, *Ethics*, Part 4, prop. 50. Note Maimonides' argument. God does not experience passion. Therefore "all passions are evil." Therefore if we show mercy, it should not be because we feel compassionate but because the situation demands it. None of this contradicts Maimonides' insistence on helping the poor. According to *MT* 7, Gifts to the Poor, 10:1: "We are obliged to be more scrupulous in fulfilling the commandment of charity (*tzedakah*) than any other positive commandment."

[60] See, for example, Genesis 18:23; Jeremiah 12:1–2; Habakkuk 1:2–3, 1:13, Psalms 44:24–27.

feeling that calls us to action. The prophets, as Cohen points out, are not theoretical moralists; their goal is not to achieve a detached form of self-control but to correct the injustice around them. In a revealing passage (*RR* p. 136), he writes:[61]

> Thus the poor man typifies man in general. Thus the next man becomes fellowman. For if I had no heart in my body, my education alone would have brought me to the insight that the great majority of men cannot be isolated from me, and that I myself am nothing if I do not make myself a part of them. In these unavoidable connections between myself and the majority, a relationship arises that means more than merely coordination or even subordination, but which produces a community. And this community produces the fellowman.

In this way, pity is not just *a* feeling but the quintessential feeling, the feeling that acquaints me with my fellowman and is the origin of our sense of togetherness.

Like Kant, Cohen does not think feelings are bad in themselves. In some cases, they do more than represent the truth to us; they encourage us to work for a different truth. The difference between them is that Cohen would say Kant went too far in rejecting pity.[62] Of course it is objectionable if it is nothing *but* an emotion. But that is no reason to deny that pity can and often does move us to help those in need. Nor is there any reason to think that pity is directed to someone unworthy of our attention. By contrast, Cohen refers to pity as the messenger (*Bote*) or motor of the will.[63] In the face of suffering, the prophet cannot wait one more day to put things right. Not only do we have a duty not to avoid hospitals and prisons, from a religious perspective we have a duty to be moved by the suffering of those who inhabit them and treat them as our fellows. Along these lines, Cohen calls attention to Deuteronomy 16:14 ("You shall rejoice in the festival, you, your sons and daughters, your

[61] In connection with the issues raised in note 45 above, note how Cohen is still talking about the essence of humanity even when he moves from the abstraction to the historical reality. Again from Poma, *The Critical Philosophy*, p. 205: "Correlation is not therefore reduced to the experience of suffering, but rather supplies an answer to it, raising it from the level of experience to that of reality."

[62] Cf. Baron, *Kantian Ethics*, p. 226: "In his zeal to distance himself from romanticism, he [Kant] aligns himself with the Stoics more than he should and more than his theory would seem to mandate."

[63] *RR* pp. 141–42.

male and female servants . . . the strangers, orphans, and widows in your midst").[64] In addition to compassion for the poor, we are supposed to take joy in the presence of the poor at our table, to see the poor as our companions.

In Cohen's eyes it is not the person who conceives of humanity in the abstract but the person who experiences fellowship with the poor who stands in correlation with God. Without the experience of fellowship, I am less than a full person, less than the sanctified self I aspire to be. To the degree that I am less than a full person, I am not yet a full partner with God and cannot experience the intimacy that correlation involves. It follows that to achieve correlation, I must first know myself *as* a self, and to do that, I must first know my fellowman as a self.

To have pity for someone is to recognize that despite the lowly nature of his condition, he is made in the image of God and still loved by God. In the Bible the usual representative of poverty is the stranger (*ger*) or non-Israelite, who is called upon to do menial tasks and often associated with widows and orphans. According to Deuteronomy 10:18–19, God executes justice for the widow and the orphan and loves the stranger. Therefore Israel is asked to love the stranger because it was a stranger in Egypt and knows what it is like to live in poverty. From our love for the poor, we are made to reflect on God's love for the poor. Citing Isaiah 58:7 ("When you see the naked, cover him, and that you do not hide yourself from your own flesh"), Cohen argues that even on the highest holy day, we must see the poor as our own flesh.[65]

This does not mean that we imagine ourselves in the face of the poor and think: "There, but for the grace of God, go I." For Cohen, this response is essentially passive and destroys the nature of the experience, which is to see the person in front of me not as everyman but as fellowman, as a person unto himself, as a Thou.[66] Without feeling God's love for the poor, we cannot know God and once again cannot be partners with God in correlation.

[64] Ibid. p. 457. [65] Ibid. p. 147. [66] Ibid. pp. 11–12.

Although some people talk as if autonomy requires one to eschew pity and decide all issues on the basis of principles removed from the reality of starving people, Cohen's position is that the two are not only compatible but in many ways identical. To have compassion for my fellowman, I must put aside any prejudices I have and focus on the indignity of his position. In graphic terms, I must look him in the eye even if doing so is unpleasant. If my response is to be significant, it must go from a feeling to the affirmation of a principle and the acceptance of responsibility: someone's dignity has been violated and I must do my part to help him get it back.

To love one's fellowman and undertake action on his behalf is to be drawn to the archetype of all action, which is God. To love God is to strive for the nearness of God, which for religion is to purify oneself in accordance with the commands of God. "This love," Cohen (*RR* p. 161) tells us, "comes into force as the quest for the fulfillment of the idea, as enthusiasm for the idea, as love for the idea, which is the original force of all moral efficacy." It should be understood that by loving God we are not abandoning our fellowman. Unlike Maimonides, Cohen does not say that prophets begrudge the time they spend with other people. The crux of his position is that the ideas of God and fellowman are linked. By seeking God, the guardian of the poor, we find our fellowman; by seeking our fellowman, the person who *is* poor, we put ourselves on a pathway that leads to God.[67]

The final step in the process is to see that just as the person alongside us must be transformed from the next man to fellowman, a similar transformation must take place in ourselves. We must view ourselves not only as an exemplar of humanity but as a living person. As we saw, complete correlation between God and man cannot be explained within the confines of ethics but requires religion. For Cohen the transition from ethics to religion arises at the point where we confront our own guilt and inflict penance on ourselves. The emergence of the self, as Robert Gibbs points out, is therefore a two-step process: first I must suffer with my fellowman and then I must

[67] Ibid. p. 137.

suffer for my own sin.[68] The lesson of religion is that the agony and distress the sinner feels are not for naught. The sinner can be liberated from his self-imposed penance if he recognizes that sin is not inevitable and that he has it in his power to embark on a new course of action. Hence Ezekiel's injunction to cast away our sins and adopt a new heart and a new spirit.

It is with the taking of responsibility and the decision to embark on a new course of action that the sinner ceases to be an abstraction and becomes an I. Behind Cohen's view is an insight we have encountered several times: sin is irreducibly personal. In the last analysis, it is I who have sinned and I who must make a new life for myself. "In the recognition of his own sin," he continues (*RR* p. 194), "man becomes an individual. Through the power to create for himself a new heart and a new spirit, however, he becomes the I."[69] As an I, the sinner becomes the creator of his own destiny rather than a being subject to the will of fate. For the first time, he he is autonomous.[70] Again from Cohen: "He is an autonomous spiritual unity, because he is a moral one." In moral terms, the capacity to turn away from sin is the capacity to appropriate the law. In keeping with the idea of self-legislation, Cohen takes this as the origin of the individual's sense of sovereignty.

I follow Poma in rejecting the once popular suggestion that by moving from the abstract individual to the living person, Cohen abandoned transcendental philosophy and adopted a form of existentialism.[71] That he moved beyond the boundaries

[68] Robert Gibbs, *Correlations in Rosenzweig and Levinas*, p. 187. Cf. Lawrence Kaplan, "Hermann Cohen's Theory of Sacrifice," in Helmut Holzhey (ed.), *"Religion der Vernunft aus den Quellen des Judentums" Tradition und Ursprungsdenken in Hermann Cohens Spätwerk*, p. 96: "But the first step on this road to return, in this process of self-transformation . . . is his [the sinner's] execution of punishment on himself. For it is only this confession which prevents repentance from becoming a mere moral abstraction."

[69] Cf. Joseph B. Soloveitchik, *Halakhic Man*, p. 113: "Man, through repentance, creates himself, his own I."

[70] Though Cohen admits that we are enmeshed in social forces, he denies that their influence over us is absolute. See *RR* p. 194.

[71] Poma, *The Critical Philosophy*, p. 202. Also see Julius Guttmann, *The Philosophy of Judaism*, pp. 415–16; Reiner Munk, "Who is the Other? Alterity in Cohen's 'Religion der Vurnunft,'" in Holzhey (ed.), "*Religion der Vernunft aus den Quellen des Judentums*," pp. 277–79. For the opposite view, see Rosenzweig's introduction to *JS*; Nathan Rotenstreich, *Jewish Philosophy in Modern Times*, ch. 4. On this point, we should recall

of Kantian ethical theory is clear. Still it is not the empirical reality of experience that matters for Cohen – its givenness or being there – but the moral response it calls forth, the way the experience of my fellowman makes me examine my behavior and try to sanctify it. As we saw, religion is not a renunciation of ethics but an enlargement. When I encounter my neighbor as fellowman, I am not abandoning the moral law but, as Cohen says, attempting to give it life and actuality.

Cohen's point is that we cannot get by on the moral law alone. To understand the task that morality presents, we have to look at the historical reality of suffering and guilt. He is not saying that when we look at them, we will realize that the moral law is too general to account for the richness of human experience. For that claim we must wait for Buber and Rosenzweig. Another way to see this point is to recognize that it is not the validity of the moral law that Cohen questions but the fact that its validity does not address the issue of its realization. It is the latter that comes to the fore when I observe the suffering of my fellowman. Far from challenging my commitment to the moral law, the suffering of those around me provides the occasion to renew it. So while fellowman is more than an exemplar of humanity, like God and the self it is still an idea constructed out of philosophic and literary sources. Rather than something I encounter, it is something I understand. To be sure, it is a practical rather than a theoretical idea, but an idea nonetheless.

By the same token, we must be careful not to take Cohen's claim that the individual is sovereign as a return to isolation. He is not recommending that the individual retreat into herself. On the contrary, correlation demands that the individual think of herself as a being in relation to her fellowman and to God. Cohen's point is that both of these relations presuppose the freedom of the individual to examine her behavior and undergo a change of heart; in a word, to repent. God is the one who assures that repentance is possible and that forgiveness for past sins will be granted. Forgiveness then is the most important

Cohen's words (*RR* p. 79): "Man, not the people, and not Moses: man, as rational being, is the correlate to the God of revelation."

content of the correlation between God and man. At one point (*RR* p. 209) Cohen goes so far as to say that "the entire monotheistic worship is based on forgiveness of sin."

One way to understand Cohen is to see that rather than autonomy, it is sin and guilt that isolate the individual. In the abstract, sin is partiality: the attempt to stand away from the moral order and grant special privileges to oneself. From a religious perspective, it is breaking the covenant. Whatever way we look at it, sin leads to guilt, and guilt to penance. By its very nature, penance involves separation. It is after all *my* sin. If forgiveness were not given, I could not reenter the moral order. In this way, the movement of Cohen's thought is from God to the idea of fellowman, from the idea of fellowman to the idea of the self, from the idea of the self back to God.

Cohen's achievement rests on his ability to discuss the problem of autonomy in a way that rejects the idea that God and man are locked in a test of wills where one party's gain is the other's loss. Rather than a way of establishing independence from God, human autonomy implies that we seek God as the one who releases us from our self-imposed penance. Rather than an arbitrary set of rules, divine autonomy manifests itself in the desire for humans to sanctify themselves and become like God. Autonomy then is the spiritual glue that binds man and God together. Its ultimate expression is the love that God and man have for each other. In his most explicit treatment of the subject, Cohen writes (*RR* p. 164):

> Love is considered as the impulse to action because it makes man himself the original source of action. If love arouses action, then no extraneous and foreign object is its motive force. The love for morality is the love for God. This thesis means for religion what the following thesis means for ethics: action does not result from an extraneous and foreign motive, nor from an extraneous command. It is the result of the will, to which autonomy belongs. Love has to exclude every extraneous and foreign motivation. This foreign is the distinct, from which nearness liberates; not, to be sure, nearness in itself, but the drawing near, and indeed the self-nearing. This is the love to which the philosophy of monotheism has raised the notion of the near God and the nearness of God. At this culminating point it is possible to recognize the deepest cause and the indubitable consequence of the

harmony between the philosophic rationalism of the Jewish Middle Ages and the Bible.

Whether we look at the matter from the standpoint of autonomy or from the standpoint of the love of God, Cohen thinks we arrive at the same conclusion: Judaism requires an abiding commitment to the life of reason. As Kant argued in "What is Enlightenment?" autonomy is nothing but rationality by another name. But for rationality, man and God would be complete strangers.

Correlation had a profound impact on Cohen's immediate successors, chiefly Rosenzweig, Buber, and Levinas. All three took up the idea that man and God are relational beings rather than substances in the traditional sense. The difference is that Cohen's successors rejected the idea of rationality that formed the basis of his system. Like Kant, Cohen thought reason is naturally disposed to seek the ideal. That is why the religion of reason concerns itself with archetypes: man, fellowman, and God. While individual men may exercise their freedom by rejecting God, Cohen argued that ideal man could not. While the proverbial God of Abraham, Isaac, and Jacob asks for obedience before understanding, Cohen argued that such a request is incompatible with the idea of divinity. To the objection that love of God is not the same as love of the moral ideal, Cohen (*RR* p. 161) replied by turning the tables on his opponents: "Only the ideal can I love, and I can grasp the ideal in no other way than by loving it. The ideal is the archetype of morality. I should not have any other model but the archetype."

His successors saw things differently. For them correlation is not genuine unless the individual breaks out of the realm of ideas and confronts God or another person as a true "other," which is to say a person rather than a construction.[72] To take an example, Rosenzweig objected that if God's forgiveness is to count for anything, it must be an act undertaken by a real person rather than our conception of the act. So too if I take pity on someone less fortunate. Though Cohen's successors are

[72] This criticism derives from Hegel. See the *Phenomenology of Spirit*, p. 386: "When I really act, I am conscious of an 'other,' of a reality which is already in existence, and of a reality I wish to produce."

usually classed as existentialists, their objection was part of a growing dissatisfaction with idealism that affected people on both sides of the English Channel. Just as Russell and Moore tried to break through the realm of ideas by looking for objects with which the mind is directly acquainted, Cohen's successors looked for a reality the mind must face or accept prior to its ability to formulate a maxim. By its very nature, the realm of ideas is abstract and impersonal, far removed from the immediacy of a true I–Thou encounter. Following Hegel, Rosenzweig protested: "The moral law is necessarily purely formal and therefore not only ambiguous, but open to an unlimited number of interpretations." Not surprisingly, Rosenzweig called his theology a form of radical empiricism.[73]

If it is true that the realm of ideas is always abstract and impersonal, to the degree that the rational self tries to impose the moral law on all facets of behavior, ignoring personal differences and the ambiguities that affect every human encounter, then, the criticism goes, it becomes a tyrant as objectionable as the most heteronomous conception of God. As the popularity of transcendental idealism waned, and the idea of a single morality written on the heart lost hold, so too did the idea that autonomy involves the appropriation of a timeless truth. In many ways the emphasis moved from the suffix of the word *autonomy* to the prefix. The autonomous person became the one who devised his own law or, better yet, the one who abandoned the idea of law and responded to the specifics of the situation. The story of this change is the subject of the next chapter.

[73] Franz Rosenzweig, *The Star of Redemption*, p. 214; cf. Hegel, *Phenomenology*, p. 260.

CHAPTER 7

Modernity under fire: Buber and Levinas

The transition from transcendental idealism to existentialism can be viewed as a disagreement about the nature of God, the self, and one's fellowman. Cohen argued that these things must be understood in relation to each other. Buber agrees but does not think we should treat them as ideas. Recall that Cohen said we must consider not only what the moral law demands of us but whether it has life and actuality. Buber takes this to mean that we must direct our attention to how one concrete individual deals with another in real life. The result is that instead of correlation we get dialogue, and instead of rational construction, immediate encounter. According to Buber (*EG* pp. 14–15):

> The more abstract the concept, the more does it need to be balanced by the evidence of living experience, with which it is intimately bound up rather than linked in an intellectual system. The further a concept seems from anthropomorphism, the more it must be organically completed by an expression of that immediacy and, as it were, bodily nearness which overwhelm man in his encounters with the divine . . . Anthropomorphism always reflects our need to preserve the concrete quality evidenced in the encounter; yet even this need is not its true root: it is in the encounter itself that we are confronted with something compellingly anthropomorphic, something demanding reciprocity, a primary Thou. This is true of those moments of our daily life in which we become aware of the reality that is absolutely independent of us.

It is from the encounter of an I with its Thou that Buber will try to make sense of covenant, revelation, and obligation.

There is no need to go into detail about the I–Thou relationship because it has been discussed many times. It is not a case where two thinking substances reflect on each other but one

where a living person becomes what he is through his involvement with another person. "Man," as Buber tell us (*IT* p. 80), "becomes an I through a Thou."[1] Or more fully (*IT* p. 84): "Between you and it there is a reciprocity of giving: you say Thou to it and give yourself to it; it says Thou to you and gives itself to you." Not only is there openness and spontaneity but mutual dependence. It is important to recognize that the I that participates in an I–Thou relation is not the same as the I that participates in an I–It relation.[2] Buber makes this point by saying that the reality of the I and the Thou is not in the things themselves but in the space between them, the space in which they respond to each other and take responsibility for each other. Accordingly (*IT* p. 54): "There is no I as such but only the I of the basic word I–Thou," and again (*IT* p. 89): "Spirit is not in the I but between I and Thou."[3]

It follows that the I that comes to be in the I–Thou relation emerges from the fact that it says Thou to another and enters into relation with another.[4] By the same token, the other becomes a Thou only when someone else *says* Thou to her. Though Buber was influenced by mysticism, we should keep in mind that the Thou is not a world-soul or all encompassing One into which the I eventually merges. The I remains separate from the Thou and is aware of its status as an individual who has entered into a relationship with another individual. Once the element of distinctness is lost, we have fusion, not dependence, sameness, not dialogue.

As Maurice Friedman notes, the I–Thou relation has much in common with the second formulation of the categorical imperative: that we are to treat all of humanity, whether in our own person or that of another, as an end in itself and never as a means only.[5] In an obvious way, the distinction between Thou

[1] Throughout this chapter I am using the Walter Kaufman translation of *I and Thou* (New York: Simon and Schuster, 1970), except that I am replacing "You" with "Thou."

[2] *IT* p. 13.

[3] On this point, see *BMM* p. 203: "'Between' is not an auxiliary construction, but the real place and bearer of what happens between men."

[4] See *PMB* p. 697.

[5] Maurice Friedman, "The Bases of Buber's Ethics," *PMB* pp. 177–78. Also see Friedman, *Martin Buber: The Life of Dialogue*, pp. 199–201.

and It is a reworking of the distinction between noumenon and phenomenon. Thus Buber insists that a Thou is never an object of ordinary experience.

Still there is an important difference between Buber and Kant. To continue with Friedman's point, the moral force of the categorical imperative arises from reason's appropriation of a principle governing all humanity. By contrast the moral force of my concern for a Thou arises out of the immediacy of our relationship. "The idea of responsibility," Buber writes (*BMM* p. 16), "is to be brought back from the province of specialized ethics, of an 'ought' that swings free in the air, into that of lived life. Genuine responsibility exists only where there is real responding." So while a Thou cannot be treated as a means only, it is not because she is an instance of humanity and commands respect a priori but because I have responded to the uniqueness of her being. It is not that the ethical imperative is invalid but that according to Buber it acquires its legitimacy only when a living person decides to follow it. To treat a Thou as a means is to turn it into an It. To turn a Thou into an It is not only to lose the Thou but to lose the I that exists as its partner.

As long as we use the I–Thou relation as a model for understanding revelation, we cannot adopt a heteronomous account of obligation. As we saw in our consideration of Cohen, heteronomy destroys any sense of reciprocity. Buber is therefore part of the tradition that emphasizes that the covenant does not call for humans to be passive partners with God. On the contrary, it not only allows but requires a partner who retains his freedom of thought. On this point, Buber is quite clear (*EG* p. 105):

> Man, while created by God, was established by Him in an independence which has since remained undiminished. In this independence he stands over against God. So man takes part with full freedom and spontaneity in the dialogue between the two which forms the essence of existence. That this is so despite God's unlimited power and knowledge is just that which constitutes the mystery of man's creation.

In fact Buber goes so far as to say that the great achievement of Israel is not so much the idea that there is one God who is the

source of all existence but the idea that humans can address God, stand face to face with God, and say Thou to God.[6] That is why the commandments are part of an agreement that regards human participation as essential.

One also finds Kantian overtones in Buber's rejection of ritual. Since the essence of the I–Thou relation is openness and spontaneity, meticulous observance of the commandments does not necessarily lead to God and in some cases may distract us. What Buber wants is not a body of law presided over by Rabbinic scholars but formative experiences that allow us to search for God in our own way. To the degree that ritual is fixed and allows no room for individual expression, it belongs to the realm of I–It. Kant would certainly agree. As we will see, this does not mean that Buber accepts every aspect of Kant's notion of autonomy. But it does mean he regards human freedom as an integral part of religious life. What happens to this freedom when we abandon the idea of objectively valid moral principles remains to be seen.

Despite the fact that Buber's philosophy stresses the personal and concrete, he insists that he is not a moral subjectivist: obligation is not something I create for myself but something that arises in my relation to the absolute. If he is not a subjectivist, neither is he a utilitarian. The ethical does not concern what is useful to individuals or to society at large but what has intrinsic value or disvalue.[7] Because the distinction between value and disvalue is more than a personal preference, I cannot be its source (*EG* p. 18):

> I am constitutionally incapable of conceiving of myself as the ultimate source of moral approval or disapproval of myself, as surety for the absoluteness that I, to be sure, do not possess, but nevertheless imply with respect to this yes or no. The encounter with the original voice, the original source of yes or no, cannot be replaced by any self-encounter.

A self-encounter is not dialogical; it is not a way of making oneself open to another person and taking responsibility for her. For Buber the only thing that can render an obligation absolute

[6] Buber, *BMM* p. 96. [7] *EG* p. 95.

is the absolute itself. And the only way something can be absolute is if I encounter it as a Thou.[8]

Kant would agree that I am not the source of moral approval or disapproval if that means I am at liberty to pick whatever I please. The moral law is valid a priori, and I can no more *make* it valid than I can alter the laws of logic. It is true of course that reason must regard itself as the author of its principles independently of foreign influences, but this does not mean that it can select principles arbitrarily. All it means is that reason can recognize the validity of the moral law on its own. This is perfectly compatible with saying, as Kant does, that for religious purposes, we can view all duties as divine commands. By saying that I cannot conceive of myself as the ultimate source of moral approval, Buber is not objecting to Kant but to the Sartre of *L'existentialisme.* That is, he is objecting to the idea that since God is dead, there are no unconditional commands addressed to us and therefore "value is nothing else than this meaning which you choose."[9] Again from Buber (*EG* p. 70):

> One can believe in and accept a meaning or value, one can set it as a guiding light over one's life if one has discovered it, not if one has invented it. It can be for me an illuminating meaning . . . only if it has been revealed to me in my meeting with Being, not if I have freely chosen it for myself from among the existing possibilities and perhaps have in addition decided with some fellow creatures: This shall be valid from now on.

It is the phrase that begins "from among the existing possibilities" that allows Buber to stand with Kant against Sartre.

Where Buber disagrees with Kant is on the idea of revelation. We saw that for the latter revelation is not personal and in no sense can be termed a "meeting." Rather it is a colorful way of talking about the fact that God has endowed us with the ability to think for ourselves. For Buber revelation is a meeting for it is only when I encounter the absolute that I see that everyone contains a sign or trace of its perfection and must be treated accordingly. Again Buber's conception of value is dialogical. Neither a decision nor an action are valuable in

[8] Ibid. p. 96.

[9] Buber (ibid. p. 70) quoting Sartre, *L'existentialisme est un humanisme*, p. 33.

themselves but acquire value from the fact that the situation out of which they arise demands a certain type of response. This is another way of saying that value does not originate with the will of a rational agent but in a meeting that puts that agent into contact with another.[10] The same is true of values handed down by tradition. According to Buber (*EG* p. 98): "Even when the individual calls an absolute criterion handed down by religious tradition his own, it must be reforged in the fire of the truth of his personal essential relation to the Absolute if it is to win true validity."

From Kant's perspective, the problem with an ethics of encounter is that it can never give us more than a system of hypothetical imperatives: *If* you have encountered the absolute, *then* you should do *X*. But what if you have not encountered it? In that case, there is nothing that enjoins you to do *X*. It is simply a preference. Although Buber admits that this is a problem, he offers nothing in the way of a solution.[11] Nor could he. In the last analysis, all he can do is ask someone to consult her own experience, and if that does not work, to trust his account of what a meeting with the absolute is like. If this result is allowed to stand, then so far from laying the foundation for a liberal theology, Buber would be in danger of returning us to a form of dogmatism.

In answer to this objection, Buber would claim that we should not think of the absolute as the exclusive domain of certain individuals but as the eternal Thou who is implied by and stands behind every I–Thou experience we have. In principle it is available to everyone who opens herself to it. The problem is that since everyone brings part of himself to the experience of the absolute, there is no reason why we should expect everyone to return with the same formula or set of rules. Buber would therefore insist that it is Kant who succumbs to dogmatism by claiming there are rules whose validity is established a priori. However reasonable they may seem when considered in themselves, in the last analysis, they are forced on

[10] For the existentialist critique of Kant, see George Schrader, "Autonomy, Heteronomy, and Moral Imperatives," *The Journal of Philosophy* 60 (1963), 65–77.

[11] *PMB* p.693.

us by Kant's preoccupation with universality. In the case of the Pythagorean Theorem, we have no choice but to accept the result. Why, Buber protests, should we believe that ethics works the same way?

Not only does Buber disagree with the impersonal character of Kant's ethics, he disagrees with the idea that one can take a rational principle and apply it to a specific situation without recognizing that every person and thus every situation is unique. If it is unique, there is no way to say in advance everything it will demand of us. To attempt to set boundaries would be to make the other person an extension of me rather than an individual in her own right. In *Hasidism and Modern Man* (p. 135), he claims:

> Every case, if it is taken seriously in its unique character and situation, proves itself to be something that cannot be anticipated, something withdrawn from planning and precautionary measures. No traditional formulae and rhythms of any kind, no inherited methods of exercising, power, nothing which can be known, nothing which can be learnt, are of any use to the man of sacramental existence.

This does not mean that Buber regards traditional formulae as false. In response to criticism by Marvin Fox, he insists that he has never doubted the absolute validity of the command "Honor thy father and thy mother."[12] Buber's point is that even though it is valid, no one can know in all circumstances what it means to honor someone. Even if one were to interpret the command by offering guidelines, the guidelines could never answer every question or anticipate every problem. Nor, from Buber's perspective, is it desirable that they should. He is convinced that moral life involves more than the application of general principles to specific situations. For if the person with whom I am dealing is nothing but an instance of a general rule, in Buber's eyes he or she ceases to be a Thou and becomes an It.

In essence Buber's point is a variation on Hegel's. Since the categorical imperative is the supreme principle of morality, there cannot be a superior principle that tells us how to apply it

[12] Ibid. pp. 719–20.

in any given case. In the absence of such a principle, the categorical imperative is of limited value in telling us what we ought to do. The conclusion that is usually derived from this argument is that moral decisions cannot be made on the basis of reason alone. From Buber's perspective, this is true whether we think of them as commands of God or as imperatives reason assigns to itself. In either case, the situation in which we find ourselves calls for decisions that general rules cannot fully address. That is why moral life is fraught with doubt and uncertainty. In *Between Man and Man* (p. 105), he goes so far as to say that those "who are seriously laboring over the questions of good and evil rebel when someone dictates to them . . . what is good and what is bad," which is another way of saying that they rebel against heteronomy. But insofar as they rebel against reliance on rules of any sort, they rebel against autonomy too, at least as Kant understood it.

The obvious response is that despite popular misconceptions about Kant, he never viewed moral life as the mechanical application of a general rule to specific situations. As we saw, moral life contains perfect and imperfect obligations; while the former are specific, the latter leave considerable room for individual discretion. "The law," Kant tells us, "cannot specify precisely the way in which one is to act and how much one is to do by the action for an end that is also a duty."[13] With respect to honoring one's parents, it is impossible to say in advance what one is supposed to do and when one is supposed to do it. Sometimes honor involves deference, sometimes not. Suppose a parent has denied an important fact about her physical or emotional well-being. A child who defers shows her no honor.

To the general question "How do you show your parents the respect they deserve?" there is no fixed rule. Even if one could formulate such a rule and get into the habit of obeying it every time the situation arose, Kant would be the first to object, arguing: "it is neither armed for all situations nor adequately insured against the changes that new temptations could bring

[13] *MM* 390, p. 194.

about."[14] Simply put, Kant's point is that no matter how important discretion is in the pursuit of virtue, recognizing this does not relieve me of the obligation to treat humanity as an end in itself. Still my intention to fulfill this obligation does not mean that I can ignore the specifics of the situation in which I find myself. Wood is therefore correct to say that for Kant there is an irreducible particularity to the application of any rule of duty or concept of virtue.[15] On this point, there is agreement by all sides.

Buber's claim is that the element of particularity is primary. As long as we conceive of the absolute in terms of impersonal rules of behavior, autonomy and heteronomy are our only options: either we obey rules that we legislate for ourselves or rules that are handed down by someone else. But, he insists, these are not the only alternatives. What if instead of an isolated being the absolute is experienced as a partner in a dialogical relation? According to Buber, the commands that issue from such a relation are neither imposed from without nor legislated from within, neither mine alone nor someone else's alone. Rather they derive from the reciprocity that exists in the space "between." Buber (*EG* p. 99) calls this alternative *theonomy* and characterizes it by saying: "The divine law seeks for your own, and true revelation reveals to you yourself."[16]

To better understand theonomy, we must look more closely at Buber's understanding of revelation. Obviously it cannot mean that finished statements are handed down from heaven to earth.[17] To the degree that the I–Thou relation is reciprocal, neither party can be asked merely to obey the dictates of the other. Buber therefore argues that in its pure form, revelation is not the giving of propositions but the experience of a living thing. In a famous letter to Rosenzweig, he admits: "I do not believe that *revelation* is ever a formulation of law."[18] The same

[14] *MM*, 383, p. 189. For more on this point, see Onora O'Neill, "Kant After Virtue," *Inquiry* 26 (1983), 387–405.

[15] Wood, *Kant's Ethical Thought*, p. 151. Also see p. 154: "There can be no neat algorithms or decision procedures for the interpretation of human actions."

[16] On the issue of theonomy, cf. Paul Tillich, *The Protestant Era*, p. 56.

[17] *EG* p. 105.

[18] *On Jewish Learning*, ed. N. N. Glatzer, p. 111.

sentiment is expressed in *I and Thou* (p. 158), when he writes: "Man receives and what he receives is not a 'content' but a presence, a presence as power." As the passage goes on to say, this presence is imbued with meaning, so that:

> even as the meaning itself cannot be transferred or expressed as a universally valid and generally acceptable piece of knowledge, putting it to the proof in action cannot be handed on as a valid ought; it is not prescribed, not inscribed on a table that could be put up over everybody's head. The meaning we receive can be put to the proof in action only by each person in the uniqueness of his being and in the uniqueness of his life. No prescription can lead us to the encounter, and none leads from it.

The goal of revelation then is to take us beyond commandments to the One who commands.[19] The text that emerges from such a meeting is not a transcript but a response – the appropriate response being that nothing in the world is worthless and everything is meaningful.

The text of revelation, which is to say the human response to it, is an attempt to capture this moment. Still to capture it is not to furnish the sort of record one would expect from a court reporter. In Buber's terms (*IT* p. 166):

> Revelation does not pour itself into the world through its recipient as if he were a funnel: it confers itself upon him, it seizes his whole element in all of its suchness and fuses with it. Even the man who is "mouth" is precisely that and not a mouthpiece – not an instrument but an organ, an autonomous, sounding organ; and to sound means to modify sound.

The reference to autonomy is telling. Without self-legislation of the moral law, it cannot be autonomy in Kant's sense. What Buber means is that the recipient is a free agent who does not just report what she hears but puts something of herself into the message. Rather than a medium, or as Buber says, a funnel, she

[19] This does not mean that Buber has an account of the One who commands, a doctrine of God's essence or inner nature. On this point, see Malcolm L. Diamond, *Martin Buber: Jewish Existentialist*, p. 52: "Buber's thought has no objective content. He does not think it possible for man to achieve knowledge that would conclusively resolve the most significant questions of existence. The content of his thought is conveyed in immediate language which points to the meanings disclosed to man in the posture of engagement."

is a full partner to the experience and finds her own way to express its significance. The response to revelation, though human in its meaning and form, "witnesses to Him who stimulated it."[20] In short, revelation is neither divine nor human alone. In keeping with the spirit of dialogical philosophy, it is a mixture of the divine *with* the human.[21]

In regard to the human contribution to the law, there is a respect in which Buber is right. We saw that even a traditional Jew like Maimonides argued that vast portions of the law consist of ordinances or decrees instituted by Rabbinic courts. But that is where the similarity ends because for Maimonides the ordinances and decrees are not responses to a personal encounter with God but interpretations and safeguards justified by rational argument. Moreover Maimonides insists that the ordinances and decrees are binding and have the full weight of Sinai behind them.

Though Buber prefers the term theonomy, it is clear that what he has in mind is really a version of autonomy.[22] Although the recipient of revelation does not legislate the law by herself in the sense that she need only reflect on the implications of her own rationality, there is no question that she is its author. By that I mean that she is the author of a text that describes or bears witness to her experience of the absolute. To be sure, the text would not have the same status if it were a description of a human encounter. Recall that for Buber *we* cannot be the source of moral approval or disapproval. Thus (*EG* p. 18): "only an absolute can give the quality of absoluteness to an obligation." We must be careful not to misinterpret this. To say that an obligation is absolute is not to say à la Kant that it is valid a priori but that it derives from or is a response to something more than human. Even so the absolute does not offer prescriptions. All it offers is a presence from which we must derive an appropriate response.

[20] *EG* p. 135.
[21] *IT* p. 166.
[22] For others who ascribe autonomy to Buber, see Eugene Borowitz, "The Autonomous Jewish Self," in *Exploring Jewish Ethics: Papers on Covenant Responsibility*, pp. 180–81 and Arnold Eisen, "Buber, Rosenzweig, and the Authority of the Commandments," in *Rethinking Modern Judaism*, p. 193.

Does it follow that any response is appropriate? Buber would like to say no. In his opinion a genuine encounter with the absolute teaches us that all life, indeed everything, has meaning and must be treated with respect.[23] Though we may lack a formula or image for this observation, Buber insists that it is more certain than the data of our senses. But in view of the fact that revelation does not contain formulas or prescriptions, the answer is complicated. For Buber, responsibility is the logical outcome of dialogue.[24] Whilst it is true that (*BMM* p. 204) "no responsible person remains a stranger to norms," Buber also claims that a genuine norm can never become a maxim and the fulfillment of it never a habit.[25]

What then? Friedman argues that traditional values like those expressed in the Decalogue are implied by the I–Thou relation even if they do not emerge as an absolute code.[26] They are, in Friedman's term, "the symbolic expression" of a genuine I–Thou encounter. At this point, Buber faces a dilemma. If it is impossible to respond to a dialogical relation by killing, stealing, lying, etc., then the laws that prohibit these things are absolute. If it is not impossible, just unlikely in practice, then he has to admit that a dialogical relation could result in behavior that Kant would regard as immoral. This is another way of asking what the criteria are for authenticity. Are there things the authentic person simply cannot do or is authenticity completely open-ended?

Friedman takes the second option, maintaining that it is "unlikely in most cases" that one could express one's responsibility to a Thou by trying to kill him and concludes that the traditional values are "useful and suggestive" but denies that they can ever be decisive in determining what should be done in any particular case. It follows that the decision of how to respond to an I–Thou relation is in our hands. In the case of our encounter with the absolute, Buber claims (*EG* p. 99): "Our act must be entirely our own for that which is to be disclosed to

[23] *IT* pp. 158–59.
[24] *BMM* p. 16.
[25] Ibid. p. 114.
[26] Friedman, *Martin Buber,* p. 204.

us to be disclosed." What we have then is a form of personal autonomy. It is not Kantian autonomy because it denies the existence of absolute prescriptions, but it is autonomy nonetheless.

It is clear from the previous section that Buber's position is subject to a critical ambiguity. Let us grant that one can experience the absolute in the way he describes. Still the absolute is not a source of law. "Though man is a law-receiver," Buber writes, "God is not a law-giver."[27] God, as we saw, is a living presence, not a dispenser of prescriptions. But if that is so, how does one determine what an authentic response to God requires? Friedman's answer was that in principle there are no restrictions: even killing might be countenanced in some situations.

This issue becomes more problematic when one realizes that the question is not academic: people have turned to killing as a way to please or express love for God – a fact that Buber readily admits. In a telling essay on the suspension of the ethical, he begins by raising the question of how the prohibition against murder can be relativized by God's command that Abraham murder his son. Without mentioning Kant by name, he soon realizes that this question raises the issue known to philosophers as the problematics of hearing: How do we know that the voice that addresses us is God's? Or in Buberian terms: How do we know that we have not encountered a false absolute? As Buber himself notes (*EG* p. 118), Moloch imitates the voice of God. So it is not surprising that (ibid. p. 119) "false absolutes rule over the soul, which is no longer able to to put them to flight through the image of the true." While Buber ascribes this phenomenon to "our time," one wonders whether it is time-specific or a condition endemic to the human condition. What age has not witnessed the ugly specter of people willing to kill for God?

Kant's answer is clear: any voice that demands the killing of an innocent person is the voice of Moloch. Unfortunately Buber cannot take this option. Instead he calls for a new conscience that will enable people to summon all the power of

[27] *On Jewish Learning*, p. 115.

their souls "to penetrate again and again into the false absolute with an incorruptible, probing glance." But how can this conscience arise if God is not a law-giver? What standard will we use to decide when we have the true absolute and when we have an imitation?

Here we encounter the main difficulty with Buber's thought. Granted that value is something we discover in relation to the absolute, it is nonetheless true that for Buber the laws we formulate as a result are a human response rather than a direct command. If each person brings part of herself to the encounter with the absolute, and modifies it to a certain extent, then we may ask, with Fox, why that person's response is binding on her or on anyone else.[28] Why, in other words, should we not take someone's response as exactly what Buber says it is: a statement that is human in its meaning and form? And if this is the way we take it, is Fox not right in saying that Buber makes each person the sole but uncertain judge of what she ought to do?

No one familiar with Buber's work can fail to be struck by the passion with which he calls for moral renewal.[29] In general his goal is to have us spend more time in the realm of Thou and less in the realm of It, which means that we accept the responsibility of treating other people as beings of infinite worth. The standard by which we measure all such relationships is of course God, the eternal Thou. Still Buber's commitment to human dignity is based on personal experience rather than appeal to principle. Our understanding of the difference between right and wrong is the result of an encounter between the absolute and the authentic self. But since this encounter does not involve prescriptions, in the end all Buber has is the authentic self. Note that in the passage where he says that God is not a law-giver, he goes on to proclaim that "the Law has no universal validity for me, but only a personal one. I accept, therefore, only what I

[28] Marvin Fox, "Some Problems in Buber's Moral Philosphy," *PMB* p. 156.

[29] For discussion of this point, and some of the anguish Buber faced in reconciling historical reality with the demands of the I–Thou relationship, see Steven Schwarzschild, *The Pursuit of the Ideal*, pp. 190–96. Note Schwarzschild's comment (p. 196): "The very fact that love, sprung from an I–Thou relationship, can and occasionally does produce moral monstrosities, like murder . . . should put us sufficiently on guard." For a similar critique of Buber, see Fox, "Problems," in *PMB* pp. 161–70.

think is being spoken to me." The context of this remark indicates that Buber is referring to Jewish law, which, as we saw, contains an ethical as well as a ritual component. In *Eclipse of God* (p. 118), he says that God does not ask of us much more than justice and love, which is to say "the fundamental ethical." But given the rest of Buber's thought, this can only mean that justice and love are characteristic ways in which Buber and others have responded to God, not universal imperatives.

It follows that if an authentic self should recommend killing as a response to the absolute, Buber's only reply is to proclaim it inauthentic and say that this encounter with the absolute could not have been genuine. In reply to Fox's point that it is possible for a criminal to be convinced he is responding to the presence of God, Buber says that the criminal would have to be mad for "a man who is not mad can only believe that he is following the voice of God if he acts with his whole soul, i.e., if out of its corners no demonic whisper penetrates to his open ears."[30] Yet surely this begs the question: Why is the criminal inauthentic and by what criterion do we identify demonic whispers?

To repeat: Buber does not want to be read as a moral subjectivist. Throughout his life, he insisted that we stand under the judgment of God and eventually must put ourselves in the hands of God.[31] To use his term, he wants a narrow ridge between the objectivism of Kant and the subjectivism of Sartre. In his opinion, one is a false fixation, the other a false liberation.[32] In different ways each represents a departure from the reality of dialogue. Unfortunately the task of defining a third alternative is harder than it seems, especially since the whole tenor of Buber's thought is to reject the world of ideas for that of lived experience.

Buber therefore insists that there is no such thing as an I–Thou knowledge that can be held fast, preserved, and factually transmitted.[33] Unlike Kant and Cohen, Buber is not a

[30] *PMB* p. 720
[31] Ibid. p. 719.
[32] *IT* p. 167. For the reference to Buber's description of being on a narrow ridge, see *BMM* p. 184.
[33] *PMB* p. 692.

system builder. At one point, he even denies that he is a teacher.[34] Instead Buber's goal is to call attention to features of experience that people have not seen or to which they have paid too little attention. In *I and Thou* (pp. 125–26), he tells us: "All the prescriptions that have been excogitated and invented in the ages of the human spirit, all the preparations, exercises, and mediations that have been suggested have nothing to do with the simple fact of encounter." For Buber each encounter is unique and calls for a unique response from the person who has it. Thus any attempt to use the results of one to establish boundaries or expectations for another is misguided.

Depending on one's perspective, the absence of a conceptual structure is either the great virtue of Buber's thought or its greatest shortcoming. It is a virtue if one thinks that the most interesting feature of experience is not generality but singularity, not the fact that we are rational beings but that even the most ordinary situations can take on a new meaning if we stop treating everything as an It. It is a shortcoming if one wants criteria that allow Buber to define a principled alternative to Kant and Sartre. While Buber's position is not so simple as to say "God told me to do *X*," the absence of reasons means that if we have not experienced the absolute ourselves, rather than evaluate the moral worth of an action, we have no choice but to evaluate the authenticity of the speaker. Did he encounter the absolute or one of its pretenders? We saw that the Rabbis rejected any appeal to private relations with God on the grounds that legal disputes must be decided on the basis of rational and therefore public considerations.

In many ways, the Rabbinic response anticipates Kant's. For Kant generality is not just a fact of reason but the defining feature of moral agency. What separates a free action from an action done on impulse is that the former is chosen under the conception of a law. As we saw in Chapter 1, a free act is one on which I have staked a claim; so it is not just the doing of the action that matters but the decision to approve the law that sanctions it. If I desire to help the poor, my action does not

[34] Ibid. p. 693.

become moral until I affirm the maxim that helping the poor is a duty everyone ought to fulfill. If so, reason always acts according to a principle: in choosing a course of action it not only pursues an end but affirms something about the kind of ends that are worth pursuing overall. As we saw in the case of God's decision to create the world, a free action points to something beyond itself: we both choose and commit ourselves to choosing again. Reason must therefore transcend the situation in which it finds itself in order to take action in that situation. Without reason, there would be Jack and Jill but not humanity; without humanity, we could treat people with respect but only because it is gratifying and not because they are ends in themselves.

This sort of "theoreticism" is exactly what Buber wants to reject. Again the idea of responsibility is to be brought back from specialized ethics to the reality of lived life. For Buber all maxims and principles, however well intended, put us in the abstract and impersonal realm of I–It. If I am going to help someone in need, what matters is not the law that asks me to come to her assistance but, as Levinas puts it, directly confronting her and saying Thou to her.[35] To say Thou to her is, in Levinas' terms, to speak *to* her rather than *of* her. Once we speak *of* her, we enter the realm of theory, which means that all contact with the Thou is broken off. Once contact with the Thou is broken off, the I of I–Thou is lost as well.

Unlike Kant's subject, Buber's does not begin with inner certainty about what actions ought to be done but with the need to establish contact with someone else. "Man," as he tells us, "can become whole not by virtue of a relation to himself but only by virtue of a relation to another self."[36] Cohen tried to say the same thing but in Buber's opinion failed because he could not break out of the realm of ideas. There is for Buber a world of difference between the dialogue the mind has with itself and the dialogue it has with another person.

On the other hand, it is clear that Buber has taken the "Think for yourself" aspect of Kant's philosophy to heart.

[35] Ibid. p. 138. [36] *BMM* p. 168.

Kant would applaud Buber's moral sensitivity and lack of sympathy for any action that seems mechanical. Kant too was suspicious of people who clutter religion with clerical matters that obscure its real meaning. But when Kant says we should seek the supreme touchstone of truth in ourselves, he means the rational self, the self that legislates the moral law and evaluates everything in accord with it. He therefore rejects any ritual that does nothing to improve the moral quality of behavior.[37] Although Buber might well concur, that is not the way he expresses himself. Once again his criterion is personal. It is not the irrationality of the law that matters but the fact that it does not resonate with my own sense of religious integrity.

So when Buber speaks of autonomy, he means the freedom of the individual to engage in her own spiritual search. Where the obligatory nature of law was once seen as a way to liberate the individual, it now has become a potential trap from which the individual must seek further liberation. As Eugene Borowitz put it, a gap has been opened up between the self and its rationality, from which it follows that the emphasis has shifted from the suffix of autonomy to the prefix.[38] For Kant, it is the ability to follow a law of its own choosing that makes the self a self. Without this ability, we would be able to initiate behavior but not legislate it. Having initiated an action, we could repeat it or respond to an impulse to do something different. But we could not identify with it or with the conviction that it is wrong. By minimizing the capacity for self-legislation, an autonomy that

[37] *RWL* p. 158.

[38] Borowitz, *Renewing the Covenant*, p. 171. For more on Borowitz's conception of autonomy, see *Exploring Jewish Ethics*, chs. 14 and 16 as well as *Renewing the Covenant*, pp. 170–81, 221–23. Again the Kantian influence is clear. "Identifying our dignity as human beings with our autonomy," Borowitz claims (*Exploring*, p. 182), "we [liberal Jews] are determined to think for ourselves." But according to Borowitz, the true *nomos* is not an objective moral law but our recognition of the commanding power of relationships. Where Borowitz parts company with Buber is in the former's emphasis on the complexity of our relations to others. Thus Borowitz refers to the "sociality" of the self, by which he means that the self is "substantially a creature of society." The result is that moral life becomes messy. By Borowitz's admission, the autonomous Jewish self has simultaneous responsibilities to itself, God, country, family, the Jewish past, present, future, the Jewish community as a whole, not to mention mankind as a whole. Borowitz admits there is no rule for how to balance conflicting sources of authority or to know when institutions or individuals have reached the limits of what they can demand of each other.

emphasizes the prefix is an illusion. To the question of how it is possible to walk a middle ground between the extremes provided by Sartre and Kant, Buber has nothing to offer but another description of the divine/human encounter. For those who want a more principled response, Sartre wins by default.

The alternative is to say that our sense of ourselves as beings with duties is not a response to the absolute, it *is* the absolute – in short God is found in the necessity that attaches to "Thou shall" and "Thou shall not." By contrast, Buber's experience of God gives us only "the presence of the Present One."[39] We saw however that for Cohen, God is not a mere presence, not a being who is but an agent who does. As we might say, not a thing that wants to be encountered but a target that sets forth a task. We can say that God is a person if we like. For Cohen, we have to say it because it makes no sense for a moral agent to strive to be like something that lacks will and intelligence. But personality in this sense is not a substitute for obligation; on the contrary, it is a way of saying that the absolute makes an ethical demand on us that cannot be disregarded. Not only is this true for a neo-Kantian like Cohen, it is also true for the next philosopher I want to take up: Emmanuel Levinas.

There is no better place to begin our consideration of Levinas than with his response to Buber.[40] In discussing Buber, Levinas begins by reflecting on the history of philosophy since Descartes, in particular the identification of the self with its own consciousness. According to this view, every sensation, thought, wish, hope, and desire, in short everything that can be grouped under the term *experience*, is an object for consciousness, a *pensée* in the Cartesian sense. As we saw, consciousness is the center of existence. Nothing is external to it because everything of which we are aware presents itself *to* consciousness as an idea to be taken up and evaluated. Recall that after Descartes, the order and connection of ideas ceased to be something we find and became something we build. As Kant said, man himself is the original maker of all his representations and concepts. With this

[39] *EG* p. 45. Later (pp. 61–62), Buber connects this view with God's self-disclosure at Exodus 3:14.

[40] See "Martin Buber and the Theory of Knowledge," in *PMB* pp. 133–50.

insight comes the justification of transcendental philosophy: to study the conditions that allow these representations and concepts to be put together in a meaningful way. The crux of this philosophy is that the self takes everything that comes to it and fashions a system for which it takes credit.

Against this view, Levinas argues that what transcendental philosophy really amounts to is a study of the ego. Did not Husserl, a twentieth-century descendant of Kant, call transcendental phenomenology "a systematic egological science," by which he meant an explication of the ego as the subject of every possible cognition?[41] The difference is that what Husserl regards as an egology, Levinas regards as egoism. In terms for which Levinas became famous, if the goal of the self is to put every idea into a single system of thought, it reduces anything that is other than the self to the category of the same. Again from Husserl, everything that exists *for* the ego, including every form of transcendence, is constituted *by* the ego.[42] In fact the ego even constitutes itself. Levinas objects that to constitute experience in this fashion is to homogenize it. Anything that is truly other and outstrips the mind's efforts to assimilate it is seen as threatening. Philosophy, which seeks to comprehend all existence, is simply the most general name for the process by which the mind attempts to gain control of what threatens it and render it harmless.[43]

According to Levinas, the process of reducing the other to the same amounts to conceptual domination. Like all forms of domination, it contains a measure of violence: the other can no longer exist *as* other but must be transformed into a dimension of the self. "The Ego," he tells us, "remains the Same by making disparate and diverse events a history – its history."[44] To the degree that philosophy follows this paradigm, it is locked in a dilemma from which it cannot extricate itself. On the one hand, it seeks transcendence, the experience of something that rises above the categories at our disposal; but by reducing all

[41] Husserl, *Cartesian Meditations* 118, p. 86.
[42] Ibid. 116–18, pp. 83–85.
[43] *EFP* p. 83; *PII* p. 98.
[44] *PII* p. 92.

otherness to sameness in the manner suggested by Husserl, it renders any sort of transcendence impossible.

What Levinas sees in Buber is an attempt to break out of this mold by referring to the Thou not as something the self constitutes but as something it confronts. As we saw, the moments of intimacy between I and Thou cannot be captured in a system of thought. Levinas takes this to mean that the self does not try to possess or merge with the other but allows it to retain its status *as* other (*PMB* p. 138):

> The I–Thou relation consists in confronting a being external to oneself, i.e., one which is radically other, and in recognizing, it as such. This recognition of otherness, however, is not to be confused with the *idea* of otherness. To have an idea of something is appropriate to the I–It relation. What is important is not thinking *about* the other, even *as* an other, but of directly confronting it and of saying Thou to it.

To say Thou to the other is not to subsume it under a concept, not to know it but to serve it. Acceptance of the integrity of the other, Levinas maintains, is the sign of a philosophy conducive to peace rather than violence. Instead of transforming the other by representing it to itself, the I meets it and sees itself as a partner, which is to say a being in relation. With the rejection of violence also comes a rejection of egoism. For Levinas we become whole not by constituting ourselves as a self but by establishing an ethical relation with another person.

The hallmark of this relation is the feeling of responsibility. I am not just *with* the other but become responsible *for* the other. Indeed it is responsibility which, in Levinas' opinion, takes us to the true meaning of *dialogue*. Rather than a spectator on reality who observes the world without interfering with it, the self is defined by its attachments. We must keep in mind however that dialogue in Buber's sense is reciprocal; its nature is revealed in enclosure (*Umfassung*). As we saw, you say Thou to it and give yourself to it; it says Thou to you and gives itself to you.

Levinas objects yet again, claiming that responsibility for the other is not symmetrical. Though I am obligated to the other, and must be willing to give my life for the other, in his view the other bears no such obligation to me. I must defer to the other without making any demands on him or her. As he puts it (*OTB*

p. 158), the substitution of the one for the other does not signify the substitution of the other for the one. For Levinas, there is no mutuality, no exchange relation, nothing that would allow someone to think of ethics along the line of economics. By confronting the other, I cease to be a being "for itself" and become instead a being "for the other."[45] But the other does not become a being "for me." Rather than a fellow human being bound by a common law, the other is separate from me and stands above me. In Levinasian terms, I am hostage to the other.

In Levinas' view, the problem with Buber's I–Thou relation is its formality: in the last analysis, it amounts to a spiritual friendship that takes place in a mystical space removed from the world of It. But, says Levinas, responsibility does not come from fraternity.[46] What he sees in the face of the other is not a friend but someone in need – the widow, the orphan, the stranger – all people to whom the Bible tells us we owe obligations. According to Levinas, the other is naked and defenseless, "vulnerability itself."[47] In an obvious way, this takes us back to Cohen's argument that poverty is the most revealing feature of the human condition and that we cannot approach God unless we feel compassion for our fellowman.

But Levinas goes further: the other does not just stand before me but puts demands on me that change everything about me. "The Other becomes my neighbor," he maintains, "precisely through the way the face summons me, calls for me, begs for me, and in so doing recalls my responsibility, and calls me into question." In short, the face of the other shatters the whole possibility of a self-centered world: instead of *being* transformed, the face of the other transforms me from an ego at the center of the world to a person who feels more responsibility for the other than for myself. Goodness is simply the conviction that the other counts more than I do.[48] As in Cohen, the self is not just

[45] Levinas, *OTB* p. 158: "In proximity the other obsesses me according to the absolute asymmetry of signification, of the one-for-the-other: I substitute myself for him, whereas no one can replace me, and the substitution of the one for the other does not signify the substitution of the other for the one."

[46] *GAP* p. 181. [47] *EFP* p. 83. [48] *TI* p. 247.

an instance of the idea of humanity but something that must experience the moral outrage of the other's suffering before it can become fully conscious of itself.[49]

Levinas therefore argues that clothing the naked and feeding the hungry is a more authentic way of gaining access to the other than Buber's notion of *Umfassung*. In fact he argues that it is by confronting the face of the other that I experience the transcendence missing in much of modern philosophy. In defense of this view, he compares the experience of the other to Descartes' discovery of the idea of God in *Meditations* III. Recall that by God, Descartes means an infinite being: eternal, immutable, all-knowing, and all-powerful. In the course of his argument, Descartes comes to see that this idea contains so much objective reality that he cannot be its author: a finite cause cannot produce an infinite effect. Levinas takes this to mean that in God we have an idea whose *ideatum* overflows the capacity of thought.[50] Infinity then is the absolutely other, that which I cannot produce or understand. To have the idea of infinity is to be in a passive position with respect to it: "to *receive* from the Other beyond the capacity of the I."[51]

The crux of Levinas' position is that the face of the other is for us what the idea of God is for Descartes. The other is infinitely transcendent, infinitely beyond my grasp or control: "If I can no longer have power over him it is because he overflows absolutely every *idea* I can have of him."[52] By resisting all my efforts at assimilation, the other is completely exterior to me and completely dominant. Needless to say, Levinas' descrip-

[49] For an account of the relation between Cohen and Levinas, see Robert Gibbs, *Correlations in Rosenzweig and Levinas*, ch. 8, especially p. 177: "For both Levinas and Cohen the privileged experience is this encounter with the other, and through that I become myself in my responsibility and solidarity with the other." For the status of "alterity" in Cohen, see Reiner Munk, "Who is the Other?" pp. 275–86.

[50] *TI* p. 49. Although Descartes does not emphasize the incomprehensibility of God in the *Meditations*, he does so in his correspondence. On this issue see Harry Frankfurt, "Descartes on the Creation of the Eternal Truths," *The Philosophical Review* 86 (1977), 36–57. In *PII* p. 113, Levinas admits that his reading of Descartes departs from the strict letter of the text since the priority of the infinite is subordinated to the freedom of the will in *Meditations* IV. I will discuss Levinas' conception of freedom and autonomy in the next section.

[51] *TI* p. 51.

[52] Ibid. p. 87.

tion of the other borders on deification and calls to mind the way people typically speak of God. In particular one can hear the voice of Rosenzweig when Levinas says that the other summons me from a position of infinite height and authority, is revealed in an epiphany, judges me, chooses or elects me. For Rosenzweig too God is mysterious in the sense that all attempts at systematization fail. Still God breaks through the boundaries imposed by conceptual systems to command my love in "immediate presentness" and demand the immediacy of my response.[53] In effect what Levinas has done is to replace God with the specter of the widow and the orphan. By his own estimation, the difference between the other and me is absolute, which means that we do not occupy a common genus or even a common world.[54] Against Cohen, there is no possibility of correlation.[55]

This does not mean that the other is the incarnation of God but, as Levinas (*TI* p. 79) expresses it, that the face of the other is "the manifestation of the height in which God is revealed." There is no such thing as a direct encounter with God if we mean coming face to face with an entity or intellect that has a metaphysical status of its own. The whole tenor of Levinas' thought is to get us beyond metaphysics to ethics. Ethics, he proclaims, is first philosophy. It follows that there is no knowledge of God distinct from our relations with other people, in particular our responsibility to them.[56] The demand of the other *on* me, especially in the command "Thou shall not commit murder," is God's revelation *to* me. According to Levinas (*PII* p. 119): "God commands only through the men from whom one must act."[57] For Levinas nothing more is given, and nothing more is needed.

It is clear that unlike Buber, Levinas does not regard ethics as a response *to* God but part and parcel of our experience *of* God. The fundamental question of philosophy has nothing to do with

[53] Rosenzweig, *SR* p. 177.
[54] *TI* pp. 194–95.
[55] Ibid. p. 53.
[56] Ibid. p. 78.
[57] For further discussion of this point, see Richard Cohen, *Elevations*, pp. 188–90.

being itself and everything to do with how being justifies itself in the face of the other's suffering. The only authentic response is to recognize that our responsibility to the other is infinite. Like Buber, Levinas wants to preserve what is expressed in the second formulation of the categorical imperative: the idea of absolute worth. Also like Buber, he does not want the conceptual machinery that Kant uses to explain it. Echoing Buber, he (*TI* p. 86) writes: "The Other alone eludes thematization." Thematization in any form takes us back to theoretical philosophy and the domination of the other by the same.

For Kant (*FMM* 429, p. 47), rational nature exists as an end in itself. By that he means that we are beings who recognize in ourselves the ability to act according to our conception of an end, which is to say the ability to be free. To be free means that in addition to having desires, we are able to decide which ones we approve and which ones we do not. In practical terms, the self is not just a thing that instigates behavior but a thing that evaluates maxims. Take away the ability to evaluate maxims and we would no longer have the sense that the behavior we undertake is ours. It would not be ours because we could not identify with the reasons for undertaking it.

In this day and age, no one doubts that our desires are shaped by a multitude of forces around us. Not only can I not create myself *ex nihilo*, it is not desirable for me to try. The point is that as a rational being, I am able to examine these forces and decide whether I am satisfied with my response to them. At the moment, I may want to upgrade my computer every time technology advances. But it might be that if I took the time to ask why I want to, I would see that the desire to be at the forefront of technology has been imposed upon me by clever advertising. This does not mean that I must constantly shield myself from outside influences, only that I am not stuck with the desires I now have.

What is true of computers is also true of moral attitudes. However important a moral argument may seem, I always have the opportunity to consider why I am persuaded by it and whether I want to affirm it as my own. In the words of Ezekiel, I am always capable of getting a new heart and a new spirit,

always capable of saying no to something. At least that is what the experience of the prophets teaches. If Abraham can leave the home of his father, Moses can strike an Egyptian, and Israel can mend its sinful ways, I can be critical of the direction of my life up to this point. In Kantian terms, I can see it as a life that does not reflect the values I hold dear.

The crux of his argument is that having recognized the ability to redirect the course of our lives, we cannot help but see ourselves as beings of infinite worth who cannot be compared with anything in nature; in other words, as rational beings. Once we come to respect rationality in ourselves, we will see that consistency requires us to respect it in others. Thus the categorical imperative states that we should act so that we treat humanity, *whether in our own person or that of another*, always as an end and never as a means only.

For Levinas, this way of looking at ethics highlights the violence involved in conceiving of the other under the same category as I conceive myself. In a word, it makes the other derivative. Again from *Totality and Infinity* (p. 194): "The Other remains infinitely transcendent, infinitely foreign; his face breaks with the world that can be common to us, whose virtualities are inscribed in our *nature* and developed by our existence." If so, the freedom of the other cannot be captured in a structure or synthesized with my freedom.[58] Where Kant emphasizes the rationality of my experience of the other – our equal standing in the kingdom of ends – Levinas, as Richard Cohen points out, emphasizes its shock value. Confrontation with the other is traumatic, overflows thought, devastates thought, imposes itself on thought, and ruptures any sense of self-understanding we may have had before. With Kant clearly in mind, Levinas says that ethics is "the breakup of the ordinary unity of transcendental apperception."[59] In some cases, he becomes so obsessed with shock value that he compares the look of the other to gunshot fired at point-blank range.[60]

The radical nature of this rhetoric cannot help but raise questions. If the other is as transcendent as Levinas says, then

[58] *PG* p. 180. [59] *OTB* p. 148. [60] *EFP* p. 83.

contrary to what one might expect from an ethics of encounter, we run the risk of returning to isolation. For Buber and Cohen, the discovery of the self requires mutuality and reciprocity. For Levinas the other remains infinite and incomprehensible. To overcome the division that arises between me and the other, Levinas has no choice but to introduce a social dimension to his thought. In *Otherwise Than Being* (p. 158), he tells us that the other is not just *a* man but "the brother of all the other men." By encountering the other, I am not only beholden to him but to all others, all who are other to this other and to myself. My obligation then is not just to the other but, the argument goes, to all humanity.

At this juncture, Levinas introduces the idea of a third party: someone who is other to the other. Once a third party is on the scene, deference to the other is not enough; we need the idea of law as a system to which the self and all others are bound. With law comes justice and the emergence of the state. Not surprisingly Levinas calls the relationship with a third party a "correction" of the asymmetry that exists between me and the other because for the first time we enjoy equal footing. In his terms, we get order, thematization, and equality – as if we were standing before a court. Nevertheless, we should not lose sight of the fact that even in the realm of justice, my duties exceed my rights.

For Levinas, the origin of the state does not rest on a war of all against all and the need to act from rational self-interest but on my infinite responsibility to the other. The presence of a third party allows me to be approached as an other by the others. But it is not something I can demand from them. Rather it is a gift I receive as if by the grace of God.[61] Nor does it do away with asymmetry completely. Even in the sphere of justice, the other retains her transcendence. She is still "other" and not a Thou as Cohen or Buber use the term.

The obvious question is whether Levinas is offering a phenomenology of moral experience, in which case he is telling us what it is like, or a philosophic allegory that points to what it

[61] *OTB* p. 158.

ought to be like. Although Levinas thinks of himself as a phenomenologist, his rhetoric leaves no doubt that he has gone beyond Husserl and is talking about an ideal meeting rather than an actual one. As Steven Smith expresses it, Levinas is not trying to show us an object but trying to make a gesture, a gesture intended to awaken a sense of moral urgency.[62] But even a gesture raises questions. Apart from the theoretical question of what absolute otherness means, there is the practical one of how I can be responsible for something I cannot comprehend. And if I am responsible, on what basis can I say that you should be responsible when you encounter the other as well?

There is no question that my encounter with another person can be disruptive if I am selfish and suddenly experience a change of heart. Who has not felt distress when seeing a homeless person on the street in the middle of January? Recall Cohen's emphasis on moral anguish. The problem is that Levinas is not satisfied with that. He wants to argue that the face of the other reaches me at a pre-reflexive level prior to and more basic than my ability to uphold a maxim. Sometimes he characterizes this priority as "an-archic" in the sense that it is not based on a principle; sometimes he characterizes it in terms of a mystical past that has been forgotten and must now be recovered. However we characterize it, the fact remains that for Levinas responsibility does not derive from the awareness of my freedom to say no but from an encounter with someone else. "Ethical signification," he tells us (*GAP* p. 186), "signifies not *for* a consciousness which thematizes, but *to* a subjectivity, wholly an obedience, obeying with an obedience that precedes understanding." The face of the other is not constituted by the mind and cannot be known a priori. Levinas calls our experience of it *pure*, by which he means it is an experience that precedes and cannot be reduced to anything else.[63]

Like Buber, he pays a price for his rejection of theory. Rather than provide reasons for my obligation to something I cannot

[62] Steven G. Smith, "Reason as One for Another: Moral and Theoretical Argument," in *FFL* p. 56. Notice Smith's reference (p. 59) to Levinas' use of the *via eminentiae*.

[63] *PII*, p. 118.

understand, his strategy is to describe (one is tempted to say embellish) the experience in ever more graphic terms. As we saw, the other does not just appear to me but summons me, calls for me, begs for me. Not to answer the summons is to remain an egoist willing to pursue enjoyment at all costs. At this point it should be clear where Levinas is taking us – to a resurgence of heteronomy. According to the traditional view of revelation, God commands and we must submit even if we do not understand why. As a consequence of his deification of the other, Levinas winds up in a similar position. Responsibility for the other precedes understanding and demands submission as well – even though the other does not occupy a common genus or a common world. As Richard Cohen remarks, Levinas' whole account of God can be seen as a commentary on Exodus 24: 7: "We shall do and we shall hearken."[64] It is here that Levinas' disagreement with Kant comes into sharpest focus.

It should be clear that heteronomy is not only unavoidable but in many respects the highlight of Levinas' position. Since all values reside in the other, moral life, in Levinas' view, is "through and through a heteronomy."[65] Although the history of philosophy can be read as the pursuit of ever-widening spheres of autonomy, Levinas sees in autonomy the negation of the other and the denial of transcendence. Both factors contribute to the egoism he thinks pervades so much of Western philosophy. "Western thought," he concludes, "very often seemed to exclude the transcendent, encompass every Other in the Same, and proclaim the philosophical birthright of autonomy." Autonomy after all is defined as the self giving law to itself.

In defense of Levinas, Catherine Chalier argues that the kind of heteronomy Levinas envisions does not lead to tyranny, for two reasons.[66] First, the uniqueness of the self does not consist in its asserting something to itself but in its answering the call of another. As in Rosenzweig, morality is awakened by God's

[64] Cohen, *Elevations*, p. 189.
[65] *PII* p. 117.
[66] Catherine Chalier, "The Philosophy of Emmanuel Levinas and the Hebraic Tradition," in Adriaan T. Peperzak (ed.), *Ethics as First Philosophy*, p. 7.

asking "Where are you?" (Genesis 3:9). In effect this is what the other asks by calling our freedom into question. The only authentic response is "Here I am," a willingness to serve that precedes the hearing of the command. Second, the heteronomy of Levinas is a loving one. Rather than ask us to do something arbitrary, the other asks us to correct injustice.

Levinas himself (*TI* 88) talks about "privileged heteronomy," by which he means a heteronomy that not only does not clash with freedom but legitimates it.[67] The idea is that the function of reason is not to extend our domination of the world by increasing the power of a being *for itself* but to call the self into question, to make it think about violence and oppression and thus to turn it into a being *for another.* Rather than slavery, the presence of the other is the foundation of morality. Near the end of *Totality and Infinity* (p. 303), he asks: "Does not the presence of the Other put in question the naive legitimacy of freedom? Does not freedom appear to itself as a shame for itself? And, reduced to itself, as a usurpation?"

According to Levinas, it is only when I am judged by the other and found guilty that I give up spontaneity and become a moral agent. At this point, I am no longer free to do whatever I want but become a servant to my fellow human being.

Following Adriaan Peperzak, we can say that there are two kinds of freedom in Levinas: one that is is arbitrary and exploitative, one that is peaceful and hospitable.[68] The Kantian response is not hard to fathom. He too has two conceptions of freedom: negative and positive. He too rejects complete reliance on the former. And he too thinks of the law as a commanding voice that cannot be disobeyed. The difference is that Kant sees the law as a command that originates from within. The recognition that we are moral agents governed by law is what Kant (*CPrR* 30, p. 31) calls "a fact of reason." For Levinas, anything that derives from within smacks of egoism. But is he right? Is

[67] *TI* pp. 197, 200, 302.

[68] Adriaan T. Peperzak, *Beyond: The Philosophy of Emmanuel Levinas*, p. 37. Also see Peperzak, "Some Remarks on Hegel, Kant, and Levinas," in *FFL* pp. 211–16. I take strong exception to Peperzak's claim (p. 212) that autonomy for Kant is "only a metaphor."

autonomy another manifestation of reason's need to reduce all difference to sameness?

The answer is yes if we grant one assumption: that there is no difference between the phenomenal and noumenal self – more simply, that only the phenomenal self exists. If there is no noumenal realm, then any law that originates from within will be tainted with self-interest: the ego will be the source of ego*ism*. But if this is true, it also follows that the other will be just as motivated by self-interest as I am. Why then does my service to the other carry the force of obligation? Why should I be obliged to the other if she is just as intent on pursuing her advantage as I am in pursuing mine? By contrast, if the other can rise above egoism and be valued for her own sake, why can I not do the same with myself? Why, in other words, must my experience of the other always be asymmetrical?

It is true that I have a duty to promote the happiness of others even if they do nothing to promote my happiness. In that sense Levinas is right: ethics is not economics and does not involve a *quid pro quo*. But my duty to promote the happiness of others does not mean that I have to defer to them in any and all circumstances. I do not have to render assistance to a criminal or give whiskey to an alcoholic. I do not have to participate in someone's efforts at self-deception no matter how sincere she may be in asking me to do so. Just as Abraham and Moses held God to account when a moral principle was at stake, I am perfectly justified in doing the same to my neighbor. This is another way of saying that service to another person cannot be completely asymmetric because it assumes that there are principles to which both of us are bound. If the other can call my attention to these principles, I can call her attention to them as well. Without principles of any sort, service would become subservience and cease to be a virtue.

How can I be sure the other person recognizes these principles? Surely I cannot impose them on her in a dogmatic fashion. The only alternative is to assume that the other person is capable of imposing them on herself, that like me, she is autonomous. If she is autonomous, then I must also assume she will not impose them on me because to do so would be to rob

me of the most valuable thing I can give her: the respect of another person. No matter how we understand it, heteronomy destroys respect and takes us back to subservience. So I have no choice but to assume that just as it is wrong for others to dictate to her, it is equally wrong for her to dictate to me. In short, I cannot help but treat her as a noumenal self, and once I do, the idea of a noumenal realm to which I also belong is inescapable.

Does this mean that I have reduced all difference to sameness? In one respect, yes: if it is wrong for me to break a promise, it is wrong for the other as well. There is, as Hermann Cohen (*RR* p. 109) put it, only one morality. Nothing, not even God, is so transcendent that it is exempt. To the charge that this way of looking at morality does away with transcendence, the answer is that it merely shifts transcendence from one conception of the self to the other. Whether in my person or that of another, the noumenal self is always transcendent. It is the idea of a morally perfect being and in Kant's opinion cannot be fully realized in this life. Though we are obliged to strive for it, we must always deal with the fact that our strivings fall short. That is what allowed Cohen to stress the importance of repentance.

It is also what allows Kant and Cohen to answer the charge of egoism. Once we allow a distinction between the noumenon and phenomenon, we can say that the person I am here and now is not necessarily the person I strive to become. In my better moments, when I take the time to evaluate the maxims on which I have chosen to act, I find that there is much in my behavior that falls short of standards of which I myself approve. So there is a part of me that is also "other" – not because it looks at me face-to-face but because I can see that it is morally superior to what I now am. We can call this idealized conception of the self an ego if we want. But the realization of this ego does not have any of the negative connotations Levinas attaches to it. It is not an ego if we mean that it acts on the basis of self-interest. Ultimately all its efforts are directed to one goal: to live with others in a realm in which everyone's dignity is respected. So there is no possibility of self-absorption or exaltation, nothing that would allow one to describe it as violent or exploitative.

This takes us back to the question of how to interpret Levinas. If his goal is to offer a phenomenology of moral experience, then his quarrel with Kant is more methodological than substantive. Perhaps it is true that the recognition that we are moral beings is shocking and constitutes a rupture with everything that precedes it. Perhaps it is best achieved when we look at the face of another person and feel her vulnerability. Perhaps it needs to be repeated to remind us of how important the moral project is. But Kant is interested in the principles that underlie morality, not its phenomenology. As long as our experience of the other does not neglect the fact that behind the face is a noumenal self, he would have little problem accepting Levinas' description.

The problem occurs when Levinas claims that the experience of the other is more basic than the ability to uphold a maxim. Since the ability to uphold a maxim is nothing but the ability to act on principle, if Levinas is right, our immediate experience of the other is not that of a noumenal self. The truth is however that we can serve the other, but if we do not regard her as a noumenal self from the start, we do her no favor. On the contrary, we rob her of the most valuable feature of her existence. For all her poverty, the other would be better off *without* our service if that means retaining her status as a being capable of upholding a principle. This is another way of saying that we must take care lest service to the other become patronizing. By the same token, if the service we render is not based on principle – if it does not take into account the fact that every person has the same rights and responsibilities – it is nothing but an impulse.

So far from doing away with the conceptual machinery of idealistic philosophy, Levinas has to assume that it is already in place. He has to assume that we are looking at a human face, where *human* carries all the Kantian claims about ends in themselves. He has to assume that we have enough of a conscience to be moved by the other's suffering. And he has to assume that the other is the victim rather than the victimizer. Without these assumptions, the other would have no claim on me nor I on her. Indeed the whole notion of a claim presupposes a standard to which both parties are bound.

The motivation behind philosophies of encounter was to protest against what Levinas called the tyranny of the universal and impersonal.[69] In this respect, Cohen, Buber, and Levinas are all working the same side of the street. We saw for example that if the moral law were the only court before which we had to answer, according to Cohen the abstraction of such a tribunal would have no means to liberate us from sin. The difference is that Cohen tried to extend transcendental philosophy rather than replace it with phenomenology. For him ethics itself demands the transition to religion. The result is that Cohen does not have to account for a situation in which moral rules must bow to something more fundamental.

In defense of Cohen, we can return to our relation to God. God after all is the ultimate Thou, and our experience of God, the ultimate encounter. Here the lesson of Jewish tradition is clear: God is not outside the bounds of morality. On the contrary, we saw that God not only set the bounds of morality but does so in a way that upholds the dignity of both parties. Again from Hartman, the creation of a being capable of saying no to divine commands is the supreme expression of divine love. For Levinas the only prospect of saying no to the other is within the context of justice, where everyone is bound by the same set of rules. But this brings in complications involving third parties and the grace of God. Why are these things necessary? Why must we have a third party to see that there are times when deference is not the proper response? And why must we regard recognition of our own self-worth as a miracle?

Suppose an abused child confronts her parents. In this case deference is objectionable not only because it perpetuates forms of domination but because it may indicate a lack of self-esteem.[70] We could say that the dominant person should learn to see the victim as other so that the pattern of deference is reversed. But appealing as it may be, a reversal of the pattern does not speak to the real issue. It is not just the parents who must change their perception but the child as well. She needs to

[69] *TI* p. 242.

[70] For the connection between autonomy and self-esteem, see Thomas E. Hill, *Autonomy and Self-Respect*, pp. 4–18.

see that rights do not have to be earned, that they must be respected regardless of who a person is or what a person does. Not only must we respect them in others, but, more importantly, we must respect them in ourselves. In the words of Hillel (*Pirkei Avot* 1.14): "If I am not for myself, who will be for me?" This is not an invitation to become an egoist. To be for oneself does not mean that one takes advantage of others. Rather it means that ethical action presupposes a measure of self-respect: if I do not respect myself, why should anyone else? And if no one respects me, what sort of consequences will follow?

Reversing the pattern of deference does nothing to address this concern and, by institutionalizing inequality, may actually make the situation worse. Instead of deference, what the victim needs to see is that however lowly she may be in her own estimation, she is still a being of infinite worth. From a Kantian perspective, lack of self-respect is a moral failing because it means that one is not treating humanity as an end in itself. In that sense, both the child and the parents have failed. To return to Hillel's question, reciprocity between moral agents is unavoidable. To show you respect, I must see that the recognition I give you is valuable. If I can give you something of value, then I am owed respect as well. Without reciprocity we may have kindness, even servility, but we would not have fairness. Without fairness, we can never assure ourselves that things are right.

On any reasonable account, morality involves both an inward and an outward dimension. For Levinas, the former is tainted unless it is preceded by the latter. We begin with a self-centered view of the world and are forced to give it up when we are judged by the other and found guilty. Why, we may ask, is this situation more characteristic of the human condition than that involving an abused child? Why should we not look at the world from the standpoint of the victim rather than the victimizer? Indeed, why should we assume anything about the people who confront each other except that they are each human beings, all of whom are worthy of respect?

To shift the focus a bit, who told Abraham and Moses that even without a third party, they did not have to defer to God?

The answer of course is that no one did. They simply assumed that their relationship is such that moral convictions can never be overriden, that nothing, not even the love of God, takes precedence. To be sure, they were not philosophers and did not rely on a theory to defend their views. To return to a familiar theme, they reserved the right to think for themselves. Any claim that appeal to moral convictions robbed them of spontaneity or forced them to assimilate all difference to sameness fails to do justice to the narrative. Their encounter with God is and remains a model of moral interaction: a partnership in which each member retains his dignity and works to promote the dignity of the other. The same spirit can be found in the passage where the Rabbis overrule God on a point of law. Rather than striking them with lightning, God laughs and gracefully bows out of the discussion. It is to that conception that we must now return.

CHAPTER 8

Conclusion: a partnership with God

Although the Bible stresses the importance of believing in one God, it presents that God in different ways. On the one hand, God is portrayed as a heavenly king who befriends particular people, offers advice, and watches over them in times of need. On the other hand, God is portrayed as a mysterious power who towers over human beings and defies comprehension. The former can be found in familiar passages where God establishes a relationship with Moses and the patriarchs; the latter in Exodus 33 and the Book of Job. In one case, God asks for worship and goes into elaborate detail on when and how it is to be conducted. In the other, the only appropriate form of worship is to bow one's head in silence. The first conception culminates in the claim that God is as near to us as our own hearts; the second in the *via negativa*.

I mention this because people often assume that the conflict between one conception of divinity and another is a conflict between the philosophical understanding of God and the prophetic one. But that is clearly false. The Jobian conception of divinity is as much a part of the prophetic tradition as the God who befriends Abraham. In fact, the Torah (Exodus 20:19) emphasizes that the people are afraid to come too close to God lest they die. After Moses speaks to God, his face shines so brightly that he must wear a veil when he is with the people (Exodus 34:29–33). Whether we interpret this as the people's inability to comprehend God or their fear that they will be destroyed even by attempting to do so is irrelevant. In either case, we are led to the conclusion that too close a relation with God is dangerous. In a previous work, I argued that ultimately

the Jobian conception is right.[1] God is beyond any praise we can offer or any category we can devise. Even superlatives like mighty, glorious, all-knowing, or all-powerful are wide of the mark. From a practical perspective, God is not our friend, our protector, or our personal advisor.

But it is difficult to found a religion on so abstract a point or to keep God hidden in all respects. In a perfect environment, all worship would be completely spontaneous and would culminate in awe and humility before God. Since we do not live in a perfect environment, a viable religion must include concessions to human fallibility. In the ancient world, the primary concession was the Tabernacle and the sacrificial cult; in our world, the institution of prayer. Both are designed to make us feel close to a God we cannot see, touch, or comprehend. For that reason, both are subject to abuse: the former because it is a mechanical act, the latter because it showers God with verbal descriptions.

It is important to see that the idea of a divine concession is not a philosophic invention. Even Moses (Exodus 33) cannot see the glory of God but must stand behind a rock and be content with a glimpse of God's backside. At Exodus 33, Moses asks to see the glory of God, but God replies that this is impossible because "no one can see me and live." Fortunately this is not the end of the matter. After saying that Moses cannot see the face of God, God relents: if Moses stands behind a rock, he can see God's backside. Maimonides interpreted the passage as a parable dealing with the limits of human knowledge.[2] In saying "No one can see me and live," God means that no one can know the divine essence as it is in itself. In that respect, God remains infinite and incomprehensible. As for God's backside, Maimonides takes this to refer to the ways and works of God, or, more precisely, the consequences and effects that flow from God. In keeping with Jewish tradition, he identifies the consequences and effects with the thirteen attributes or *middot* identified in Exodus 34: merciful, gracious, slow to anger, etc.

Rather than unpack the metaphysics of "consequences and effects," it would be better to say that Moses was allowed to see

[1] Kenneth Seeskin, *Searching for a Distant God*.
[2] *GP* 1.54, pp. 124–25.

God's goodness. Thus Exodus 33:19: "I will cause all my goodness to pass before you." I take this to mean that while God remains incomprehensible, the only way we can form a workable idea of God is to think of God under the rubric of moral agency. The reason is that moral agency is the highest perfection we can understand. Unless God is understood as a moral agent, the doctrine of *imitatio Dei* would make no sense. This strategy is legitimate as long as we recognize that it is a second-best alternative – showing us the backside of God rather than the face. Strictly speaking, even goodness subsumes God under a category and distorts the simplicity of the divine essence.

From a Jewish perspective, moral agency is an appropriate description because it does not imply that God is physically present to human beings. Approval or disapproval is a relation between wills. We can speak of nearness, distance, forgiveness, or any of the other terms the Bible uses without giving the impression that God has entered the material realm. In this way, moral agency allows us to retain belief in a transcendent God without relying on plastic representations. Along these lines, Cohen suggested that the second commandment be reformulated as "Thou shalt make no image of the moral subject."[3]

Once we look at God as a moral subject, several consequences follow. First that the deciding factor in God's relation with humans is not might but right. Although God can destroy everything in an instant, having created human beings, God must treat them with respect. Second that God will honor all agreements even if humans do not honor theirs.[4] Third that there is a written record of God's agreement with Israel to which both parties are bound. I have argued that all of these conditions are included in the idea of covenant. Once we have a covenant, God and humans are subject to the same law regardless of the vast difference that separates them. As Hartman put

[3] Hermann Cohen *Kants Begrundung der Ethik nebst ihren Anwendungen auf Recht, Religion und Geschichte*, p. 283.

[4] For discussion of prophetic texts that guarantee God's faithfulness to the covenant, see Louis E. Newman, *Past Imperatives*, pp. 71–73.

it, covenantal relatedness presupposes "mutual recognition of the separate existence and rights of the parties involved."[5]

This is important because we normally think of a right as a claim we have *over and against* someone else.[6] To say that the covenant endows the weaker party with rights is to say that if there is a dispute, the ultimate appeal is not to the stronger one but to the agreement to which they are bound. Just as the Rabbis took it upon themselves to overrule God in the name of the Torah, so humans reserve the right to question God if the covenant appears to be in jeopardy. In Kantian terms, the moral law has nothing to do with the empirical conditions in which humans find themselves but applies to all rational agents including God.[7] Unless God can incur obligations, the promises made to Noah, Abraham, and the assembled multitude at Sinai would be empty.

It follows that the covenant is always transcendent: it expresses the standards both parties have pledged to uphold and against which they are willing to be judged. Critics will object that the introduction of a standard against which God is judged does away with God altogether. Luther, to take one example, argued that just as God is incomprehensible, so God's justice is incomprehensible.[8] This parallels one of the standard criticisms of Kant. If, as Kant insists, our idea of God is derived from the moral law, then, the criticism goes, God has been superseded by the moral law, which is tantamount to saying that God does not exist.

[5] Hartman, *A Living Covenant*, p. 25. Cf. Soloveitchik, *The Lonely Man of Faith*, p. 44. For a full account of the idea of rights and duties in Judaism, see David Novak, *Covenantal Rights*. Note in particular Novak's claim (p. 9) that rights and duties are correlative. According to Novak, the chief claim we have on God is the right to cry out to God as we do in petitionary prayer. This does not mean that God will answer our cry, only that we have the right to be heard. Surely Abraham and Moses claim more than this in the passages discussed earlier. They are insisting that there is a moral standard (keeping promises and not punishing innocent people) to which everyone, including God, must adhere.

[6] Note Hartman's language, *A Living Covenant*, p. 29: Abraham stands *over and against* God as an other.

[7] Kant, *FMM* 389, p. 5. For the controversial nature of this assumption, see J. B. Schneewind, *The Invention of Autonomy*, pp. 511–13. Note in particular Schneewind's claim that for Kant, humans and God exist together in a single moral community.

[8] Luther, *Martin Luther: Selections from His Writings*, p. 200.

To appreciate the criticism, consider the context in which it is usually offered. In Judaism the covenant finds its natural expression in a body of law. In Christianity salvation through law is thought to be superseded by salvation through grace. To continue with Luther, since we will always be sinful creatures in the eyes of God, we cannot achieve salvation on our own. The only path to salvation is through the will of God. Why should the gift of grace be given to a creature whose nature is inherently corrupt? The answer is that we do not know, and that is why it makes no sense to apply a human standard of justice to God. In the words of Exodus 33:19: "I will be gracious to whom I will be gracious, and will show mercy to whom I will show mercy."

Popular as it is, Luther's argument is not one that Judaism can accept. For Judaism, the covenant of law has not been superseded and in principle can never be. As the Psalmist (105:8) maintains, God is mindful of the covenant forever. By its very nature, law demands accountability. A God who is not accountable to humans is a God whose covenant means nothing. The reason God is bound by the covenant is not that an external force has imposed it or that God must defer to a natural necessity over which no one has control. It is not that just as God cannot make the diagonal of a square shorter than the side, so God cannot make that which is intrinsically evil not evil. Rather it is that God is bound by the covenant for the same reason that we are: because God has chosen to live by it.

There is a sense in which obligation implies limitation: you cannot do whatever you want. We should keep in mind however that God's limitation is self-imposed.[9] I follow Hartman in saying that there is no need to interpret God's self-limitation in terms of the notion of *tzimtzum* (contraction) as articulated in Kabbalism.[10] Rather the limitation I am talking about is moral. I have stressed throughout this study that freedom does not mean ability to do whatever one wants but

[9] Cf. Novak, *Natural Law in Judaism*, p. 42, n. 54: "God's power is inherently infinite. But the consistent execution of that justice is actually God's own limitation of that infinite power for the sake of covenantal relationality with the world."

[10] Hartman, *A Living Covenant*, p. 24.

ability to act in a rational way under law. We saw that God incurs an obligation the moment the world is created: to *re*create it and watch over it. The same is true of the decision to enter into a covenant with humans: to act in a moral fashion is to accept the responsibility of doing additional acts of the same sort.

All this is a way of saying that from the first sentence of Genesis, God decides to become a being under law. By holding God to account, we are not doing away with God but exercising a right granted to us as members of a community to which God has summoned us. Odd though it may seem, there is every reason to think God *wants* to be held to account because it means that we have recognized the importance of keeping a promise. We may conclude that if Abraham and Moses had remained silent, not only would they have failed to affirm their autonomy, they would have failed God as well.

Although some of the Biblical understanding of covenant is captured by contracts or treaties, it is noteworthy that some is not. A contract seems to be implied at Exodus 34:27, when God tells Moses: "Write these words; for in accordance with these words, I have made a covenant with you and with Israel."[11] As we learn two lines later, the "words" are the text of the Decalogue. But nothing like this is involved in the covenant of friendship between David and Jonathan at 1 Samuel 23:18. Rather than a legal document, it expresses itself in loyalty between friends. Though it is clear that the covenant between God and Israel involves a text, one may wonder whether the text exhausts the relation or is only a summary of how it is supposed to proceed. Consider a marriage contract. While there is a text and often an exchange of property, few people would argue that the text tells the whole story of the relationship.

The contractual interpretation of the covenant received unwitting support when the Hebrew Bible was translated into Greek. Not only was *torah* (instruction) rendered as *nomos* (law), but *brit* (covenant) was often rendered as *diathēkē* (will or testament). This choice of words enabled centuries of Christian

[11] Also see Exodus 19:5–6.

theologians to argue that the covenant between God and Israel was a legal arrangement that was superseded by the covenant of grace. According to that arrangement, God was supposed to bestow benefits on Israel if Israel performed a series of well-defined actions pleasing to God.

Important as it is, the legal aspect of the covenant is only part of a broader understanding that includes affection, trust, and shared responsibilities. At Deuteronomy 10:12–13, we read:

> And now, O Israel, what does the Lord your God require of you? Only to fear the Lord your God, to walk in his ways, to love him, to serve the Lord your God with all your heart and with all your soul, and to keep the commandments of the Lord your God.

As the passage goes on to say: "The Lord set his heart in love on your ancestors alone and chose you, their descendants after them." Note the juxtaposition of love with obedience to the commandments. Though we may see love as one thing and obedience as another, the text does not. It sees love and obedience as two sides of the same coin: a sacred union. Note too that what God asks is not just that Israel love God but that it *return* God's love.

Not surprisingly, the prophets often describe the covenant as a marriage vow. According to Hosea 2:19–20: "I will take you for my wife forever; I will take you for my wife in righteousness and in justice, in steadfast love, and in mercy. I will take you for my wife in faithfulness; and you shall know the Lord." And Jeremiah 2:2–3: "I remember the devotion of your youth, your love as a bride, how you followed me into the wilderness." And finally Ezekiel 16:8: "I passed by you again and looked on you; you were at the age for love. I spread the edge of my cloak over you, and covered your nakedness: I pledged myself to you and entered into a covenant with you, says the Lord God, and you became mine."

These passages indicate that while it may contain a legal component, the covenant should not be compared to the sale of a house, where buyer and seller confront each other as adversaries and enter an agreement based on mutual advantage. Rather the covenant implies that each of the parties has agreed

to make the other's ends his own. As we would say, they are not just sharing their property but their lives.

Once the covenant is enacted, everything changes. From that point on, the hopes and aspirations of one party will be bound up with the hopes and aspirations of the other. In Kantian terms, there is a unity of will – not because one person has forced compliance on another but because both have decided to define their destiny in terms of the other. That is why idolatry, the worship of other gods, is often compared to adultery.[12]

The same duality that characterizes the Biblical idea of covenant also characterizes the social contract. According to one version, nature has conditioned each of us to preserve our lives and enhance our dignity and power without concern for others. As Spinoza put it (*TTP* 201), nature has given us no other guide than the unaided impulses of desire. In a state of nature, our right to something is defined by our ability to get it. Thus (*TTP* p. 200): "nature taken in the abstract has the sovereign right to do anything she can; in other words, her right is coextensive with her power." Since the result of everyone's pursuing his own desire is misery for all, reason dictates that we enter a compact in which we transfer some of our natural rights to the sovereign in exchange for peace and security.

The problem with this account was underscored by Levinas: it sees social relations as part of an elaborate *quid pro quo*. I enter the compact not because I love my neighbor and want to give her the respect she deserves but because I want to insure my safety. A compact, in Spinoza's opinion, is made valid only by its utility.[13] Once its utility is exhausted, the compact is null and void. It is therefore foolish to ask someone to obey an agreement unless we can show that disobedience will yield more harm than good. If everyone followed the dictates of reason, there would be no need for laws; all we would have to do is provide moral lessons and watch as each person sponta-

[12] See, for example, Deuteronomy 31:16–21; Exodus 34:15; Hosea 1–3; Jeremiah 3:1, 4:30–31.
[13] *TTP* p. 204.

neously and wholeheartedly did what is useful to him. But it is a fact of human nature that most people are not guided by reason and seek their advantage on the basis of irrational hopes and fears.

In view of this fact, the purpose of the sovereign is to show people that however inconvenient the law may be, it is more inconvenient to break it. If a person is persuaded by reason to seek peace, fine. But if he is not persuaded, the sovereign can simply appeal to his desire for self-preservation. At the point where the sovereign loses her ability to enforce the law of the land, she loses her right to do so as well. Levinas' objection would be just as valid if Israel accepted the covenant at Sinai in order to obligate God to bestow benefits on her. If that were the case, the covenant would be nothing but a legal document regulating the behavior of people who gave up one benefit in order to receive another.

Not surprisingly, Spinoza maintains (*TTP* p. 219) that Israel transferred its natural rights to God "in the same manner as we have conceived it to have been in ordinary societies." If it is asked why, the answer is that having been liberated from Egyptian bondage, the people believed that nothing but God's power could preserve them. So God became their king, and they became subjects of a theocracy whose laws were the commandments of the Torah. Again, it is not surprising that Spinoza concluded that many of the commandments contained in the covenant institute ceremonies that have no intrinsic value and are undertaken only to achieve the temporal prosperity of the nation. At one point (*TTP* p. 233), he even describes them as "pains and penalties."

Though Kant agreed with Spinoza about the ceremonial law, his view of the social contract is quite different. He accepts the social contract because it affirms that society came into existence by an act of mutual consent, which is to say an act of will. As we saw, rational decision making is an end in itself and any interference with it compromises human dignity. Kant insists however that we must purify the social contract by dissolving any connection it has with historical fact. "The act by which a people forms itself into a state," he tells us, "is the *original*

contract.''[14] But then he introduces an important qualification: ''Properly speaking, the original contract is only the Idea of this act.'' In other words, the social contract is a rational construction dealing with the idea of a perfectly just society. Even if we imagined that everyone in the state of nature behaved justly, in Kant's opinion we would still need to form a civil authority to fulfill our nature as rational beings.[15]

To see why, let us recall that Kant distinguishes between negative freedom, by which he means the liberty to do whatever one pleases, and law-governed or positive freedom. In a state of nature, we have the former but not the latter: each person is her own law and her own judge. In that condition, there is no public law and therefore nothing that can claim objectivity. Even if there is not a war of all against all, there would be no one with the authority to render a verdict if rights should come into conflict. For Kant, it is not the case that in a state of nature, a person sacrifices part of her innate outer freedom to achieve peace and security. Rather it is that, in the ideal case, a person entirely relinquishes her ''wild, lawless freedom'' in favor of true freedom, which implies dependence on law.

Unfortunately Kant's argument is abbreviated and enigmatic. Why could a purely rational being not will the moral law in a state of nature? Is this not exactly what happens in the kingdom of ends, where each person is sovereign and civil authority is unnecessary? The answer is that Kant has not completely eliminated the empirical component of his theory for he clearly intends it to cover the human condition as we now think of it. The kingdom of ends is only an aspiration. But there is one respect in which Kant has improved on his predecessors: the social contract is not an exchange relation as much as a recognition of the inadequacy of a particular conception of freedom. The issue is not that our material condition is improved by submitting to civil authority but that the objectivity of moral reason demands civil authority on its own. According to this conception, law is not a necessary evil, not something that compromises rights nature has given us or trades one good

[14] *MM* 315, p. 127. [15] Ibid. 312, p. 124.

for the expectation of a greater one. Rather it is something that allows us to answer the call of duty as we conceive it.

To return to Sinai, we do not have to think of the covenant as a tradeoff. According to the Biblical account, even a perfect being, whose peace and security need no protection, enters a covenant and agrees to live under the rule of law. Recall that not only are there covenants with people but according to Genesis 9 with animals and the earth as well. Never again will there be a flood that destroys all flesh. The implication is that without a covenant, there is chaos. In its own way, the flood takes us back to the confusion (*tohu vavohu*) that prevailed when heaven and earth were first created. After the flood God forms a social order in which each thing is given appropriate rights and responsibilities, the primary responsibility being respect for life.

Once the people are freed from Egyptian bondage, they enter a no-man's-land which for all intents and purposes amounts to a state of nature. Again God brings order by making a covenant. As the story unfolds, the people fall prey to idolatry, insubordination, and civil war – all ways of returning to chaos. Understandably God asks for the covenant to be reinstated and for everyone to participate in the ceremony. Each covenant brings order and is founded on consent, actual or implied. The obvious conclusion is that the social order is not just a way to insure prosperity but a way to improve the quality of life. To go outside the covenant is to reject everything God has done.

Cohen argued that it is not enough to look upon our fellow human beings as citizens of a moral realm. Beyond their humanity is the fact that they suffer. We can understand his philosophy by recognizing that *correlation* is a general name for moral interaction and includes what the Bible refers to under the rubric of *covenant*. Cohen too argues that the legal dimension of correlation is only part of the story. Recall that religion goes beyond ethics by getting us to see other people as more than instances of humanity. When we take pity on our neighbor, we move from a legal relation to a religious one, a move explained by the transition from the next man to fellowman. In Cohen's

words (*RR* p. 150): "No other term designates the origin of the correlation between God and man more profoundly than the term 'compassion.'"

From compassion for our fellowman, we become partners with a God who has compassion for the widow and the orphan. As Cohen reminds us, compassion (*raḥum*), one of the thirteen attributes of God, is derived from a Hebrew word meaning "mother womb." More than mercy or loving care, God's compassion is expressed in softness and gentleness towards humanity. Thus love, while it involves knowledge, cannot be purely intellectual. According to Cohen, the partnership that is established between a compassionate God and a compassionate people is the basis of the prophetic notion of a heavenly marriage vow and the yearning for God expressed throughout the Book of Psalms. It is not just that God wants to regulate behavior but that God wants us to sanctify ourselves and draw near. As the Psalmist (73:23–26) says:

I am continually with You,
You hold my right hand,
You guide me with your counsel,
And afterward receive me with glory.
Whom have I in heaven but You?
And beside You I desire none on earth.
My flesh and my heart fail,
But God is the rock of my heart and my portion forever.

These verses end with the identification of goodness with nearness to God, a claim that Cohen takes as the essence of monotheistic love for God.[16]

Again the process of drawing near to God is really a process of self-nearing. "In it," Cohen (*RR* p. 164) concludes, "the holy God is loved, who makes us holy, who demands our holiness." Love arouses action and is an impulse to action. As in ethics, action cannot be motivated by an interest I have in an external object. That would only produce heteronomy. In Cohen's opinion, love must be self-motivated and pursued as an end in

[16] It is well to remember that for Cohen, as for most of Jewish theology, nearness is a moral term and does not imply mystical union, an idea that Cohen (*RR* p. 164) calls "unchaste."

itself. It is true of course that love of God is commanded at Deuteronomy 6:5. But as Cohen expresses it in another context (*RR* p. 343), the power of sanctification is not in the commandments; rather God furthers *our* sanctification by imploring us to perform the commandments. In a word, love must be autonomous or it is not love at all. Like a marriage vow, it is a meeting of two parties who have chosen each other and dedicated themselves to making the other's ends their own.

Cohen sought to purify Judaism by stressing the autonomous nature of religious experience and to go beyond a legal interpretation of the covenant. There is no question that he was answering Christian critics, including Kant, who saw Judaism as purely statutory. His breakthrough was to recognize the importance of compassion, an idea that came to play a crucial role in the thought of Levinas. It is noteworthy however that on this point, Buber parted company with Cohen and Levinas. Though poverty and vulnerability can be part of the I–Thou relation, there is nothing that says they have to be. In a reply to Levinas, Buber challenges the idea that solicitude is the only means of access to the other.[17] Even if everyone were well clothed and well nourished, he argues, ethical problems would still be visible. It is important to see why Buber is right.

Imagine life in the kingdom of ends, where everyone is adequately provided for and all rights are respected. Not only is there no reason to think that love and intimacy will be excluded but every reason to think they will flourish. As Kant recognizes (*MM* 473, p. 265): "It is a duty to oneself as well as to others not to *isolate* oneself . . . but to use one's moral perfections in social intercourse." In the kingdom of ends, there will be no relationship based on deceit, no intimacy compromised by the grim realities of war and starvation, no friendships where people use each other solely for material advantage. In short there is nothing in the kingdom of ends that does away with the need for friendship. On the contrary, since friends willingly promote each other's welfare and strive together for common goals, they provide an excellent model for what the kingdom of ends is

[17] *PMB* p. 723.

supposed to be: a system in which everyone's goals are pursued together and everyone becomes an extended friend.[18]

As we saw in our consideration of Kant, friendship is a duty. There may be circumstances in which the duties of friendship conflict with other duties. Even in the sphere of friendship, the demands of love (which Kant thinks bring people together) may conflict with those of respect (which he thinks pull them apart). If love requires that I come to your aid in helping you pursue your goals, respect requires that I let you make up your own mind about what those goals are.[19] By the same token, it is possible to love someone who deserves little respect or respect someone but feel no love. In a true friendship, love and respect are united: each person loves the other not as an extension of his own psyche but as an autonomous agent with a mind of her own. Without love, the relation is purely formal; without respect, it does nothing to improve the moral character of the participants and may interfere with it.

It follows that Abraham's question: "Shall not the judge of all earth do what is just?" is a sign of respect. It says in effect: "This thought is unworthy of you." The problem is that neither Kant nor anyone else has a simple formula for how to balance the demands of love and respect in any given case. Still the fact that everyone is treated as an end in herself does not mean that love between friends is no longer necessary. Problematic or not, it is part of the fabric of moral life. Without love, we return to isolation.

Even in the Garden of Eden, when food was plentiful and innocence not yet lost, Adam needed a wife to whom he could cling. According to Genesis 2:18: "It is not good for man to be alone." The same is true for people in an ideal society. Important as it is, the fact that someone's rights are respected is not enough: beyond the question of rights is the delight people take in being with each other. This delight has nothing to do with compassion, servility, or the experience of being found guilty; it arises from the mere fact that someone is present, that love is freely given and received. One way to see this point is to

[18] Cf. Christine Korsgaard, *Creating the Kingdom of Ends*, p. 193.
[19] *MM* 448–49, 469.

recognize that we have a natural disposition to want to share our lives with others. As Aristotle says, no one would choose to live without friends, even if he had all other goods.[20] The need to share is more than an admission that we cannot provide everything for ourselves: it is the need to have a common destiny, to feel that our welfare is bound up with the welfare of others.

My point is that people in an ideal society will not live their lives behind a Rawlsian veil of ignorance. While the veil of ignorance may help us to understand the principles on which such a society is founded, it was never intended to be an obstacle to social intercourse. Rawls himself argues that the deliberations that go on behind the veil of ignorance are not meant to be an account of the moral psychology of actual people or of citizens living in an ideal state.[21] So there is no reason to suppose that people will not form voluntary associations in an ideal society and pursue common interests. From a religious perspective, the various covenants between God and humanity will still be in place.

We may conclude that covenants still have a role to play in situations where moral and material needs are met. They even have a role to play when one of the parties is not human but divine. According to the Bible, God does not want to be alone either. Having created moral agents, God wants to nurture them, forgive them, love them, and be loved by them. In short God wants to be an agent *among* agents, to found a society where rights are respected and ends pursued together.

We do not have to think of God's love as irrational – as giving us a gift we do not deserve – to understand this point. It is true that God can exist alone and did not have to create anything. But having made the decision to create moral agents, God must give them the space in which to pursue morality in their own way. That does not mean that God respects everything we do but that God must respect what we are: beings with the capacity for self-legislation, which is to say beings who are potential citizens of a perfect moral realm. Beyond respect is love. We

[20] Aristotle, *Nicomachean Ethics*, 1155a5–6.
[21] Rawls, *Political Liberalism*, p. 28.

believe that God not only shares our aspirations but helps us to fulfill them. The reason for this is simple: by entering into a covenant, God and humans have decided to live together and work for a common goal.

For Kant, as for Aristotle, friendship is based on reciprocity.[22] It is not that my partner and I throw away our concern for our own welfare but that we put our welfare in each other's hands. As Kant puts it: "I, from generosity, look after his happiness and he similarly looks after mine; I do not throw away my happiness, but surrender it to his keeping, and he in turn surrenders into my hands."[23] If I am to pursue my partner's welfare as my own, I must be assured that she will pursue my welfare as her own. To use Kant's expression, if I give up a preoccupation with my own welfare in forming a friendship, by having my partner take it up and make it hers, she gives me back what I lost. Friendship then is a way of making a person whole.

To return to religion, God not only loves but wishes to be loved in return. For if we do not love God, then, as we saw, there is a sense in which God is not really God. God can only be sanctified if we take up the task of sanctifying ourselves. Like love, sanctification is a way of putting one's welfare in someone else's hands and getting back what one has lost. Or rather love *is* sanctification in the context of the covenant.

None of this would be possible unless we assume that both sides of the relationship are autonomous. If, as some people believe, our love is a response to a heteronomous command, if God does not respect our freedom to make up our own minds, then the love we return is not genuine. It may be adoring, but it would not result in a unity of will and a sharing of destiny. So it is only if God recognizes our autonomy that we can return love worthy of God. Anything less demeans God and makes a mockery of the idea of covenant.

[22] *Lectures on Ethics* (pp. 202–03). For further discussion of this point, see Korsgaard, *Creating*, pp. 189–93 and Allen Wood, *Kant's Ethical Thought*, pp. 275–278. Note in particular Korsgaard's claim (pp. 215–16, n. 14) that Kant's view of marriage as a unity of will between partners parallels Rousseau's account of the social contract.

[23] Kant, *Lectures on Ethics*, p. 203.

I began this chapter by pointing out that my approach is based on the assumption that God is a moral agent. Once we make this assumption, we gain the right to talk about a covenant with God. But the idea that God can enter a covenant with humans is far from clear, particularly if we take covenant as a sign of love. Why should a perfect being enter a partnership with imperfect ones, especially if partnership implies some measure of equality? Note, for example, that both Aristotle and Kant are suspicious of friendships between unequal parties.[24] Is it not presumptuous for us to assume that God loves us and wants our love in return, that what we do matters to God?

There is an obvious respect in which the answer is yes. The idea of a friendship, community, or exchange of vows between us and God is an attempt to apply human categories to something that is more than human. Not only does it stretch these categories beyond the range of their normal application, it sins against divine transcendence by encouraging us to think of God under a description. Did Maimonides not teach us that all descriptions of God fail because they put limits on that which is unlimited? Did he not insist that God cannot be a being in relation to something else? Did Levinas not say essentially the same thing about subsuming the other under categories that we apply to ourselves?

Again the answer is yes. Like prayer or animal sacrifice, the idea of a partnership can be abused. It is abused if it leads us to think that partnership is exclusionary, privileging one group of people ahead of another, that partnership puts God at our beck and call, or that partnership exhausts the idea of divinity. We saw however that Maimonides himself introduced a concession in the form of attributes of action. These attributes allow us to say in a manner of speaking that God is gracious, merciful, slow to anger, etc. While Maimonides conceived of God's goodness in terms of effects on the natural order, I am suggesting that we conceive of it as a self-imposed limitation to abide by the rule of law. If God is a moral agent, the decision to abide by law is not

[24] Aristotle, *Nicomachean Ethics*, 1157b29–38, 1158b1; Kant, *MM* 469.

a limitation but a perfection; it is the decision to act on principle rather than just act.

Needless to say, the Bible does not speak in terms of principles or maxims. But the fact that it presents God as a covenant partner tells us that the idea of joining together with other moral agents to work towards the realization of a common goal has a status no other idea can match. More than power or intelligence, it is moral partnership that shapes the prophetic understanding of God. While there may be enormous metaphysical differences between the partners, the prophets speak as if these differences can be overcome so long as each partner retains its identity and loves and respects the other. As we saw in our consideration of Cohen, fusion is out of the question.

Not only does the Bible present God as a covenant partner, it presents the covenant as something to which both parties sometimes fall short: Israel in its repeated lapses into idolatry, God in the suggestion that Israel should be destroyed as a result. Obviously passages that show God succumbing to anger and jealousy cannot be taken literally. But just as obviously they serve a purpose. The first is that God not only tolerates but demands human participation in the moral order. Instead of slaves, God wants full-blown partners. The second is that from a moral perspective the covenant is larger than either of the parties who enter it. It is to the covenant that the parties appeal when something goes wrong.

Religious history is the record of how successful they are in getting things back on track. The apex of that history will be the point at which people accept the covenant with complete purity of heart. According to Jeremiah (33:31–33), this will be the day when God offers the covenant once again and, to reiterate a familiar theme, writes it on the people's heart. It should be said, however that even when that day arrives, God will still be in heaven, and we will still be on earth. As Jeremiah points out, there will still be sin and forgiveness – just as there is sin and forgiveness in the context of a marriage. What there will not be is a feeling that one can live a successful life outside the covenant.

We must not lose sight of the fact that covenant is an idea not a physical description. Like correlation, it relates the essence of divinity to the essence of humanity, not a voice from heaven to an individual person. From a moral standpoint, this means that the I who stands in correlation to God is not the phenomenal self but the noumenal one, the person I strive to be rather than the person I now am. It is this self that sanctifies God and perfects the work of creation. To the degree that I am successful in realizing this self, it is not presumptuous to say that what I do matters to God.

There is a respect in which the covenant is not like a marriage: unlike a husband and wife, we do not have continual access to God. As the Rabbis showed when they rejected the authority of the voice from heaven, our access to God is mediated by centuries of commentary. At one point, the commentary proclaimed that animal sacrifice can no longer be done. At another point, it proclaimed that polygamy, though once allowed by the law, violates it. In neither case did anyone consult God: the terms of the covenant underwent revision based on human assessment of the relevant texts and their implications.

Should those texts be read in a new way, or new implications of old readings brought to light, the terms of the covenant will change again. As we saw, the job of interpreting and applying the covenant is entirely in human hands. Though this may introduce a measure of contingency, reliance on human reason is an immediate consequence of the decision to live under the rule of law. Instead of prophets, whose job it is to tell us what God thinks, we have procedures; instead of a personal relation, a principled one. To belittle the role of human reason and return to the commanding presence of a personal God is to reverse the trajectory we have followed throughout this study and return to heteronomy.

To say that the covenant is an idea is to say that it is *our* idea, our way of responding to divinity. Ordinarily one does not get very far by pointing out that something is an idea. If the neo-Kantians taught us anything, it is that belief in a *ding an sich* or mind-independent reality outside the sphere of ideas is unjusti-

fied and possibly incoherent. But the case of God is different – not because we have special access to the *ding an sich* – but because one cannot talk about God without coming to grips with the Maimonidean question: How can we assume that our ideas do justice to God? In the case of ordinary objects of experience, the question may seem academic, but the distinguishing feature of *this* object is that it is not ordinary. Nothing compares to it or can stand in place of it. In fact the crux of the *via negativa* is that the more ignorance we have of it, the closer to it we get.

A lesser thinker than Maimonides would have used the *via negativa* as a path to complete skepticism, arguing that every prayer we say and every religious idea we form is false. Fortunately this is not his view. Rather he holds that the traditional accounts of God are valuable as long as we recognize their limits: rather than objective facts about God, they are ways that the idea of God presents itself to us. Like Moses, we cannot see God's face and must be content with the backside, the goodness of God as revealed in the epiphany of Exodus 34. Even that must be viewed from behind a rock.

Maimonides takes this to mean that our knowledge of God is always a step removed from its object. The problem then is not in thinking that God and humans have entered a sacred partnership. Not only does that idea have the authority of the prophets behind it, it has desirable consequences that follow from it. Surely it is better to think of God as respecting human freedom than as contemptuous of it. The problem is in failing to see that what we think about God does not take us inside the veil of ignorance that surrounds God. Thus any attempt to break through the sphere of ideas and come face-to-face with the divine nature is impossible.

To return to the point with which we began, the idea of a sacred partnership is a concession.[25] Perhaps all of religion is a concession in the sense that it allows us to be true to God without coming face-to-face with God. It is as if God says to us, "If I reveal my full self to humanity, I will destroy it. Though I

[25] In many ways Maimonides' attributes of action are a concession as well. On this point, see *Searching for a Distant God*, pp. 50–53, 55–61.

spoke to Job from the whirlwind, if I do this all the time, I run the risk that humanity will respond with slavish obedience rather than genuine piety. Therefore I will propose the idea of a partnership in which everyone can participate with no loss of dignity. Though many will see it as burdensome, I will demand of humanity nothing more nor less than what humanity ought to demand of itself." So be it. Behind the idea of a sacred covenant, and supporting it, is the doctrine of autonomy. Though it was not formulated in a rigorous way until the Enlightenment, it is present from the opening lines of Genesis down to the philosophy of our own time.

While philosophers typically think of Judaism as a paradigm of heteronomy, that is because philosophers want to argue that their theories are superior to the ethical system at work in religion. According to the standard account, religion offers us divine commands that we must accept whether we understand them or not. Philosophy liberates us from religion by pointing out that passive acceptance of external commands offends human dignity. The truth is however that concern with human dignity has been a feature of religious ethics ever since human beings were created. While there are passages that suggest that God is vengeful and dogmatic, centuries of Rabbinic and philosophic commentary have taken the sting out of them. The dominant view is that God loves humanity and has entrusted humanity with the task of sanctifying itself. So far from liberating us from this view, philosophy has been one of its prime beneficiaries.

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