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Morality and Religion

The Jewish Story

Avi Sagi

Translated by
Batya Stein

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This book would not have come into existence were it not for the effort that Daniel Statman and I invested in the philosophical endeavor that culminated in *Religion and Morality* (Amsterdam: Rodopi, 2000). Nor can I imagine this book without the contribution of my two academic homes: the Department of Philosophy at Bar-Ilan University and the Shalom Hartman Institute in Jerusalem, where I am able to study and engage in research while being involved in an ongoing dialogue with a community of scholars. Special thanks to Donniel Hartman, the President of the SHI, for his friendship, for his trust, and for the ideological partnership. I am deeply grateful to him and to the SHI for their steadfast support.

Finally, special thanks to my translator Batya Stein, whose contribution is evident in every line of this book and in the rest of my work. I am grateful to Batya for our many long years of friendship, for her commitment, and for her exemplary professionalism.

Praise for *Morality and Religion*

"In *Morality and Religion: The Jewish Story*, Avi Sagi displays his matchless command of classical rabbinic and secular philosophical sources by turning his talents to a comprehensive and insightful analysis of divine command theory in Judaism. The result is an invaluable work that contributes immeasurably to an understanding of Jewish law and ethics. A distinctive contribution to religious studies, this book is an intellectual feast that will engage academic scholars and knowledgeable laypersons alike!"

—David Ellenson, *Chancellor Emeritus, Hebrew Union College-Jewish Institute of Religion and Professor Emeritus of Near Eastern and Judaic Studies at Brandeis University, USA*

"Avi Sagi's book offers a fresh look at the role of morality in Jewish tradition. Equipped with the best tools of contemporary philosophy of religion, Sagi sheds new light on central questions: Does Judaism recognize an ethics that is independent of revelation? Does Judaism acknowledge the possibility of a genuine conflict between religion and morality? His insights are a must for anybody interested in Jewish ethics."

—Daniel Statman, *Chair, Department of Philosophy, University of Haifa, Israel*

"Is the good good because it is God's will or is it good in and of itself? Euthyphro's question has never lost its urgency. In this fascinating book, Avi Sagi joins the discussion bringing new concepts and depth to it. Contrary to the prevailing assumption, he argues that the dominant voice in Jewish tradition recognizes the autonomy of morality. This book is essential reading to any student of morality."

—Menachem Lorberbaum, *Professor of Jewish Philosophy Tel Aviv University, Israel*

Contents

CHAPTER 1

Introduction

This book deals with the relationship between morality and Jewish religion and seeks to offer a new perspective on this topic, relying on the comprehensive critical analysis presented in *Religion and Morality*.[1] That study began as an attempt to examine the relationship between religion and morality in Jewish tradition. We found, however, that we could not proceed without engaging in a systematic study of the fundamental philosophical questions touching on the relationship between religion and morality in general. Having completed that task, we could turn to the issue that had sparked our original pursuit.

The present book, then, is a continuation of our original endeavor but is an independent project, even though a reader equipped with the methods we developed in the previous book will obviously benefit.

This study addresses two basic issues. The first is whether, according to the philosophical and halakhic tradition of Judaism, morality depends on religion. The second is whether a normative contradiction is assumed between religious and moral obligations.

Morality's dependence on religion is a many-sided question and, in *Religion and Morality*, we discerned two types of dependence—strong and weak. Positions supporting strong dependence state that an act is not moral without a divine command, and only God determines the moral

[1] Avi Sagi and Daniel Statman, *Religion and Morality*, trans. Batya Stein (Amsterdam/Atlanta, GA: Rodopi, 1995). Hereafter, and throughout the book, *Religion and Morality*.

A. Sagi, *Morality and Religion*, Jewish Thought and Philosophy,
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obligation. Hence, the philosophical literature refers to this theory as "divine command morality" (DCM). Chapter 1 in *Religion and Morality* was devoted to a detailed analysis of the various positions presenting this thesis.

The approach claiming weak dependence argues that an act may be moral without a divine command and the moral obligation is not determined solely by God although, for various reasons, "morality cannot be implemented without religion."[2] Part III of *Religion and Morality* analyzes various types of weak dependence.

The present book opens with the question of whether Jewish tradition assumes a strong dependence of morality on religion or acknowledges moral autonomy. This question becomes doubly important given the fact that DCM is widespread in both Christianity and Islam,[3] and expresses fundamental religious intuitions. Concerning the perception of God, DCM conveys the infinite gap between God and humans and God's absolute sovereignty and freedom. God's will is neither subject to nor determined by any causes, including moral causes. God and humans are not members of one moral community since God is in heaven and humans are on earth. For the religious person, the DCM thesis reflects the believer's willingness to obey God unconditionally. Rather than putting God's commandments to the test of their own moral reason or knowledge, believers obey God's command because it is God's command.

Given the weight of the DCM thesis in the other monotheistic religions and the fact that this thesis indeed reflects basic religious intuitions, the warranted question is whether this thesis is widespread in Jewish tradition as well.

The DCM thesis is often confused with the thesis assuming a normative conflict between morality and religion. As we noted in the introduction to Part III of *Religion and Morality*,[4] the underlying religious intuitions in both the dependence and the conflict theses stress God's sovereignty and freedom. The dependence thesis emphasizes divine sovereignty when stating that God is the sole legislator of the moral obligation and determines morality. The conflict thesis conveys this notion when it states that, although some moral obligations do not depend on God's command, the manifestation of divine sovereignty is that God's commands override

[2] Ibid., 11.
[3] Ibid., 12–17.
[4] Ibid., 117–118.

moral obligations. Both theses also assume that unconditional compliance is required from believers.

Yet, despite this similarity, their attitudes toward moral values and obligations are mutually contradictory. DCM does not acknowledge autonomous moral values or obligations since God determines what is proper and what the moral obligation is. By contrast, the conflict thesis necessarily assumes moral autonomy given that premising an opposition between religion and morality must assume that morality does not depend on religion. The very recognition of a conflict, then, is proof of moral autonomy.[5]

Part I of this book engages in a detailed analysis of the DCM thesis in Jewish religion, tracing its course through rabbinic texts and commentaries up to the contemporary philosophical and halakhic literature. The central thesis emerging from the analysis is that mainstream Jewish tradition affirms moral autonomy whereas positions claiming strong dependence are marginal and random.

Part II takes a further step and argues that Jewish tradition not only acknowledges autonomous *moral* obligations but also views them as *legal* obligations. In other words, Jewish tradition affirms natural law. The accepted scholarly view, as shown here, is that Judaism neither does nor in principle can recognize natural law because, as a religious tradition, it views God as its sole legislator. This book, however, will argue that mainstream halakhic thought assumes natural law as self-evident. The conclusions of the first two parts of the book are that Jewish tradition acknowledges moral and legal autonomy.

These conclusions may pave the way for the normative conflict thesis since we cannot ignore that some halakhic norms and obligations are incompatible with morality. One potential solution to such conflicts is to deny the question itself by supporting the dependence thesis: if morality depends on religion, no conflict between them is possible and, therefore, pointing to a conflict is a categorical mistake. Since Jewish religion cannot take this course, two other solutions are potentially available: either affirm the normative conflict thesis and turn it into a religious value or develop hermeneutical mechanisms that will reconcile religious and moral obligations. Yeshayahu Leibowitz supported the former solution. In Chap. 6 of *Religion and Morality,* we analyzed this solution and rejected it. In the present book, this solution will be rejected through an analysis of ways

[5] See also Avi Sagi, "Halakhic Praxis and the Word of God: A Study of Two Models," *Journal of Jewish Thought and Philosophy* 1–2 (1992): 305–329.

adopted in Jewish tradition to grapple with several normative conflicts. Part III of the book will argue that conflict is not a religious ideal but a datum to be understood and resolved. This part of the book thus fulfills a crucial function because the ways endorsed in Jewish tradition to deal with the conflict between religion and morality are test cases of whether it acknowledges moral autonomy. Its recognition of conflict as a problem and its search for solutions seeking to reconcile religious and moral obligations show that Jewish tradition does acknowledge morality as autonomous.

These sections of the book thus lead to the conclusion that Jewish tradition rejects the dependence as well as the conflict theses and, therefore, must recognize the validity of an autonomous morality substantiating both moral and legal obligations. Part IV of the book is devoted to an analysis of this interesting phenomenon, supporting the claim that two elements shaped the view of Jewish tradition in this regard. The first is the recognition that God is good, that is, the assumption that God's actions abide by morality. The second is the crucial role of autonomous human knowledge in the halakhic system. These two elements created a foundation that does not easily allow for the growth of dependence or conflict theories.

Neither this nor the previous book analyzes the range of moral theories that substantiate autonomous morality. Thus, for example, the book does not pose the question of whether autonomous morality is deontological or utilitarian, and the reason for the absence of such a discussion is clear. My concern here is only the relationship between morality and religion and, although this question does belong in the realm of moral theory, it does not require addressing the full spectrum of possible moral theories. If Jewish tradition does recognize an autonomous morality, the question of whether this morality is deontological or utilitarian is irrelevant.

The standing of morality in Jewish tradition offers a new and interesting perspective on this tradition's view of the God–humans relationship. God is not an arbitrary, sovereign, and omnipotent legislator demanding compliance from his subjects. Humans are not weak creatures from whom unconditional obedience is required. Rather, God and humans are partners in a moral community and equally subject to morality. Some of God's remoteness and transcendence are thereby diminished, endowing humans with power on the one hand and strength on the other. Only in a tradition that acknowledges this moral partnership can a conversation like that between Abraham and God on Sodom take place, when Abraham demands from God: "Far be it from thee to do such a thing, to slay the righteous

with the wicked, so that the righteous fare as the wicked! Far be that from thee! Shall not the Judge of all the earth do right?" (Genesis 18:25).

The anthropology and the theology emerging from this analysis of Jewish tradition are far removed from the more common positions in the public discourse, and no less so from positions articulated in Jewish philosophical thought at various times.

One of my aims in this book is to outline a worldview that surfaces in Jewish life as reflected in reality. I have therefore devoted special attention to materials from living Jewish tradition—Halakhah, biblical exegeses, and so forth—that were among its clearest and earliest manifestations. We can often learn from them much more about the world and the thought of Jews than from systematic philosophical endeavors which took shape in a conscious confrontation with "the outside." Jewish philosophy developed through the encounter with, and absorption of, new worlds. It is the product of dialogue and, as such, bears within it something from the "inside" but also something from the "outside." It teaches about the adaptability of Judaism to its surroundings but it is already a representation of a complex world, beyond the initial experience of it as a living tradition.

In this book, I have tried to listen to the voices that emerge from within Jewish tradition and discern their implicit theoretical foundations.[6] Hence, my effort will focus on building a story from the hermeneutical interpretation of tradition rather than on an analysis of second-order theories and philosophical endeavors. Traditional Jewish culture speaks silently, at times seemingly unconsciously, conveying its worldview through texts, norms, interpretation, and prayers that shape the myths, ethoses, hopes, and orientations of concrete Jewish life. The project I undertook in this book is part of a phenomenological outlook that seeks to translate the implicit into explicitness.[7] This translation becomes a literary drama focusing on the relationship between religion and morality. When weaving this story, I approach Jewish tradition relying on philosophical and hermeneutical assumptions and seeking to examine the texts so that they appear in all

[6] I made a similar attempt in *The Open Canon: On the Meaning of Halakhic Discourse*, trans. Batya Stein (London: Continuum, 2007).

[7] For a similar use of phenomenological hermeneutics, see ibid., and also my *Prayer after the Death of God: A Phenomenological Study of Hebrew Literature*, trans. Batya Stein (Boston: Academic Studies Press, 2016).

their fullness without my questions imposing answers. I am not the object of Jewish tradition but a subject turning to it seeking to reveal all its voices.

This book, like my previous ones, invites readers to take part in an intergenerational discourse, creating a partnership to which they bring their spiritual world and from which they contemplate the course that tradition has taken.

PART I

Morality's Dependence on Religion in Jewish Tradition

CHAPTER 2

Between the Duty of Obedience and the Thesis of Dependence

As I pointed out in the Introduction, DCM reflects a religious tradition widespread in Christianity and in Islam that poses a strong religious "temptation." This approach could thus be expected to appear and strike roots in Judaism as well but, as shown here, the study of its sources demonstrates that the strong dependence theory is almost unequivocally absent.

The claim that DCM is rarely found in Jewish tradition appears to contradict the research literature stating that, in Judaism, God is the source of morality. Isadore Twersky formulated this claim as follows:

> Autonomous morality, according to Kant's ethics, is a human creation; the independence of morality comes to the fore in the absence of an inextricable link between morality and the divine commands. This view has no parallel in Judaism. Judaism admits only a heteronomous-theonomous approach, which views the Creator as the source of morality.[1]

[1] Isadore Twersky, *Introduction to the Mishneh Torah of Maimonides* (Jerusalem: Magnes, 1991), 238, n. 237 [Heb]. This quote is part of a passage added to the Hebrew translation of this book and does not appear in the original English version, *Introduction to the Code of Maimonides (Mishneh Torah)* (New Haven, CO: Yale University Press, 1980). For many important bibliographical references, see ibid., 454–459, and notes. Hereafter, all references to Twersky will be to the English version of this work.

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Twersky, however, does not distinguish between different approaches touching on the standing of morality and the result, for him and for others on whom he relies, is a certain ambiguity in this regard.

One of the main considerations leading Twersky to claim that God is the source of morality is the principle of absolute obedience to God that he claims is central in Judaism. In his view, the importance of this principle "unequivocally rules out autonomy for law … the ground for obligation and authoritativeness is unquestionably the divine command—no Jewish thinker would dispute this or introduce distinctions."[2] The obligation of absolute obedience to God that is recurrently emphasized in Jewish tradition, then, compels for him the assumption that God is the sole basis of moral values and obligations.

As pointed out in the Introduction, DCM fits the emphasis on the duty of obedience and the human surrender to God. Yet, even though DCM tends to stress absolute obedience given that the acts commanded by God lack any intrinsic reason, the opposite is the case: even if there is an absolute obligation to obey God, it does not thereby follow that what God commands has value *only* because God has commanded it, as the DCM thesis states. Contrary to the DCM thesis, God may have commanded certain acts because they are good, and humans must obey God unconditionally. One reason for the duty of unconditional obedience could be that God is the being who knows the good. The epistemic gap between humans and God compels humans to obey God because they believe that God knows the good.

A distinction is thus required between these two claims, which are presented in various formulations of the Euthyphro dilemma:

1. Humans ought to perform act *x* because God has commanded it.
2. God commands humans to perform act *x* because it is morally good.

Twersky and others apparently hold that accepting claim (2) entails what they hold is an unacceptable conclusion: humans must perform certain acts because they are morally good rather than because God commanded them. This view assumes that "because" is a transitive relationship, that is, if A because of B, and B because of C, then A because of C and, therefore, (1) and (2) lead to the conclusion:

[2] Twersky, *Introduction*, 456–457. The original English text was slightly revised here, in line with the Hebrew translation.

3. Humans ought to perform act *x* because *x* is morally good.

This conclusion, in their view, contradicts the centrality of God's command in religious tradition. This view, however, is based on a logical fallacy given that the "because" relationship is not transitive.[3] Paul Faber offers an amusing example that helps to clarify this question. He suggests assuming that someone chooses a swimming pool at a hotel because it is pineapple-shaped and that the architect designed a pineapple-shaped pool because he idolized his mother, who was also pineapple-shaped. Would we then say that the reason for this person choosing this pool is that the architect idolized his mother?[4] This conclusion is obviously invalid, and the claim that humans must obey God unconditionally and perform certain acts because God ordained them does not contradict the claim that God commanded these acts because they are good.[5]

Several Jewish sages explicitly admit the existence of rational commandments that must be observed only because God commanded them:

> Our Rabbis taught, "You shall do my ordinances" (Leviticus 18:4), meaning commandments that, had they not been written, they should have been. These are [laws concerning] idolatry, incest, bloodshed, robbery, and blasphemy. "And keep my statutes" (ibid.), meaning commandments that Satan and the nations of the world object to, and they are: eating pork and wearing mixed fabrics. … Should you perhaps imagine these are idle acts, Scripture says, "I am the Lord" (ibid.): I, the Lord, have ordered them, and you are not at liberty to ponder over them."[6]

R. Yoshiahu Pinto[7] comments on this passage:

> In a literal reading, "I am the Lord" applies to the ordinances that, had they not been written, they should have been—people should not abide by them

[3] See Baruch A. Brody, "Morality and Religion Reconsidered," in *Divine Command and Morality*, ed. Paul Helm (Oxford: Oxford University Press, 1981), 143; James G. Hanink and Gary R. Mar, "What Euthyphro Couldn't Have Said," *Faith and Philosophy* 4 (1987), 244. See also *Religion and Morality*, 53–55.

[4] Paul Faber, "The Euthyphro Objection to Divine Normative Theories," *Religious Studies* 21 (1985), 569.

[5] Hence the general conclusion: the claim that the commandments have reasons does not contradict the claim that the human duty to obey these commandments is not contingent on these reasons and must rely on the acknowledgment of God's absolute authority.

[6] Babylonian Talmud (hereafter and throughout the book BT) Yoma 67b.

[7] Damascus 1565–1648.

> because reason compels them to do so but because they are a decree of God, may He be blessed, because I the Lord commanded them and they will be rewarded for performing them. And they should not reject the statutes either, because I the Lord have made them and my decrees must be accepted.[8]

According to Rashi's commentary on the same talmudic passage,[9] the phrase "I am the Lord" applies only to some of the statutes, meaning the ritual commandments, whereas according to R. Pinto, the phrase applies to the ordinances as well, that is, to the rational commandments. The phrase implies that all the commandments, including the rational ones, should be observed because they are acknowledged as divine—"observe them because they are a decree of God, may He be blessed."

R. Jacob Reicher[10] suggests a more complex analysis in his commentary:

> Scripture must be understood as follows: if you keep my ordinances, which are rational commandments, and also observe my statutes (meaning commandments that are not compelled by reason) only because God, may He be blessed, made them into laws, then I, the Lord, will fulfill the promise of reward, even for the rational commandments. Not so if you do not keep my statutes and keep my ordinances only because reason compels them rather than because the Holy One, blessed be He, commanded them. You will then not be rewarded even for keeping my ordinances since they were not observed for their own sake.[11]

R. Reicher acknowledges that the Torah includes commandments compelled by reason, independently of God's command. Precisely in this light, the religious standing of these commandments poses a question: if they follow from reason, what will endow their observance with a religious dimension and merit their performers a divine reward? Reicher answers that the religious dimension is inherent in the agents' motivation—observing the commandments for their own sake [*li-shmah*]. In Reicher's view, then, if people perform only the rational commandments, we must assume they do so "only because reason compels it rather than because the Holy

[8] R. Yoshiyahu Pinto, *Me'or 'Einayim: Commentary on Ein Ya'akov* (Mantua, 1743), Yoma 67b, *s.v. "talmud lomar ani Adonai*."

[9] Ibid., *s.v. ani Adonai*.

[10] Prague 1661–Metz 1733.

[11] R. Jacob Reicher, *Iyyun Yaakov*, *Ein Yaakov*, Yoma 67b.

One, blessed be He, commanded them." Their actions thus lack all religious meaning and, therefore, they are not entitled to a reward for them. By contrast, if they also keep the statutes, given that the only reason for observing them is God's command, they are thereby attesting they have taken on the yoke of God's kingdom, and this acceptance is probably conveyed in the rational realm as well. Rational commandments, then, are endowed with religious value only when the agent's motivation is to perform them for their own sake.[12]

According to R. Yehiel Michel Epstein,[13] the distinction between the reason and the motivation for performing a commandment bears halakhic implications as well. R. Epstein ponders why no blessing is recited over ethical commandments, such as giving charity. Ostensibly, one answer could be that the validity of these commandments follows from reason rather than from a divine ordinance. But R. Epstein explicitly rejects this suggestion:

> A Jew knows that rational commandments should not be observed due to reason but rather because they were commanded by the Holy One, blessed be He, as is written, "And because you hearken to these ordinances …" (Deuteronomy 7:12). Even regarding these ordinances, then, listen to what the Torah has commanded, and do not perform them because of your reason but as you do for the rest of the revelational commandments [*mitzvot shim'iyot*].[14]

Even if there are rational reasons for the ethical commandments, then, the motivation for observing them should be a divine command and, thus, a blessing should have been recited over them. R. Epstein rests this claim on

[12] This analysis relies mainly on the final section of Reicher's comment, which suggests that rational acts performed without a religious motivation lack religious value. The opening section of his comment could also be explained as meaning that, in the rational realm, no religious motivation is needed to merit a reward. Someone who does obey the statutes, however, receives an additional reward, a kind of "bonus" for the rational commandments too, though this interpretation is not easily compatible with the analysis that was suggested for the final section.

[13] Belarus, 1829–1908.

[14] Yehiel Michel Epstein, *Arukh ha-Shulhan*, *Hilkhot Hovel be-Havero* (Jerusalem: Mosad Harav Kook, 1962), § 427 [Heb]. The term *shim'iyot* is derived from the Hebrew root *sh-m-'a* [to hear]. According to Saadia Gaon, who coined this term, the reason for many commandments is that we heard them during revelation. As shown later, R. Epstein's stance is not accepted by all sages.

the fact that Scripture uses the term "hearken" for the ordinances as well, a term that, in halakhic tradition, denotes the rational commandments. Here, the term "hearken" is viewed as related to the idea of revelational commandments, meaning that the same motivation should drive believers to perform both the ordinances and the revelational commandments. R. Epstein's explanation for not reciting blessings over the rational commandments, therefore, is different: "Holiness is not as evident in the rational as in the revelational commandments … that is why no blessings were formulated for rational commandments, which every nation and language honors."[15] According to this interpretation, the routine formula of the blessing "who has sanctified us with his commandments" does not relate to all the commandments but only to those unique to the Jewish people, serving to highlight the difference between Jews and Gentiles. Given the universality of the rational commandments, however, this condition does not apply and, therefore, no blessing is recited over them.

The demand to observe the rational commandments out of a religious motivation follows from R. Epstein's general interpretation of the talmudic principle "commandments must be performed with intent":[16]

> According to the principle accepted among us stating that commandments must be performed with intent, we must be careful to observe every commandment for the sake of observance as such. Intent need not be for the sake of a specific commandment but merely for the sake of observing the commandments. And Rashi explains at the beginning of the second chapter of Berakhot [13a, *s.v. shm'a minah*], "commandments must be performed with intent means that one must intend to observe a commandment for the sake of observance."[17]

The general will to obey the divine word is the motivation that endows the performance of the commandment with religious value and, in that sense, there is no difference between ritual and moral commandments.[18]

[15] Ibid.

[16] See, for example, BT Berakhot 13a.

[17] Epstein, *Arukh ha-Shulhan*, *Orah Hayyim* 60, 8. On the significance of intent in all commandments, see *Hidushei Rabbenu Hayyim Halevi al ha-Rambam*, *Hilkhot Tefillah* 4:1, *s.v. ve-nireh lomar*. In his view, all commandments require intent: "And what is intent? It is to empty one's heart from all thoughts and see oneself as if one were standing before the *Shekhinah*."

[18] For a similar interpretation of the principle that commandments must be performed with intent, see the sources mentioned in Menachem Lorberbaum, *Action Theories in Halakhah:*

A similar distinction between the question of the commandments' rationality and the suitable motivation for obeying them is suggested by R. Zvi Elimelech of Dynow,[19] who opens by stating that some of the rational commandments are "compelled by human reason as well, and even the nations of the world punish according to them in line with what is proper for wellbeing and fairness in the world, such as the prohibition of stealing, robbing, adultery, and murder."[20]

But even regarding these commandments, the proper motivation should always be the very fact that God commanded them rather than their rationality:

> Given that the Torah is divine reason, one should not perform even the rational commandments for rational reasons but only because they are revelational, that is, because our God has commanded us. "All the commandments which I command you this day you shall be careful to do" [Deuteronomy 8:1], meaning, be careful to do them because of what I command you. And you will not perform even the rational ones because reason compels them. … According to most halakhists, this is the meaning of the precept that commandments must be performed with intent—to intend the performance of the commandment as the Lord our God has commanded us rather than because reason compels them.[21]

R. Zvi Elimelech thus adopts claim (1), which suggests that the motivation for observing the commandments must be the will to obey God rather than identification with their content, as well as claim (2), which states that God's commands, at least in the moral realm, rest on a rational basis. R. Zvi Elimelech offers two reasons for claim (1):

> The Torah is divine wisdom, divine reason, and we are compelled to observe all its commandments in a manner fit to a divine Torah. … Moreover, there is also a wondrous quality to it … given that everything performed according to human reason could come to an end because human reason is limited and one is in danger of, Heaven forbid, transgressing God's will at some juncture.

Intent in the Commandments (M.A. Thesis: Hebrew University of Jerusalem, 1988), 32–34 [Heb].

[19] Poland 1783–1841.

[20] R. Zvi Elimelech (Shapira) of Dynow, *Bnei Issachar: Ma'marei Hodesh Sivan*, *Maamar* 5, *Ma'alat ha-Torah* (New York, 1946), § 22 [Heb].

[21] Ibid.

The first reason is religious: when the law is divine, only a religious motivation should apply. It is not "fit," in his terms, to turn to other motivations when what is at stake is compliance with God's laws. Hence, even when there are rational reasons for these commandments, they should not be a basis for religious action.[22] The second reason is practical: only when religious action is based on unconditional obedience to God can its persistence be ensured, notwithstanding doubts. Were humans to rely on their limited reason, "one is in danger of, Heaven forbid, transgressing God's will at some juncture."

R. Nathan Lieberman more explicitly addresses the danger of relying on human reason in his commentary on R. Hananiah b Akashia's words in M. Makkot 3:16, "The Holy One, blessed be He, wanted to reward Israel and therefore gave them plentiful Torah and commandments":

> In my humble opinion, R. Hananiah b Akashia meant all the rational commandments, including positive commandments such as to honor one's father and mother and so forth that, even if the Torah had not ordained them, people would comply with them bound by their reason. The Holy One, blessed be He, still wanted them to be observed only because of his command, lest reason were at some juncture to deflect one from one's path or lead one to make assumptions and offer explanations or find excuses and reasons and causes not to observe them. If they are a divine command, no contrivance of reason will be able to dismiss them and they will have to be observed, thereby rewarding them plentifully forever.[23]

Underlying the statements of both R. Lieberman and R. Zvi Elimelech is a thesis of weak dependence. For R. Zvi Elimelech, this dependence is epistemic—given the limitations of knowledge, humans may mistakenly

[22] On the exclusivity of the religious motif, see Leibowitz's stance in *Religion and Morality*, 148–153. The difference between R. Zvi Elimelech's view and that of Leibowitz is that the former acknowledges the rationality of the commandments, at least the moral commandments, while the latter dismisses any attempt to justify the commandments in rational terms. In this sense, R. Zvi Elimelech's view is actually more far-reaching. According to Leibowitz, there is no advantage to the demand of compliance solely on religious grounds given that, in his approach, there is no room for invoking rational reasons for the commandments. By contrast, R. Zvi Elimelech argues that, although the prohibitions of murder, stealing, and adultery are rational, we should still comply with them only because God has commanded them.

[23] R. Nathan Lieberman, *Imrei Da'at*, in *Kevutsat Mefarshei Mishnah* (Jerusalem, 1962), *Seder Nezikin*, 52 [Heb].

"transgress God's will" and, therefore, require a divine command that is based on infinite divine reason. By contrast, R. Lieberman speaks of the dependence on moral activity.[24] Reliance on autonomous moral knowledge enables humans to find excuses and evade fulfillment of their duties. Only observance of the commandments out of religious motivation—compliance with a divine command—ensures persistent obedience and enables us to overcome instinctual drives.

R. Yehuda Aryeh Leib Alter, the *admor* of Gur,[25] distinguished the motive that is supposed to guide believers when observing a commandment from God's reason for giving the commandment:

> In every commandment, the intent of its performance must be to assume the yoke of the kingdom of Heaven, which is its actual purpose … because the only reason for the commandment is that the Holy One, blessed be He, has commanded them for their own sake, but we must perform them only to fulfill God's will, may He be blessed.[26]

Elsewhere, R. Alter explains the importance of this type of obedience:

> When, in every act that they perform, people think above all that they are doing it for the sake of heaven and do so knowingly every morning when assuming the yoke of the kingdom of heaven, this will incline all their acts to the good. And on this, it was said, "If you walk in my statutes" (Leviticus 26:3)—the yoke of God's kingdom, may He be blessed, must be on people so that they might not be able to perform any act, be it small or big, without first considering whether it is according to God's will. Before they do so, all seems like a law, and by accepting the yoke, they come to understand and feel the reason for the commandments and that is itself the reward, as it is said, "the reward of a *mitsvah* is a *mitsvah*" since they draw closer to the commandments' inner spirit.[27]

Observing the commandment while assuming the yoke of the heavenly kingdom, then, somehow helps a person to penetrate the inner spirit of the commandment at both the cognitive ("understand") and emotional

[24] On the distinction between dependence on moral knowledge and dependence on moral activity, see *Religion and Morality* 81–83.

[25] Poland 1847–1905. *Admor* is a title usually attached to Hasidic leaders (a Hebrew acronym of "our master, our teacher, and our rabbi") used hereafter throughout the book.

[26] R. Yehuda Aryeh Leib Alter, *Sefat Emet*, Part 3 (Jerusalem, 1971), 144 [Heb].

[27] Ibid., 502.

levels. His innovation is that acting out of compliance is merely the beginning of the process of keeping the commandments, a stage when "all seem like a law." By its end, people "come to understand and feel the reason for the commandments."

If the assumption so far had been that, in religious terms, believers must act only out of compliance with God's command, the course of my argument shows that this assumption does not compel acceptance of DCM. The next step will show that even this assumption is not self-evident. According to Maimonides,[28] the perfect man performs the correct act naturally rather than by obeying the divine command:

> the evils which the philosophers term such and of which they say that he who has no longing for them is more to be praised than he who desires them but conquers his passion are things which all people commonly agree are evils, such as the shedding of blood, theft, robbery, fraud. … The prescriptions against these are called commandments … about which the Rabbis said, "If they had not already been written in the Law, it would be proper to add them" [Yoma 67b]. There is no doubt that a soul which has the desire for, and lusts after, the above-mentioned misdeeds, is imperfect, that a noble soul has absolutely no desire for any such crimes, and experiences no struggle in refraining from them.[29]

In his introduction to Chapter 10 (*Perek Helek*) of Mishnah Sanhedrin, Maimonides elaborates further on this position:

> It is unworthy of one who wishes to be *oved me-ahavah* [moved to God's service by love] to serve God to attain "the world to come." … And he must rather serve God in the way that I shall prescribe. This is as follows: when he firmly believes that the Torah contains knowledge which reached the prophets from before God, who through it taught them that virtuous deeds are of such and such a kind and ignoble deeds of such and such a kind, it is obligatory for him, in so far as he is a man of well-balanced temperament, to bring forth meritorious deeds and shun vice. When he acts like this, the significance of man has in him reached the point of perfection and he is divided off from the brute. And when a man arrives at the point of being perfect he belongs to that order of man whom no obstacle hinders. … This is "the

[28] Spain 1138–Egypt 1204.

[29] *The Eight Chapters of Maimonides on Ethics—Shemonah Perakim: A Psychological and Ethical Treatise*, trans. Joseph I. Gorfinkle (New York: Columbia University Press, 1912), 76–77.

> world to come" as we have made clear, and herein lies the significance of the Psalmist's remark, "Be ye not as the horse or as the mule which has no understanding; whose mouth must be held with bit and bridle." This means that what restrains beasts from doing harm is something external, as a bridle or a bit. But not so with man. His restraining agency lies in his very self, I mean in his human framework. When the latter becomes perfected it is exactly that which keeps him away from those things which perfection withholds from him and which are termed vices; and it is that which spurs him on to what will bring about perfection in him, viz. virtue.[30]

Maimonides claims that virtues are means for realizing one's humanity,[31] yet virtues can only advance the attainment of this cause when moral action is natural, internal, and not imposed from the outside since humans differ from the horse or the mule in that, unlike them, they do not require an external bridle to lead them in the right way. Virtues are part of human perfection.

The importance of moral action that is naturally motivated rather than compelled by obedience and by surrender to God and his commandments appears in several well-known passages by R. Abraham Yitzhak Hacohen Kook,[32] who writes:

> All matters of Torah must be preceded by decency. If it is a matter that natural reason and decency agree with, one must follow the right way and the heart's inclination, according to the pure will inherent in the person, such as robbery, incest, and chastity [as learned] from the ant, the dove and the cat,[33] and *a fortiori* from the person's inner spirit and understanding.[34]

An approach of the kind formulated by Maimonides and by Rav Kook can plausibly be expected to have implications for the obligation of

[30] J. Abelson, "Maimonides on the Jewish Creed," *Jewish Quarterly Review* 19 (1906), 45. This is an English rendition of Maimonides' Introduction.

[31] See Moses Maimonides, *The Guide of the Perplexed*, trans. Shlomo Pines (Chicago: University of Chicago Press, 1963), III: 52 (hereafter, and throughout the book, *Guide*).

[32] Latvia 1865–Jerusalem 1935.

[33] "R. Johanan observed: 'Had the Torah not been given, we could have learned modesty from the cat, honesty from the ant, chastity from the dove'" (BT Eruvin 100b).

[34] See Abraham Yitzhak Hacohen Kook, *Orot ha-Torah* (Jerusalem, 1940), 70 [Heb]. See also idem, *Orot ha-Kodesh*, vol. 3 (Jerusalem, 1964), 27. Rav Kook holds that natural morality is not detached from "religion" but is an expression of the divine will, meaning it is somehow related to the divine source (for example, see ibid., 14).

reciting a blessing over the ethical commandments. R. Epstein, as noted, holds that, insofar as their essence is concerned, it would be fit to recite a blessing over the ethical commandments precisely as it is done over the ritual ones. By contrast, R. Yehiel Yaakov Weinberg[35] argues that the fact that no blessing was set for the ethical commandments points to the appropriate motivation for them:

> The aim of *mishloah manot* [sending gifts on Purim] is to increase peace and love and friendship. … And although to all the commandments [we apply the precept], "he who is commanded and fulfills [the command] is greater than one who fulfills it though not commanded" (BT Kiddushin 31a) and we recite the blessing "[who has sanctified us by his commandments and] commanded us," regarding the sending of gifts it is better to give out of one's free will, inspired by love for one's Jewish brethren. Giving "only because of the commandment" detracts from the virtue of love. The same applies to charity—it is better to give due to compassion and love for Jews than due to commands and coercion … and that may be the reason for not reciting a blessing over the command to honor one's father and mother.[36]

R. Weinberg does acknowledge that the ethical realm is one of the commandments. Nonetheless, he claims that it is unfit for ethical commandments to be observed solely due to a sense of obligation. Those who give "only because of the commandment," that is, only because they are commanded, fail to develop the required attitude of love and compassion for the other.

The enormous significance that Weinberg ascribes to the virtue of compassion emerges in his interpretation of the biblical rule compelling the lender to return to the borrower by sundown the clothing taken as a pledge:

> There is an explicit verse: "for that is his only covering, it is his mantle for his body; in what else shall he sleep? And if he cries to me, I will hear, for I am compassionate" (Exodus 22:26). The Torah often resorts to moving statements to tell the lender that the law does not compel him to return the pledge given as a guarantee, but "in what else shall he sleep?" The Torah thus warns us to be compassionate.[37]

[35] Russia 1884–Switzerland 1966.

[36] R. Yehiel Yaakov Weinberg, *Responsa Seridei Esh*, Part 2 (Jerusalem: Mosad Harav Kook, 1977), § 46 [Heb].

[37] Ibid., Part 3, § 65.

According to this exegesis, the source of the demand to return the pledge is not the law but what he calls "morality" or "decency," whose meaning here is merely an act of compassion showing sensitivity to the other's suffering. The Torah thereby teaches that formal legal considerations must sometimes be rejected when incompatible with a proper attitude toward the other. As R. Weinberg notes in this responsum, then, the motivation for moral action need not be only the divine command that is represented in the law but the attitude of love and compassion that is the basis of the divine command—"I will hear, for I am compassionate."

In the first passage, on the sending of gifts on Purim, R. Weinberg mentions two other commandments—honoring one's parents and charity—where action driven by love and compassion plays a crucial role. R. Moses of Coucy[38] (known as SeMaG) offers some enlightening comments regarding charity: "Whoever averts charity is called vicious and evil and cruel and sinful … and denies his ancestry—he is not from the seed of Abraham, Isaac, and Jacob, who are compassionate, but from the seed of Gentiles."[39]

The flaw of one who averts giving charity is not only formal—nonobservance of a commandment—but moral, a lack of compassion, and, therefore, "One who gives charity to the poor ungraciously, even if he gave a great deal, 'loses the credit' for having breached the precept 'your heart shall not be grudging when you give to him' (Deuteronomy 15:10). And one who gives one cent graciously is far better than him."[40] One who observes the commandment of charity, even generously but without the required empathy, "loses the credit." Charity is meant to be an expression of compassion coming forth in action—in gracious giving. According to SeMaG, if this human approach is missing, not only is the charity worthless but it also breaches a prescription of the Torah—"your heart shall not be grudging."[41]

[38] France, thirteenth century.

[39] R. Moses of Coucy, *Sefer Mitsvot Gadol* (Jerusalem, 1961), Positive Commandment 162, 208 [Heb].

[40] Ibid. Cf. *Shulhan Arukh, Yoreh Deah, Hilkhot Tsedakah*, § 249:3.

[41] Note that separating the religious dimension from the moral motivation is not always possible in a practice that interprets moral commands in light of the Torah. Nevertheless, the analytical distinction between an autonomous moral motivation and a religious motivation is still valid.