

THE NOACHIDE COMMANDMENTS  
CONSIDERED AS A CONTRIBUTION  
TO THE THEORY OF NATURAL LAW

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## I

## INTRODUCTION AND DEFINITION OF THE PROBLEM

It is not far-fetched to regard the many prescriptions issuing from the Torah as a positive law applying to a particular group, the Jewish people. Certainly, in autonomous Jewish societies, the positive law of the people was derived from the Torah, and in modern times the conception of the Torah as the revealed positive law of the Jewish people has formed an important part of Orthodox Judaism.<sup>1</sup>

However, any given text or body of teaching can in principle be construed in more than one way; all texts have in principle more than one level of meaning. Therefore, we may legitimately inquire concerning the teaching of the Torah for mankind as a whole. In such an inquiry, we would necessarily devote considerable attention to the "seven commandments of the Noachides," which represent the most thorough presentation in the rabbinic literature of a position concerning the duties of all men. These seven commandments are, according to the most widely accepted version, the prohibition of idolatry, blasphemy, bloodshed, eating a limb from a living animal, sexual misconduct, and robbery, and the injunction to establish laws. The locus classicus for this subject is Sanhedrin 56a-59b; there these commandments are developed as a rabbinic ius gentium, applying to

non-Jews living under Jewish jurisdiction.<sup>2</sup> The systematic exposition of the Noachide commandments in the Mishneh Torah, Hil. Melakim 8:10 - 10:12, is also in these terms, but the question still arises, whether we may not learn from the material on the Noachide commandments something about a Jewish doctrine of natural law.<sup>3</sup> It is to this question that we shall address ourselves here.



## II

## BACKGROUND ON THE THEORY OF NATURAL LAW

When we wish to consider the Noachide commandments from the aspect of natural law, we must touch upon the principal characteristics of natural law as it has been generally considered, while recognizing that the rabbinic doctrine may well have special features of its own. First, natural law must be applicable to all mankind, not just to a particular group or nation. Some sources, in fact,<sup>4</sup> consider natural law to apply to lower animals as well, although that feature is presumably not a necessary one. Natural law is also generally supposed to be unchanging, although there is some question concerning the extent to which it may accomodate different circumstances.<sup>5</sup> Another characteristic of natural law is its accessibility to man without a special revelation or particular promulgation; it must be accessible to man's natural reason. Actually, this characteristic could be derived from the universality of natural law, if we adopt the premise that a law must be known to those who are obliged to follow it. A revelation which embraced all mankind and all generations equally would hardly deserve the name as it is generally applied.<sup>6</sup>

In searching for the origins of the concept of natural law, we may mention Plato's rejection of legal positivism in Book I of the Republic. We should note also Aristotle's

concept of natural justice as distinct from legal justice (Nichomachean Ethics, V, 1134b). While legal justice may be understood as something like conformity to positive law (as long as this law is not itself unjust), natural justice appears to involve conformity to a natural law.

The Stoics are often thought of in connection with natural law, and as a representative of this school we may cite Cicero:

Atticus: Then you do not think that the science of law is to be derived from the praetor's edict, as the majority do now, or from the Twelve Tables, as people used to think, but from the deepest mysteries of philosophy?

Marcus: Quite right. We must explain the nature of Justice, and this must be sought for in the nature of man; we must also consider the laws by which states ought to be governed; then we must deal with the enactments and decrees of nations which are already formulated and put in writing, and among these the civil law, as it is called, of the Roman people will not fail to find a place. . . .

. . . the most learned men have determined to begin with Law, and it would seem that they are right if, according to their definition, Law is the highest reason, implanted in Nature, which commands what ought to be done and forbids the opposite. This reason, when firmly fixed and fully developed in the human mind, is Law.

The Stoic conception of natural law is that of a rational order inherent in nature, with which man should strive to put himself in harmony.

In Christian scholastic thought the concept of natural law is quite important; we may take Thomas Aquinas as the outstanding example here. In the Summa Theologica, I-II, qq. 90-95, he distinguishes four kinds of law: the eternal, the natural, the human, and the divine. This last is divid-

ed into the Old Law and the New Law. Aquinas mentions also a "law of the 'fomes' ".<sup>8</sup> At q91a2 natural law is defined as "the participation of the rational creature in the eternal law." It is the same in all men and forms part of the teleological order of the universe, which may be apprehended by natural reason. According to Aquinas at q94a2, the natural law prescribes the preservation of self, regulation of sexual activity toward the perpetuation of the species, regulation of other activities which man has in common with other animals, knowledge, and social virtue.

Among later writers, we may note Hugo Grotius and John Selden, who, in the seventeenth century, each mentioned the Noachide laws as one of the sources of the idea of natural law.

The writings of Spinoza are relevant to our inquiry in two respects. For one thing, in the Ethics Spinoza puts forth a view of nature and ethics which recalls that of the Stoics. Each being, including God (who is, in fact, alternatively designated as Nature), naturally acts in such a way as to perpetuate itself; the chief principle of ethics is that perturbations of this natural order are to be avoided. Second, in the Theologico-Political Treatise he propounds a theory of the secular state at the expense of the idea of the theocratic state, the prime example of which is the ancient Hebrew commonwealth. In this connection Spinoza singles out for criticism a certain doctrine of Maimonides

which we shall discuss below (Chapter IV).<sup>9</sup>

Our intention in this section has been to give a brief survey of the general background against which the Noachide commandments are to be studied. We may now turn to a consideration of those commandments themselves, as they are presented in the Bible, Talmud, and other sources.

### III DEVELOPMENT OF THE CONCEPT OF NOACHIDE COMMANDMENTS

#### 1. Bible

"And the Lord God commanded the man, saying, 'Of every tree of the garden you are free to eat;' " (Gen. 2:16).<sup>10</sup> This verse is used in several rabbinic sources as a basis for the derivation of the Noachide commandments, and we shall discuss that derivation in the section of our inquiry devoted to the rabbinic literature (Section 3 below). We shall observe here only that the commandment in question is directed at Adam, not Noah, and that the command deals with the specific situation of the Garden of Eden, and is not related to the seven Noachide commandments with which we are familiar.

The covenant concluded between God and Noah after the flood is described in Genesis 8:20 - 9:17. God guarantees the eternity of the natural order and imposes on mankind, represented by Noah and his family, certain duties. These are to abstain from eating a limb from a living animal (perhaps also to abstain from eating blood - see Sanhedrin 56a and Section 3 here below), to refrain from bloodshed, and perhaps to procreate.<sup>11</sup> We might note also that the two transgressions mentioned in connection with the flood are

"lawlessness" (Gen. 6:11) and that "all flesh had corrupted its ways on earth" (6:12). These are interpreted by later tradition, not implausibly, as robbery and idolatry, and sexual misconduct, respectively.<sup>12</sup>

Since this passage brings us the actual Noachide covenant, it is worthwhile to consider its significance. Into what new state has mankind entered here? We may note two points. The first is that here for the first time the existence of the entire world is put into an ethical context; there is no reason to suppose that Adam and Eve were made aware of anything or anyone beyond their own lives. Second, it is with Noah that the concept of covenant first appears. Adam was given commands (in the first instance, not to eat the fruit of the tree of knowledge, and, according to rabbinic tradition, other commands as well), but we may question whether he had a fully developed moral personality. Indeed, the command not to eat of the tree of knowledge is accompanied by the threat of death, and we may suppose that Adam obeyed the command for as long as he did only out of fear.<sup>13</sup> With Noah, a true ethical obligation first appears; it may be accompanied by sanctions, but is not conditioned on them.

We would suggest the following interpretation of the Flood story. Before the Flood, man may have thought of the eternity of the world as a natural fact, having no ethical implications. In the Flood, this eternity was put into



question, and when it was reaffirmed after the Flood, it appeared in a new context. The endurance of the natural order was now recognized to depend upon a promise, upon a moral personality. Thus the existence per se of postdiluvian man necessarily involves him with another ethical Being, and therefore presupposes certain obligations.<sup>14</sup>

There are many other passages in the Bible, not explicitly connected with Noah, that presuppose, however, a universal standard of behavior. We may mention, for example, the enumeration of the transgressions of the nations in chapters 1 and 2 of Amos, and the Book of Jonah as a whole.

## 2. Pseudepigraphia

The Book of Jubilees, which dates, at the latest, from the end of the second century B.C.E.,<sup>15</sup> contains a significant passage, in which a number of "Noachide commandments" are given:

And in the twenty-eighth jubilee Noah began to command his descendants, the teaching, the commandment, and all the laws which he knew; he enjoined upon his children that they do justly and behave modestly, praise their Creator, honor their father and mother, and love one another, and - this was vital - beware of all licentiousness and violence. . . .  
 . . . For anyone who sheds human blood, and anyone who eats the blood of any living thing, all of them will be wiped off the face of the earth. Not a man will remain who eats blood or spills blood on the earth; nor will there remain any descendant of such a one under the heavens, but they shall go to Sheol and descend to the place of judgment, and they shall

come to the darkness of the depths, all with a horrible death. So let there not be any blood at all seen on your account whenever you slaughter any wild animal or beast or anything which flies over the earth; do justice to yourselves, burying whatever is spilled on the earth. . . .

. . . See, you will go and build cities for yourselves, and plant every kind of plant by them, and every kind of fruit tree. For three years its fruit may not be gathered for eating; in the fourth year its fruit may be gathered, and the first fruit must be offered before the Lord our God, who created heaven and earth and everything that is in them, so that all the first of the wine and the oil and the fruit may be offered on the altar of the Lord, to satisfy Him; what is left shall be eaten by the servants of the house of the Lord, acceptably, before the altar. In the fifth year you shall call a respite, and shall leave the fields; in full justice, you shall be just, and shall desist from all your planting.<sup>16</sup>

At the beginning of this passage the following commandments are mentioned: practice of justice, modesty, praising God, honoring parents, loving one another, and avoiding licentiousness, impurity, and violence. Later, an extended warning against bloodshed and eating blood is given, and covering the blood of an animal after it is slaughtered is enjoined. At the end of the passage cited, a number of agricultural laws are given, corresponding, with some differences in detail, to orlah, netā' reva'i, and shemittah. We may set aside these agricultural laws, for, while they are perhaps connected with the conception of Noah as a pioneering agriculturalist,<sup>17</sup> they are not relevant to the main thrust of our inquiry.

Guttmann,<sup>18</sup> Ginzberg,<sup>19</sup> and Finkelstein<sup>20</sup> have noted similarities between these Noachide commandments and those of the familiar rabbinic concept. Indeed, Finkelstein has



attempted to use this source as an aid in determining the original form of the Noachide commandments. I am not certain that such a determination is to the point; in any case, however, when we note that the practice of justice may correspond to the commandment of laws, that stealing is in fact covered by that commandment, that the common expression for blasphemy is the euphemistic "praising God,"<sup>21</sup> and that R. Hananiah ben Gamaliel (in Sanhedrin 56b) adds the prohibition of blood taken from a living animal to the Noachide laws, then the similarity between the two conceptions is quite apparent. At the same time, the formulation of the commandments here in Jubilees recalls the flood pericope in the Torah, where bloodshed, eating a limb from a living animal, lawlessness, and licentiousness are proscribed.

### 3. Talmud and Midrashim

Let us turn now to the rabbinic sources, and begin with the baraita in Sanhedrin 56a:

Our sages taught, 'The Noachides were charged with seven commandments: laws, blasphemy, idolatry, sexual misconduct, bloodshed, robbery, and eating a limb from a living animal.'<sup>22</sup>

This view is to be found also in the Tosefta 'Abodah Zarah 8:4:

The Noachides were charged with seven commandments: laws and idolatry, blasphemy and sexual misconduct, and bloodshed and robbery.<sup>23</sup>

We notice immediately that only six commandments are specified. The missing one, eating a limb from a living animal,

appears in the Vienna manuscript of the Tosefta and in the first printing, Venice, 1521 (as well as in the printed editions of Romm, Vilna).

The seven commandments are derived from Genesis 2:16 in Sanhedrin 56b:

What is the basis for this? R. Yohanan said, 'It is from a Scriptural text: And the Lord God commanded the man, saying, "Of every tree of the garden you are free to eat". 'And . . . commanded'; those are the laws, for, similarly, 'For I have singled him out, that he may instruct his children,' etc. 'The Lord'; this is blasphemy, for, similarly, 'If he also pronounces the name Lord, he shall be put to death.' 'God'; this is idolatry, for, similarly, 'You shall have no other gods'. 'The man'; this is bloodshed, for, similarly, 'Whoever sheds the blood of man, etc. 'Saying'; this is sexual misconduct, for, similarly, 'Saying, for if a man should send away his wife and she leave him and belong to another man'. 'Of every tree of the garden'; this is robbery. 'You are free to eat'; this means, not a limb from a living animal.<sup>24</sup>

An alternative derivation immediately follows, attributed to R. Isaac, which associates "And . . . commanded" with idolatry and "God" with laws. In the Pesikta derab Kahana 12:1,<sup>25</sup> Genesis Rabbah 16:6, and Midrash on Proverbs to Prov. 31:29, this verse Genesis 2:16 is used to derive six commandments supposed to have been given to Adam. In any case, such a derivation should not be regarded as the actual source of the concept of the Noachide commandments; the Kesef Mishneh to Melakim 9:1 makes, in fact, that observation.

In addition to the sources just cited, there are a number of passages which put the seven Noachide commandments in the context of a developmental process, culminating in

the revelation at Sinai. Such a view is to be found in the Yalkut Shime'oni to Exodus 19:1 (Section 272) and to Proverbs 31:29 (Section 964).<sup>26</sup> The source of these two passages would seem to be the Pesikta mentioned above:

R. Yudan bar Simon began his discourse: " 'Many maids have done valiently, but you have exceeded them all.' The first man was charged with six commandments, namely, idolatry and blasphemy, laws and bloodshed, sexual misconduct and robbery, and all of these in one verse, as it is written, 'And the Lord God commanded the man, saying, "Of all the trees of the garden you may freely eat" '. 'And . . . commanded'; this is idolatry, for, similarly, 'Since he has gone after a command'. 'The Lord'; this is blasphemy, for, similarly, 'And if he also pronounces the name Lord'. 'God'; these are judges, for, similarly, 'Do not curse judges'. 'The man'; this is bloodshed, for, similarly, 'Whoever sheds the blood of man'. 'Saying'; this is sexual misconduct, for, similarly '[Saying,] if a man should send away his wife'. From every tree of the garden you may freely eat'; this is robbery, for, similarly, 'But as for the tree of knowledge of good and bad, you must not eat of it'. Noah was commanded concerning eating a limb from a living animal, as we have it, 'Flesh with its life-blood in it,' etc., Abraham concerning circumcision, as we have it, 'You . . . shall keep my covenant'. Isaac was trained for the eight days, as it is said, 'And when his son Isaac was eight days old, Abraham circumcised him,' Jacob concerning the thigh muscle, as it is said, 'That is why the children of Israel to this day do not eat the thigh muscle,' Judah concerning the levirate, as it is said, 'Then Judah said to Onan, "Join with your brother's wife and do your duty by her as a brother-in-law," ' but you have exceeded them all; you at Sinai were charged with six hundred and thirteen commandments."<sup>27</sup>

We may mention in this connection also this passage from Sanhedrin 56b:

Has it not been taught? At Marah Israel was charged with ten commandments: the seven that the Noachides had accepted plus laws, the Sabbath, and honoring one's father and mother.<sup>28</sup>

To return now to the commandments given Noah, we find

that there were some alternative versions of the enumeration.

Thus in Sanhedrin 56b we find:

Rabbi Hananiah ben Gamaliel says: also eating blood from a living animal. Rabbi Hidka says: also castration. Rabbi Shim'eon says: also sorcery. Rabbi Yosi says: Noachides have been warned concerning everything mentioned in the 'section on sorcery' [Deut. 18:10-12]: 'Let no one be found among you who consigns his son or daughter to the fire, or who is an augur, a soothsayer, a diviner, a sorcerer, one who casts spells, or who consults ghosts or familiar spirits, or who inquires of the dead, etc. [sic] and it is because of these abhorrent things that the Lord your God is dispossessing them before you.' He would not punish unless He had warned. Rabbi Eleazar says: also mixed kinds; Noachides are permitted to wear clothes of mixed kinds and to sow diverse seeds, and<sup>29</sup> are forbidden only cross-breeding and grafting trees.

We find there the following view as well:

It has been taught in the school of Menasheh, 'The Noachides have been charged with seven commandments: idolatry, sexual misconduct, bloodshed, robbery, eating a limb<sup>30</sup> from a living animal, castration, and mixed kinds.

Incidentally, the later authorities were divided on the question of the responsibility of Noachides for carrying out these commandments beyond the seven which were generally accepted.<sup>31</sup>

The exact scope of all these commandments, and the details of their enforcement, are not the same as in the case of the corresponding commandments as they apply to Jews, but that matter is not central to our purpose, and will be treated of briefly in Chapter V below.

There apparently was, in addition to the tradition of the seven Noachide commandments, a tradition of thirty such.

We find this tradition in Hullin 92a-b:

'And I said to them, "If it please you, give me my payment, and if not, cease; so they weighed out my payment, thirty pieces of silver." . . .  
 . . . 'Ula said, 'These are the thirty commandments which the Noachides accepted, of which they keep only three: one, that they do not write a marriage contract between males; one, that they do not weigh out human flesh on butchers' scales; and one, that they honor the Torah.'<sup>32</sup>

An interesting variant of this tradition is to be found in the Yerushalmi 'A.Z. 2:1 :

It is as that which Rab Huna said in the name of Rab, "So they weighed out my payment, thirty pieces of silver;" these are the thirty commandments that the Noachides will accept.' . . .  
 . . . R. Hiyya bar Luliyani said in the name of R. Hosh'ayah, 'The Noachides will accept all the commandments, for what else can be the meaning of "Then I will pour out to the nations a pure tongue," but ultimately they will go back on them.'<sup>33</sup>

Krauss has found traces of this conception in Hellenistic and early Christian literature.<sup>34</sup> In this connection we should also mention the idea<sup>35</sup> that the seven commandments should be regarded as general principles, which have many subordinate commands under them.

Certain other groups of commandments singled out in the Talmud should be mentioned, because the concepts involved in such distinctions are relevant to our inquiry. First, we have the Sifra 86a (to Leviticus 18:4):

'My rules alone shall you observe;' these are matters written in the Torah, which, if they had not been written, still should have been, such as robbery, sexual misconduct, idolatry, blasphemy, and bloodshed. They<sup>36</sup> should have been written even if they had not been.

This passage appears (with slight variations in language) in Yoma 67b, where these "rational" commandments are con-



trusted with commandments "to which Satan raises objections," such as the prohibition of swine's flesh and of wearing clothes made of mixed linen and wool. The point of this passage is that both groups of commandments have the same claim on our allegiance, since they have all been revealed by God. However, we are especially interested to note that five of the seven Noachide commandments are mentioned in a context which suggests that they may be known independently of the revelation at Sinai, and that they might therefore be considered (in the Talmud) as a natural law.<sup>37</sup>

The Pesikta Rabbati 21:1 reports the following conversation between the emperor Hadrian and R. Joshua ben Hananiah (a pupil of R. Yohanan ben Zakkai):

[Hadrian] said: The Holy One, praised be He, did the nations of the world great honor. The first five commandments, which he gave to Israel, have His name mentioned in connection with them, as if to say that if Israel should sin, He will accuse them. The latter five commandments, which He gave to the nations [as well], do ~~not~~ have His name mentioned in connection with them.<sup>38</sup>

Rabbi Joshua answers that it would not have been fitting for God's name to have been mentioned in connection with murder, adultery, etc. In any case, the distinction here is between those among the ten commandments concerning man and God, which apply only to Israel, and those concerning man and his fellow, which apply to everyone.

There are a number of other references in the Talmuds and Midrashim to Noachides, various of the Noachide commandments, etc., but they do not appear to present any new

ideas.

#### 4. Maimonides

Among the post-talmudic authorities, the one whose treatment of the Noachide commandments is most significant is Maimonides. For one thing, the method of the Mishneh Torah is such that it deals with even commandments such as these, which were perhaps never a matter of actual law; for another, the Rambam's philosophical sophistication enables us to regard questions of the proper understanding of these commandments in a sharper light.

There is no treatment of the seven Noachide commandments per se in The Guide of the Perplexed, although some of the doctrines propounded in that work will be of value to us. The principal Maimonidean treatment of the Noachide commandments is in the Yad, Melakim, 8:10 - 10:12. Most of the eighth chapter of Hil. Melakim deals with the laws of the beautiful captive woman. Turning, presumably, to other matters regarding conquered peoples, the Rambam writes:

Moses our teacher did not transmit the Torah and commandments to any except Israel, as we have it, 'an inheritance of the congregation of Jacob,' and to all those who wish to convert from among the nations, as we have it, 'for you as for the stranger'. However, one should not force someone to accept the Torah and commandments who does not wish to do so. Yet Moses our teacher commanded on divine authority to force all that dwell on the earth to accept the commandments with which the Noachides have been charged, and one who does not wish to accept these should be killed. One who does accept them is referred to everywhere as

a resident alien; he must accept them before three learned men. Anyone who has agreed to be circumcised, and after twelve months still has not done so, is to be regarded simply as one of the nations. Everyone who accepts the seven commandments and is careful to observe them is one of the pious of the nations of the world, and he has a portion in the world to come. This applies, however, only if he accepts them and does them because the Holy One, praised be He, commanded them in the Torah, and instructed us through Moses our teacher that the Noachides had previously been so commanded, but if he does them on the basis of his own judgment, he is not a resident alien, nor one of the pious of the nations of the world, but rather one of their wise men.<sup>39</sup>

This passage contains several celebrated problems. First of all, the Venice printing of the Mishneh Torah (1550) reads, instead of "is to be regarded simply as one of the nations," "is to be regarded simply as a heretic of the nations," a strange expression which has been given various interpretations. More important for our purposes here, most of the texts of the Yad conclude the passage thus: "nor one of the pious of the nations of the world, nor one of their wise men." Indeed, while I have for the most part followed the printed text of Romm, Vilna, I have emended this final passage, following the suggestion of Dr. Atlas, who has pointed out (in conversation) that the correct reading may be found in the manuscript of the Yad in the Bodleian library.<sup>40</sup> While this opinion of Maimonides, that in order to be counted among the pious of the nations of the world and to merit a portion in the world to come one must observe the Noachide commandments out of respect for the Sinaitic revelation in which they are contained, would seem to prevent us from interpreting the



commandments as natural law, I do not believe that this is in fact the case. We shall discuss this question in greater detail below in Chapter IV.

In the ninth chapter of Hil. Melakim, the Rambam begins a systematic exposition of the details of the Noachide commandments, and opens with his own view of the development of these laws:

The first man was commanded concerning six things: idolatry, blasphemy, bloodshed, sexual misconduct, robbery, and laws. Even though we have them all through a tradition which goes back to Moses our teacher, and one's thought inclines toward them, it may be inferred from the Torah that he was commanded concerning these. Eating a limb from a living animal was added for Noah, as we have it, 'But do not eat flesh with its life-blood,' which makes seven commandments.<sup>41</sup>

This view, we may observe, follows the tradition from the Pesikta derab Kahana which we have mentioned above (p.13).<sup>42</sup>

After continuing to trace the growth of the Torah up to Sinai (in a fashion which the major commentators find not unproblematic), the Rambam begins to codify the laws of the Noachides. At 9:10, discussing the prohibition of eating a limb taken from a living animal, he permits to Noachides the consumption of blood from a living animal, thus deciding against R. Hananiah ben Gamaliel, whose opinion in Sanhedrin 56b we have mentioned above, p. 14.

The exposition of the commandment of laws at 9:14 is of particular interest. Maimonides writes:

In what way are they commanded concerning laws? They are obliged to set up judges and magistrates in each province to judge the other six commandments, and to

admonish the people. A Noachide who transgresses one of the seven commandments shall be decapitated. For this reason the masters of Shechem incurred capital guilt, for Shechem stole; they saw and knew it, but did not judge him. A Noachide may be executed on the testimony of one witness, and by the decision of one judge, without formal warning, and on the testimony of relatives, but not on the testimony of a woman, and a woman may not judge Noachides.<sup>42</sup>

The requirement that Noachides set up a system of judges in every province is derived from a baraita in Sanhedrin 56b, and the Tosefta 'A.Z. 8:4. This view puts the commandment of laws in a category different from that of the other commandments, making it an auxiliary to the others, so that it might, it would seem, have been omitted from the enumeration of Noachide commandments and included in the formula "they and all that appertains to them" (Sanhedrin 74b).<sup>43</sup>

The manner of execution of Noachides is disputed among tannaim (Sanhedrin 57b and Tosefta 'A.Z. 8:4), and the Rambam decides according to the "sages". Some other points mentioned in our text are also matters of controversy in the Talmud and among the later authorities, but a discussion of those details is not relevant to our purpose here.

The tenth chapter of Hil. Melakim opens with a discussion of the case of a Noachide who transgresses one of his commandments inadvertently. The Rambam writes that a Noachide is not punished for an accidental transgression, but that personal vengeance for an accidental murder is permitted; the cities of refuge are not available to Noachides.

The Kesef Mishneh and Lehem Mishneh express surprise at this judgment, noting that Noachides may be punished without formal warning. Indeed, Rashi to Makkot 9a explains that Noachides are executed for even accidental offenses. What is of particular interest to us here is another aspect of 10:1:

What do we mean in this case? That he accidentally broke one of the commandments, transgressing without intention . . . but if he thought that this thing was permitted him . . . this is close to a deliberate offense, and he is executed. It is not to be considered an accidental offense, because he should have learned and did not.

This interpretation of what constitutes an accidental offense follows the view of Raba in Makkot 9a-b. The principle of the obligation of Noachides to learn what their duties are is enunciated explicitly by R. Samuel bar Nahmani in the name of R. Yohanan at Makkot 9b and Baba Kamma 92a. We are now confronted with the question of how a non-Jew is supposed to learn what is prohibited him and what is permitted. The context in Makkot, and in the Yad, presupposing as they do a Jewish society, may imply that the Noachide is supposed to learn from his Jewish neighbors, but such a conclusion is not the only possible one, and one may say that perhaps the Noachides should be able to discover their duties through the exercise of their own moral faculties.

In the rest of Chapter 10, the Rambam mentions various other matters relating to Noachides, such as their not being obligated to suffer martyrdom, the regularization of their obligations if they should become full proselytes, and

exceptions to the general rule of execution by decapitation. He follows the opinion of R. Eleazar (mentioned above, p.14) that Noachides are forbidden mixed breeding of animals and grafting of trees, and the opinion of R. Hanina in Sanhedrin 58b that they are deserving of death for striking a Jew, but that the death penalty is to be inflicted only in the case of the seven basic commandments. It would appear that the logic here is that, while these various other rules are mentioned in the Talmud and not rejected, whenever punishment is spoken of, it is in the context of the seven commandments taken as a unit.

We may mention also that the Arabs (as the descendants of Ishmael and Keturah) are held responsible by the Rambam for circumcision on the eighth day.

The last four sections (9-12) of Chapter 10 deal with the relation between the Noachide law and the Torah; this relation is one of clear subordination of the former to the latter. Non-Jews are prohibited from studying the Torah beyond the seven commandments, and from observing other commandments except for reasons of convenience; they are prohibited in particular from observing a sabbath or holidays. The Jewish courts are given the responsibility of seeing to it that courts of Noachide law are established for the resident aliens; these courts may have either Jewish or non-Jewish judges.<sup>45</sup>

The clear subordination in this passage of the law of

the Noachides to the full Torah ~~has~~ been taken by some (for example, Fox<sup>46</sup> and Fauer,<sup>47</sup> as evidence that the natural law interpretation of the Noachide commandments is incompatible with the Rambam's position. We shall address ourselves to this problem below in Chapter IV.

The Rambam discusses the Noachides also in the Hil. 'Abodat Kokabim 10:6. In the first five sections of that chapter, the Rambam has explained the proper way to deal with idolators, that is, that one should behave civilly, "for the sake of peace". However, he proceeds:

All these things apply only to the time that Israel is in exile among the idolators, and the idolators are more powerful than Israel, but when Israel is more powerful than the idolators, we ~~are~~ forbidden to permit idolators among us. Even if one of them wants to live with us temporarily or pass from one place to another on business, it should not be in our land, unless he accepts the seven commandments with which the Noachides have been charged, as we have it, 'They shall not live in your land,' this means even for a short time. If he has accepted the seven commandments he is considered a resident alien; however, resident aliens are not accepted except at a time when the Jubilee is observed, but <sup>at</sup> other times only complete proselytes are accepted.<sup>48</sup>

Here the connection of the Noachide commandments with the Jewish state of the ideal past and Messianic future is quite clear.<sup>49</sup>

## 5. Other post-talmudic sources

Among other rishonim who have contributed to the development of the concept of the Noachide commandments, we may mention Nachmanides, who, in his commentary to the Torah at



Gen.34:13, gives an interpretation to the commandment of laws different from that of Maimonides:

But these words [of Maimonides] do not appear to me to be correct for if so, our father Jacob should have been the first to obtain the merit of causing their death, and if he was afraid of them, why was he angry at his sons and why did he curse their wrath a long time after that and punish them by dividing them and scattering them in Israel? Were they not meritorious, fulfilling a commandment and trusting in God Who saved them? In my opinion, the meaning of 'laws' which the Rabbis have counted among their seven Noachide commandments is not just that they are to appoint judges in each and every district, but He commanded them concerning the laws of theft, overcharge, wronging, and a hired man's wages; the laws of guardians of property, forceful violation of a woman, seduction, principles of damage and wounding a fellowman...and their like, similar in scope to the laws with which Israel was charged, and involving the death penalty for stealing, wronging, or violating. . .and their like. And it is also included in this commandment that they appoint judges for each and every city, just as Israel was commanded to do, but if they failed to do so they are free of the death<sup>50</sup> penalty, since this is a positive precept of theirs.

This construction of the commandment of laws would seem to be more in harmony with the idea of the Noachide commandments' providing for the establishment of a civil society than is the view of Maimonides, for, even given the broad scope in the Noachide law of such commandments as stealing, it is unlikely that all cases requiring legal judgment would be covered by the six commandments. At the same time, the talmudic material does not make explicit the content of the commandment of laws. The Lehem Mishneh to Melakim 9:14 considers the objection of Nachmanides, noting that the discussion of this commandment in Sanhedrin 56b leaves us with the impression that the establishment of judges is "also"

part of the commandment of laws, therefore not the only part, and that the discussion at 58b of observance of the Sabbath by non-Jews implies that only commandments which have prohibitory force are included in the basic seven commandments.

The Lehem Mishneh believes that this second problem can be dealt with by saying that Noachides are commanded not to allow their fellows to transgress, but he believes that the first problem weakens the position of Maimonides.<sup>51</sup>

First, I would observe that the case of Shechem mentioned cannot really be used as an example here, for while it does reveal something about ethical concepts in the time of the Torah or of the patriarchs, there is no reason to suppose that Jacob or his sons were working within the developed system of Noachide law. With regard to the passage in Sanhedrin 56b, I would venture to say that the whole discussion is inconclusive as between the Rambam and the Ramban. The only statement that clearly implies that Noachides have any obligation of laws beyond establishing judges is that of Rab Aha bar Jacob, "this [addition of 'laws' at Marah] was necessary only to establish judges in every province and city," and it is rejected.

R. Menahem Ha-meiri, in his novellae Bet Ha-behira on the relevant section of Sanhedrin, makes a number of observations on the Noachide commandments which are worthy of note. Entering into the controversy between the Rambam and the Ramban on the proper interpretation of the commandment of laws, the Meiri writes that laws constitute one command-

ment, and the setting up of courts another (presumably not one of the seven). He explains the incident of Shechem by saying that Jacob berated his sons Levi and Simeon because he wished to deal with the inhabitants of Shechem with supererogatory kindness. This explanation is like that of Maimonides in that it assumes that the Shechemites were deserving of punishment from the point of view of (Noachide) law, but it is like that of Nachmanides in holding the Noachides responsible for establishing a system of civil law.

The Meiri draws a very interesting distinction in connection with the question of the responsibility of Jews to respect the property of non-Jews:<sup>52</sup>

But a Jew is permitted to rob a non-Jew, as long as no disgrace to Judaism is involved, if the latter does not observe the seven commandments, for then he is an idolator. However, if he observes the seven commandments this is forbidden, for a Noachide whom we have seen accept the seven commandments is one of the pious of the nations, a religious person, who has a portion in the world to come.<sup>53</sup>

It would appear from this passage that the Meiri does not hold with the Rambam that only those who accept the seven commandments on the basis of Sinaitic revelation merit a portion in the world to come.

The Meiri explains also the prohibition of the study of Torah (beyond the seven commandments, unless for the purpose of conversion to Judaism) and the observance of the Sabbath on the part of Noachides in terms of the danger that such a one might appear to be Jewish and mislead others.<sup>54</sup>

Two concepts from the Jewish philosophical literature



deserve some attention here, for they might be taken as aiming at the same notion as does the concept of the seven commandments. The first of these is the concept of rational commandments in the Book of Doctrines and Beliefs of R. Saadia Gaon. Near the beginning of Chapter III, Saadia distinguishes between those laws that "speculation confirms as necessary"<sup>55</sup> and those "regarding which Reason passes no judgment in the way either of approval or disapproval so far as their essence is concerned."<sup>56</sup> In the former group he numbers

humbleness before God, worship, standing up in His presence, etc. . . . the prohibition of idolatry, swearing falsely by His name, describing Him by derogatory attributes, etc. . . . the practice of justice, truth-telling, equity, and impartiality, the avoidance of homicide, adultery, theft, tale-bearing, and trickery against one's fellowman; also the command that the Believer should love his neighbor as he loves himself, and whatever is involved in these precepts.<sup>57</sup>

The latter group, the existence of which is provided for by Reason, as an optional addition by the Lawmaker to the commandments of the former group, include

the distinguishing from ordinary days of Sabbaths and Festivals; the selection of certain individuals to be Prophets and Leaders; the prohibition to eat certain foodstuffs; the avoidance of sexual intercourse with certain people; the abstention enforced during periods of impurity.<sup>58</sup>

This distinction is not the same in detail as any that we have yet encountered; of the seven Noachide commandments, idolatry, blasphemy, and bloodshed and robbery are included in the former group, and sexual offenses are assigned, some to the former and some to the latter group, while eating a limb from a living animal is not mentioned at all. Altmann,

in his notes to his translation of ~~the~~ work,<sup>59</sup> suggests that the distinction between the rational commandments and the others is in principle like that which we have encountered in the Sifra 86a and Yoma 67b.

The second philosophical concept which we shall consider is the distinction in the Book of Principles of R. Josef Albo of natural law, conventional law, and divine law.<sup>60</sup> Natural law includes those basic principles which are necessary for the maintenance of human society: avoidance of murder and robbery, and observance of justice in general. Such a law is called natural because it is necessitated by man's nature as a social being, but it may be in fact established by a prophet or a lawgiver.<sup>61</sup> In addition to the natural law, which is the same everywhere,<sup>62</sup> there must be conventional law, set down by the ruler of a particular place, to establish conventional justice. This includes such rules and arrangements which are necessary, like those of natural law, for the order of society, but which are not determined in every detail by this purpose alone. While these two laws aim at man's material good, the divine law aims at his spiritual good as well.<sup>63</sup> The distinction here between natural law and conventional law is reminiscent of the Aristotelean distinction between natural and conventional justice which we mentioned above, p.4; the distinction between the conventional law and the divine law suggests a view found in The Guide of the Perplexed, II, 40.<sup>64</sup>

For our present purposes we note that Albo mentions

Noah as having been in possession of a divine law,<sup>65</sup> and that it would seem that the prohibition of eating a limb from a living animal, idolatry, and blasphemy would not be included in the natural law, while the classification of laws concerning sexual behavior is uncertain.

IV  
THEORETICAL PROBLEMS  
OF THE NATURAL LAW INTERPRETATION

We have noted at various points that much of the exposition of the Noachide commandments, in the Mishneh Torah in particular, is based on an understanding of those commandments as forming the framework of a Jewish ius gentium. We are particularly interested here, however, in the possibility of seeing the Noachide commandments as a Jewish contribution to the theory of natural law. The question arises of whether the Noachide commandments may be thus viewed under a double aspect. One might say that the Torah, or the sages, or the Rambam, must have had one conception or another in mind, and it is that which must be followed. However, there are general considerations which stand against such an approach. One is that it is obviously difficult to ascertain the unexpressed thoughts of people who lived in the distant past. Second, the concept of the Oral Teaching in Judaism sets a precedent for the interpretation of a classical text from a point of view other than that of scientific philology. Sometimes such methods are condemned as arbitrary eisegesis, but it seems to me that they are not objectionable, and are indeed highly desirable, if the interpretation of the sources is made in the light of ideas latent in Judaism.<sup>66</sup>

The questions before us then are whether Judaism can

support a doctrine of natural law, and whether the Noachide commandments, as presented in the classical sources discussed in the preceeding chapter, are a suitable basis for such a doctrine.

Some have questioned the appropriateness of the attempt to develop a Jewish theory of natural law, with the argument that for Judaism the ultimate basis of law and commandments is the will of God, known to us through the revelation at Sinai. Thus Fox devotes his article, "Maimonides and Aquinas on Natural Law,"<sup>67</sup> to this theme, and writes, for example:

In ancient Hebrew thought there is only one source of the knowledge of good and evil, the commandments of God as they are revealed to man . . . .  
 . . . Albo is still a loyal Jew who can find no place for law without God's revelation . . . .  
 . . . For Maimonides, the Jew, salvation depends on good works, leading to rational apprehension of the highest truth. There is no natural moral law, only the law of God.<sup>68</sup>

I believe that it may safely be said, that for Judaism the ultimate sanction of all obligation is the absolute authority of God as ruler of the universe. However, our question is not whether there could be morality without God, but rather whether, or to what extent, man by his own reason can apprehend God's will. Even commandments that are clearly represented in the Torah as having been revealed by God could be part of a natural law. First, the knowledge of them might not depend on such a revelation. Second, the concept of revelation can support various interpretations, not all of them assigning to man a passive role.

Some of the biblical passages which imply the responsibility of non-Jews for moral behavior explicitly mention God's communication to man; such is the case of Noah, but others do not include such mention. An example would be the "section on sorcery" (Deut. 18:9-12), upon which R. Yosi comments in Sanhedrin 56b, "and [God] does not punish unless He has given warning". We should note carefully that this statement of R. Yosi is used as an argument to show that sorcery must be included in the Noachide commandments. However, no such prohibition is mentioned in Genesis 9, where God presumably communicates these commandments to Noah, nor is it generally taken by post-talmudic authorities to be one of the Noachide commandments,<sup>69</sup> nor do other passages in the Torah tell us when God might have revealed to the Canaanites that sorcery is forbidden.

There is, in the rabbinic literature, a concept of prophets of the nations, and we might suggest that it is they who communicate God's word to their people. Indeed, there is a statement to the effect that Balaam was as great as Moses.<sup>70</sup> However, such a theory of prophets of the nations is no more systematically developed than is that of natural law. Second, there is no indication that the prophets of the nations in fact tell their people of God's commandments; on the contrary, our source indicates that they do not do so.<sup>71</sup> Third, even if we held (as, for example, R. Josef Albo seems to hold) that all the Noachide laws were communicated through prophets,



it would still be possible and legitimate to develop from these commandments a doctrine of natural law, for, as we have explained, the same material may well be considered under more than one aspect.

We have noted (in Chapter III above) several talmudic passages which seem to indicate an idea of natural law. Fox, in his article cited above, tries to show that these passages do not in fact have this meaning. Thus, he argues that Yoma 67b ("matters which, if they had not been written in the Torah, by right should have been written") and 'Erubin 100b ("we would have learned modesty from the cat," etc.) show only that certain parts of the Torah were considered rational post factum, that "there is no suggestion here that human reason could have known by itself that these acts are evil."<sup>72</sup> Fox's interpretation is surely forced, and, I must say, tendentious.<sup>73</sup> The passages in question clearly imply the existence of criteria for judging actions other than those derived from revealed law. It is true that the scattered passages in the Biblical and rabbinic literature which suggest that human reason can apprehend the will of God do not constitute a developed theory of natural law; our claim here is only that their existence indicates that such a theory is not intrinsically alien to classical Jewish thought. Natural law is, so to speak, something which, even if it is not in the Torah, by right should be there. (We have tried to show, of course, that elements of an idea of natural law

are, in fact to be found in the Torah.)

We turn now to consider whether those writers are correct who claim that Maimonides could not possibly have entertained a notion of natural law. Of course, the presence of elements of such a notion in the Bible and Talmud would be sufficient to establish the legitimacy of our project, but the great authority of the Rambam, particularly in matters with theological implications, cannot be ignored. The main reason for saying that the Rambam could not have accepted a doctrine of natural law appears to be that he held morals to be matters of convention, thus not the province of reason, which deals with universals. The only two types of law, according to this interpretation of the Rambam, are conventional law, which has all the defects of contingency, and the divine law. As a source for this view, we may cite this passage from I,2 of the Guide:

For the intellect that God made overflow unto man and is the latter's ultimate perfection, was that which Adam had been provided with before he disobeyed. It was because of this that it was said of him that he was created 'in the image of God and in His likeness!'. It was likewise on account of it that he was addressed by God and given commandments, as it says: 'And the Lord God commanded,' and so on. For commandments are not given to beasts and beings devoid of intellect. Through the intellect one distinguishes between truth and falsehood, and that was found in Adam in its perfection and integrity. Fine and bad, on the other hand, belong to the things generally accepted as known, not to those cognized by the intellect. . . . .  
 . . . . So among those generally accepted things even that which is most manifestly bad, namely, uncovering the genitals, was not bad according to him, and he did not apprehend that it was bad. However, when he disobeyed and inclined toward the desires of the imagination and the pleasures of the corporeal senses -



inasmuch as it is said: 'that the tree was good for food and that it was a delight to the eyes' - he was punished by ~~being~~ deprived of that intellectual apprehension.

Also, in the Guide, III,54, Maimonides puts moral perfection on a level lower than rational perfection.

The alternative presented between conventional and divine law does not, however, really rule out the possibility of natural law. Rather, I would argue that the opposition between human reason and divine revelation does not exist for the Rambam, so that the commandments of the Torah, and a fortiori the seven Noachide commandments, are accessible to human reason. Of course, it is through prophecy that we learn of God's will, but if we examine the Rambam's theory of prophecy (Guide, II,32), we shall find that

prophecy is a certain perfection in the nature of man. This perfection is not achieved in any individual from among men except after a training that makes that which exists in the potentiality of the species pass into actuality, provided an obstacle due to temperament or some external cause does not hinder this. . . .<sup>75</sup>

This, to be sure, is the "philosophical" view of prophecy, but Maimonides writes:

The third opinion is the opinion of our Law and the foundation of our doctrine. It is identical with the philosophical opinion except in one thing. For we believe that it may happen that one who is fit for prophecy and prepared for it should not become a prophet, namely, on account of the divine will. To my mind this is like<sup>76</sup> all the miracles and takes the same course as they.

The power of prophecy, then, is no different from philosophical wisdom. God's only action is preventative, and, even so, in the same category as miracles. It will be recalled that,

according to the Rambam, miracles were built in to the order of Creation, and do not represent a special divine intervention.<sup>77</sup> It would appear, therefore, that Maimonides regards all commandments as being at the same time natural and revealed. Thus, the passage cited from II,2 of the Guide should not be taken as indicating a permanent impairment of the nature of man. We may say either that the loss of intellectual perfection applied only to Adam, or that what was lost was only the actual power of prophecy; after the Fall, prophecy must be worked for. Indeed, unless the human species retained some intellectual capacity, it is hard to understand how any commandments could have ever been given.

In the light of these observations, I believe that we may understand the controversial passage in Hil. Melakim 8:11. We shall recall that the problem was that the Rambam denies the status of "pious of the nations" and a portion in the world to come to someone who accepts the seven commandments on the basis of his own judgment, and not on the basis of their being in the Torah. No problem is posed here to the interpretation of the seven commandments as natural law. First, no matter what interpretation of the Rambam we may propose, the text says clearly that it is possible to accept the seven commandments on the basis of one's own judgment. This point is reiterated at 9:1, where we read that "one's thought inclines toward them." Second, we would suggest that the person who is denied the status of one of the pious of the nations is one who accepts the seven commandments

as counsels of prudence only, or, along the same lines, as the conventional morality of his environment. Such a one is, according to the Rambam, on a lower rational-spiritual level than one who recognizes the transcendental ground of the commandments.<sup>78</sup> We have tried to show, however, that even someone in the latter category may be spoken of as being in possession of a natural law.

We turn now to the question of the extent to which the Noachide commandments may be a suitable basis for a Jewish doctrine of natural law. We note immediately that those commandments are intended to apply to all mankind, a necessary condition of a natural law. Also, the seven commandments, as distinct from other commands given to individuals before the revelation at Sinai, are understood as applying to all times and places. We should note, on the other hand, a peculiarity of the relation between the Noachide law and the Torah. We might expect a natural law to be a basic structure on which other, positive, laws could be built. Such is the case, for example, with the natural law and the conventional law in Albo. However, it cannot be said that the Noachide commandments are a basis for the Torah. Rather, they are, as Schwarzschild writes in connection with the view of Benamozegh, "what might be called the out-patient department of Judaism, rather than the natural law which exists outside and independent of Judaism."<sup>79</sup> One might try to solve this problem by saying, in the spirit of Saadia,

that the rational law makes a provision for the existence of the revealed, without, however, determining its content. However, the Noachide laws as we have them have no such provision. Rather, we must remember that the Noachide law is not to be understood as the a priori framework of the Torah, whose detailed prescriptions are thereby rendered arbitrary. The Noachide law when taken by itself represents a stage of human development lower than that represented by the Torah.<sup>80</sup> In any event, we should regard this circumstance as a distinctive feature of the Jewish doctrine of natural law, and not as an impediment to the development of such a doctrine.

We must now deal with the question of whether the Noachide commandments, which are indeed represented in the Torah as having been revealed, are conceived of as being essentially, or only accidentally, revealed. (We have already discussed this point as it applies to the conception of Maimonides; here we shall deal with the rabbinic sources.)

Let us first consider the Noachide commandments from the point of view of their content. The examples of rational commandments mentioned in Yoma 67b and Sifra 86a include five of the seven accepted Noachide commandments, namely, idolatry, sexual misconduct, bloodshed, blasphemy, and robbery. Of the remaining two, the commandment of laws would seem likely to be accessible to reason, but there may be some question of the status of the prohibition of eating a limb from a living animal.<sup>81</sup>

Let us now consider a more formal problem. If the Noachide commandments are essentially revealed, then the question arises of how people who were not present with Noah after the flood could be expected to observe them. A similar question may be asked, of course, with regard to the commandments of the Torah. Here the answer would seem to be that there is a continuous tradition which binds Jews of all generations to Sinai, not only in the sense that we know the content of the revelation at Sinai, but also in such a way that the experience of Sinai has existential meaning for us.<sup>82</sup> Unless some such tradition can be found for the Noachides, it would seem impossible to say that the Noachide commandments are essentially revealed. We should remember, incidentally, that, while the Noachide commandments take on their full significance in the context of the revelation at Sinai, they cannot be considered dependent on that revelation, for, if they were, we would not be able to account for the obligation of the generations between Noah and Moses. Our question is about the significance of the revelation to Noah. The passage in Genesis 9, where the sons of Noah (Shem, Ham, and Jafet), partners in the covenant, are represented as the ancestors of all mankind, could be considered the beginning of a theory of a Noachide tradition. The rabbis were aware of the religious traditions of other peoples, as we see from Hullin 13b:

R. Hiyya bar Abba said in the name of R. Yohanan:  
The gentiles outside the Land of Israel are not to



be considered idolators, for they are only following the ways of their fathers.<sup>83</sup>

However, the implication here is that these non-Jewish traditions are, if anything, anti-Noachide.

It would seem that, while the seven Noachide commandments are not enumerated **explicitly** among those that are considered "rational," they correspond roughly to those that are so specified, the only serious question being in the case of eating a limb from a living animal. At the same time, the concept of a Noachide tradition, which would be necessary to support the position that the commandments are essentially revealed, is not developed to any degree.<sup>84</sup>



V  
THE PHILOSOPHY IMPLICIT  
IN THE NOACHIDE COMMANDMENTS

Just as we may learn much about the basic outlook of Judaism by studying the commandments of the Torah, so may we hope to learn about the Torah's doctrine of man by studying the Noachide commandments. Such an undertaking, however, would have the peculiar consequence of depriving the other commandments of the Torah, which, after all, apply only to Jews, of their human meaning. We would have to say either that the Torah does not recognize the concept of humanity as something which is held by Jews and non-Jews in common, or that the Torah as a whole can be understood only as a divine decree. Both of these conclusions are absurd. It would rather seem that the development of the commandments of the Torah in accordance with certain ideas took place without the fact that these commandments were to apply to one nation only always in the foreground. From a systematic point of view one would say that the Noachide law considered by itself tells us about the state of nature,<sup>85</sup> that the life of the resident alien in the Jewish state (which includes such factors as Sabbath observance, according to the Torah, and the benefit of certain agricultural laws) tells us about the concept of man according to the Torah,<sup>86</sup> and that all the other prescriptions of the Torah define the

special nature and mission of the Jewish people. I doubt, however, whether this systematic point of view can be maintained strictly and consistently.

In any case, it is with the Noachide commandments by themselves that we shall concern ourselves. We may consider the commandments prohibiting idolatry and blasphemy together as concerning the religious nature of man. Man's life necessarily raises religious questions, that is, questions about basic values which go, at least in principle, beyond the world of natural experience in search of answers. We should note, however, that these commandments are phrased negatively; it is forbidden to worship idols, but not commanded to worship God. Of course, there is precedent for regarding the abandonment of idolatry as a positive achievement; "anyone who rejects idolatry is considered as if he has accepted the whole Torah."<sup>87</sup> This statement is presumably not to be taken literally, but could be regarded as expressing the idea that the uniqueness of God consists in His not being any thing in the universe. Also, in a milieu where professed atheism is rare, monotheism and idolatry are the only two real alternatives. In any case, we may say that the concept of humanity is incomplete without the elements of moral freedom and intellectual creativity, and these are excluded when man is ultimately bound to any thing within the world.

We must take ~~care~~ not to understand the problem of

blasphemy as one of hurting God's feelings, so to speak. Blasphemy is a form of rebellion against God, and is a manifestation either of idolatry or of nihilism. The expression of such attitudes is specially prohibited because speech is part of the essence of man (hence the use of the term "medabber" to indicate rationality and humanity), and to use the power of speech against God is a particularly bold rebellion.

We should remember also that, in the context of a Jewish state, idolatry and blasphemy could be seen as threats to public order.<sup>88</sup>

The prohibitions of bloodshed and of robbery have a clear place in any ethical code. Bloodshed is prohibited because man, made in the image of God, has infinite value and dignity. The prohibition of robbery points to the social nature of man, but it is also an expression of the idea that a certain respect is due to each individual. A person's property is in some ways an extension of himself; he depends on it, to one degree or another, for sustenance, he acquires it through his labor, and his interest and happiness are in some measure bound up with it. To deprive someone of his property is, in a way, to do violence to his person.<sup>89</sup>

As is the case with other commandments, the culpability of Noachides for bloodshed is wider-ranging than that of Jews under the Torah. Thus, abortion is, for Noachides, punishable as bloodshed, as are killing an already dying

man, indirect killing, and killing a pursuer in a case when the pursued could have been saved by inflicting an injury.<sup>90</sup>

The culpability of Noachides extends to such forms of illegitimate appropriation as withholding wages, which is, of course, also forbidden Jews, but under a separate category. Noachides, unlike Jews, are held responsible for the theft of less than a perutah.<sup>91</sup>

The prohibition of eating a limb from a living animal teaches that man has responsibilities toward the rest of creation. While killing animals for food is permitted, the satisfaction of our own needs should not be accompanied by wanton cruelty and infliction of pain.<sup>92</sup>

The prohibition of various sexual practices may be considered in a number of connections. For one thing, the prohibition of adultery strengthens the institution of the family. The prohibition of homosexual relations and bestiality may express the idea that man's natural powers, in this case the generative faculty, have specific ends ordained for them, in this case procreation, and they should not be diverted from that use.<sup>93</sup> Thus, castration is also forbidden.<sup>94</sup> A related idea is that the various species have been established by God, and should not be mixed or upset by man. Thus, the prohibition of mixed species in general may be mentioned in this connection, as well as the idea expressed in Sanhedrin 57a and 108a that such unnatural unions were the cause of the Flood. The prohibition

of incest would seem to partake of both the social and the philosophical aspects of these laws, a certain degree of exogamy apparently necessary for maintaining a healthy group.

The Noachide law of sexual behavior is quite complicated, involving disputes among talmudic and among post-talmudic authorities. We should observe that in this area of law the mores of the non-Jewish environment were taken into account.<sup>95</sup>

The commandment of laws should give us an idea of rabbinic political and social philosophy, but the differences among the various interpretations of this commandment prevent us from gaining a clear and complete picture. We may observe, however, that the ideal of human life presupposed by the Noachide commandments is certainly social, involving mutual aid and respect, and that justice as an ideal is recognized.

It would be quite difficult to account for all the details of the Noachide law in its developed form, but a number of considerations seem relevant. One is that, in defining the scopes of the various categories of prohibition, some attention was paid to the laws or practices of the non-Jewish peoples. On the other hand, the lack of practical application of the laws, together with the conception that they were an ideal basis for society, militated

against such ramifications as the definition of minimum offenses. The idea of theft, for example, is the same no what amount is stolen. Similarly, the death penalty is universally prescribed because the seven Noachide commandments represent seven pillars of social life, the undermining of any one of which is a matter of the greatest gravity.



## VI

## SUMMARY AND CONCLUSION

In this inquiry we have attempted to trace the development of the concept of the seven Noachide commandments through the biblical and rabbinic literature and the important post-talmudic sources, the writings of Maimonides being of particular significance. We have noted as well certain other concepts and distinguished groups of commandments which might aid our understanding of the idea behind the seven commandments.

We have tried to show that the Jewish conception of God as the ultimate source of authority behind all truly binding law in no way excludes the possibility of a Jewish doctrine of natural law, and that, in fact, there are, in our classical sources, the bases of such a doctrine. The seven Noachide commandments, although they have often been considered in connection with non-Jews living in an ideal Jewish state, correspond in content to a considerable degree with those groups of commandments which have been explicitly singled out as universal and knowable apart from the Torah. Furthermore, the association of the seven commandments with a covenant concluded between God and Noah, a representative of humanity, make them especially suitable to be part of a Jewish theory of natural law.

Finally, we have indicated some of the characteristics

which a doctrine of man based on the seven Noachide commandments as a natural law would have.

## NOTES

1. We should note that this use of the conception has often served special interests, for example, that of Moses Mendelssohn in defending his observance of tradition despite his view that Judaism has no distinctive beliefs.
2. Much of this development is therefore purely theoretical. Finkelstein, in "Some Examples of the Maccabean Halaka," JBL 49 (1930), pp.20-42, notes that large numbers of non-Jews came under Jewish sovereignty only during the Maccabean period, and uses this fact to date the Noachide commandments. See also in this connection Michael Guttman, Das Judentum und seine Umwelt, Allgem. Teil, (Berlin, 1927), p.98 note 1.
3. Boaz Cohen, in Jewish and Roman Law (New York, 1966), is careful to distinguish between ius gentium and ius naturale as concepts of Roman law, but he notes also (p.340 note 340) that they were at times identified. He writes also (pp.26-7) that "the concept underlying the seven Noachian laws is the nearest approach to the Roman doctrine of the ius gentium, for both presuppose the existence of certain laws, dictated by natural reason, [my emphasis] which all human beings feel morally bound to obey."
4. Ulpian, Digest I.1.1, cited in B. Cohen, op. cit., p.27. We may mention in this connection Erubin 100b as well.
5. Aquinas deals with this problem in the Summa Theologica, I-II q94a5. The references in the article of Richard Wollheim, "Natural Law," in the Encyclopedia of Philosophy are illuminating.
6. Aquinas deals with this problem in S.T., I-II q90a4. Gratian is cited there as a source for the view that "laws are established when they are promulgated."
7. Laws, I, vi17 and vi19, trans. C.W. Keyes (London and Cambridge, Mass., 1928, reprinted 1966).
8. This law would appear to be of a different sort than the others, what we might call today a "lawlike regularity" of behavior, rather than a rule binding upon our will.
9. See in this connection especially Schwarzschild, "Do Noachites Have to Believe in Revelation?" JQR n.s. 52 (1962), 297-308 and 53 (1962), 30-65.

10. ויצו ה' אלקים על-האדם לאמר, מכל עץ-הגן אכל תאכל.  
I have used the new Jewish Publication Society translation of the Bible wherever it is available. All other translations, unless specifically identified, are my own.
11. According to סנהדרין נ"ט ב"ד, Noachides are not commanded to procreate, according to the principle that every commandment that was given to the Noachides and then repeated at Sinai applies only to Israel. R. Ahai Gaon, however, holds that Noachides are so commanded (שאילתא קט"ה).
12. סנהדרין נ"ז א : ותשחת הארץ - תנא דבי ישמעאל, כל מקום שנאמר השחתה אינו אלא דבר ערוה ועבודה כוכבים. דבר ערוה, דכחיב, כי השחית כל בשר את דרכו; ועבודה כוכבים, דכחיב, פן תשחיתון ועשייתם פסל.  
סנהדרין ק"ח א : כי השחית כל בשר את דרכו על הארץ; אי"ר יוחנן, מלמד שהרביעו בהמה על חיה וחיה על בהמה והכל על אדם ואדם על הכל. צ"ר אבא בר כהנא, וכולם חזרו חוץ מחושלמי. ויאמר ה' לנח, קץ כל בשר בא לפני - אי"ר יוחנן, בא וראה כמה גדול כחה של חמס, שהרי דור המבול עברו על הכל, ולא נחתם עליהם גזר דינם עד שפאסו יריהם בגזל, שנאמר, כי מלאה הארץ חמס מפניהם, והנני משחיתם את הארץ.
13. This conclusion is not, of course, necessitated by the text itself, but it does not seem to be an illegitimate conclusion. We should take care to distinguish this question, of whether the sanction for a command is the threat of punishment or moral authority, from the questions of whether punishment is in fact meted out to transgressors, and of whether the moral authority behind the commandments is necessarily a Supreme Being.
14. We might mention here the connection that Hermann Cohen drew between the eternity of the natural world and the possibility of ethics, to the effect that ethics as an infinite task requires an eternal field on which to be executed. Thus he writes in *Ethik des reinen Willens* (3te Aufl., Berlin, 1921), p. 450, "Denn die Logik und die Natur möchten vergehen, wenn sie an sich beständen. Aber sie haben Bezug auf die Ethik. Jetzt tritt das Problem der Wahrheit auf und macht sich zum Grundgesetz. Dieses Grundgesetz vertritt die Idee Gottes. Gott bedeutet, daß die Natur Bestand hat, so gewiß die Sittlichkeit ewig ist."
15. For various views on the dating of Jubilees, see Otto Eissfeldt, *The Old Testament: An Introduction*, trans. Peter Ackroyd (Oxford, 1965, reprinted 1966), p. 608.
16. Jubilees 7:20, 28-32, 35-39. The translation is mine, based on the Hebrew text of M. Goldmann in A. Kahana, ed., (הוצאה חדשה, ירוש', חס"י) הספרים החיצוניים. Charles, in his translation, regards the last passage to be elliptical.

17. See Genesis 9:20, the commentary of Ramban ad loc., and בראשית רבה, ל"ו, א.
18. Op. cit., pp. 105-6.
19. Legends of the Jews, trans. Henrietta Szold (Philadelphia, 1954), V, p.193, note 67.
20. Op. cit.
21. ברכת ה'
22. חנו רבנו, שבע מצוות נצטוו בני נח: דינין וברכת ה', ע"ז, גילוי עריות ושפיכות דמים, וגזל ואבר מן החי.
23. על שבע מצוות נצטוו בני נח: על הדינין ועל עבוד' זרה ועל קיללל השם ועל גילוי עריות ועל שפיכות דמים ועל הגזל.
24. מנהגי מילי' אמר ר' יוחנן, דאמר קרא, ויצו ה' אלקים על האדם לאמר מכל עץ הגן אכל תאכל. ויצו, אלו הדינין, וכן הוא אומר, כי ידעתיו למען אשר יצוה את בניו וגו'; ה', זו ברכת ה', וכן הוא אומר, ונוקב שם ה' מות יומת; אלקים, זו עבודת כוכבים, וכן הוא אומר, לא יהיה לך אלהים אחרים; על האדם, זו שפיכות דמים, וכן הוא אומר, שופך דם האדם וגו'; לאמר, זו גילוי עריות, וכן הוא אומר, לאמר הן ישלח איש את אשתו והלכה מאתו והיתה לאיש אחר; מכל עץ הגן, ולא גזל; אכל תאכל, ולא אבר מן החי.
25. Ed. Solomon Buber (Lemberg, 1869, reprinted Jerusalem, 1963), 100b. Buber's text ascribes seven commandments to Adam, but the necessary correction is made in note 3 ad loc.
26. The text here opens with a charge of seven commandments to Abraham, an obvious corruption.
27. ר' יודן בר סימון פתח, רבוה בנות עשו חיל, אדם הראשון נצטווה על שבע [צ"ל שש מצוות] ואלו הן, ע"ז, ועל ברכת השם, ועל הדינים, ועל שפיכות דמים, ועל ג"ע, ועל הגזל, וכולם בפסוק אחד, דכתיב, ויצו ה' אלקים על האדם לאמר מכל עץ הגן אכל תאכל, ויצו, זו ע"ז, כמד"א, כי הואיל הלך אחרי צו, ה', זו ברכת השם, כמד"א, ונוקב שם ה', אלקים, אלו הדינים, כמד"א, אלקים לא תקלל, על האדם, זו שפיכות דמים, כמד"א, שופך דם האדם, לאמר, זו גילוי עריות, כמד"א, הן ישלח איש את אשתו, מכל עץ הגן אכל תאכל, זו הגזל, כמד"א, מפרי העץ אבר אכול וגו' [צ"ל ומען הדעת טוב ורע לא תאכלו ממנו], נח נצטווה על אבר מן החי, שנאמר אך בשד בנפשו דמו וגו', אברהם על המילה, שנאמר ואחא את בריחי תשמור, יצחק נחנך לשמונה ימים, שנאמר וימל אברהם את יצחק בנו בן שמונה ימים, ויעקב על גיד הנשה, שנא' על כן לא יאכלו בני ישראל את גיד הנשה, יהודה על היבמה, שנא' ויאמר יהודה לאונן בא אל אשת אחיך ויבם אותה [ואח עלית על כולנה], אבל את בסיני נצטווה תרי"ב מצוות.
28. והתניא, עשר מצוות נצטוו ישראל במרה: שבע שקבלו עליהן בני נח והוסיפו עליהן דינין ושבת וכיבוד אב ואם.



29. ר' חנניה בן גמליאל אומר אף על הדם מן החי. ר' חידקא אומר אף על הסירוס. רבי שמעון אומר אף על הכישוף. רבי יוסי אומר כל האמור בפרשת כישוף בן נח מזהר עליו: לא ימצא בן מעביר בנו ובתו באש, קוסט קסמים, מעונן, ומנחש, ומכשף, וחובר חבר, ושואל אוב וידעוני, ודורש אל המתים וגו' ובגלל התועבות האלה ה' אלקיך מוריש אותם מפניך, ולא ענש אלא אם כן הזהיר. רבי אלעזר אומר אף על הכלאים; מותרין בני נח ללבוש כלאים ולזרוע כלאים, ואין אסורין אלא בהרבעה בהמה ובהרכבת האילן.
30. נתנא דבי מנשה, שבע מצות נצטוו בני נח: ע"ז וגילוי עריות ושפיכות דמים, גזר ואבר מן החי, סירוס וכלאים.
31. See the article בן נח in the אנציקלופדיה תלמודית, notes 274, 275, 286, 287, 299, 300, and 301.
32. ואומר אליהם אם טוב בעיניכם הבו שכרי, ואם לא, חדלו; וישקלו את שכרי שלשים כסף. . . עולא אמר, אלו שלשים ~~מצות~~ ~~שקבלו~~ עליהן בני נח, ואין מקיימין אלא שלשה; אחת שאין כותבין כחובה לזכרים, ואחת שאין שוקלין בשך המת במקולין, ואחת שמכבדין את התורה. The biblical verse which opens the passage is Zech. 11:12. See also 578 זכריה שם, where the authority is Raba.
33. ציי דמר רב הונא בשם רב: "וישקלו את שכרי שלשים כסף," אילו שלשים מצות שעחידין לקבל עליהן. . . . רבי חייא בר לולייני בשם רבי הושעיה: עחידין בני נח לקבל עליהם כל המצות, ומה טעם "כי אז אהפוך אל עמים שפה ברורה;" ובסוף הן עחידין לחזור בהן. The second verse cited is Zeph. 3:9. Incidentally, the verse from Zechariah has been interpreted also to refer to thirty righteous men on whom the world depends.
34. Samuel Krauss, "Les Préceptes Noachides," Révue des Etudes Juives 47 (1903), pp. 32-40.
35. R. Menahem Azariah of Fano, in עשרה מאמרות, cited in אנציקלופדיה תלמודית, נדר ג', p. 350, note 56. See also the text of the article there.
36. "אח משפטי תעשו": אלה דברים הכתובים בתורה שאלו לא נכתבו כדין היה לכתבן כגון הגזלות והעריות וע"א וקללת השם ושפיכות דמים, שאלו לא נכתבו כדין היה לכתבן.
37. Schwarzschild, op. cit., makes this connection. Marvin Fox, in "Maimonides and Aquinas on Natural Law," Diné Israel 3 (1972), pp. 5-36, attempts to give another interpretation to this and other similar passages. We cannot accept Fox's arguments; see below Chapter IV. The Maharsha to יומא טו writes that the matters "which should have been written" are the Noachide commandments. He adds, referring to the context of Leviticus 18, that these first commandments are rational ordinances in



virtue of which the divine law is distinguished from the conventional law of the Canaanites.

38. Ed. Meir Friedmann (Vienna, 1900, reprinted Tel Aviv, 1963), 99a:  
אמר לו: כבוד גדול חלק הקב"ה לאומות העולם, שאותן חמשה דברות הראשונות  
שנתן הקדוש ברוך הוא לישראל שמו מעורב בהם. כלומר שאם חסאו ישראל הוא  
קורא אחריהם תגר. האחרונות שנתן לאומות העולם אין שמו מעורב בהם.
39. משה רבינו לא הנחיל התורה והמצוות אל לישראל. שנאמר מורשה לקהל  
יעקב. ולכל הרוצה להתגייר משאר האומות. שנאמר ככם כגר. אבל מי שלא  
רצה אין כופין אותו לקבל תורה ומצוות. וכן צוה משה רבינו מפי הגבורה  
לכופף את כל באי עולם לקבל מצוות שנצטוו בני נח. וכל מי שלא יקבל  
יהרג. והמקבל אותם הוא הנקרא גר תושב בכל מקום וצריך לקבל עליו  
בפני שלשה חברים. וכל המקבל עליו למול ועברו עליו שנים עשר חדש  
ולא מל הרי זה כמין האומות: כל המקבל שבע מצוות ונגהר לעשותן הרי  
זה מחסידי אומות העולם. ויש לו חלק לעולם הבא. והוא שיקבל אותן  
ויעשה אותן מפני שצוה בהן הקב"ה בתורה והודיענו על ידי משה רבינו  
שבני נח מקודם נצטוו בהן. אבל אם עשאן מפני הכרע הדעת אין זה גר  
תושב ואינו מחסידי אומות העולם ולא [צ"ל אלא] מחכמיהם.
40. This reading is accepted also by Jacob Katz, in Exclusiveness and Tolerance (Oxford, 1961, reprinted New York, 1969), p. 175, and Boaz Cohen, op. cit. Saul Berman, in the article "Noachide Laws," in the Encyclopedia Judaica (Jerusalem, 1972), vol. 12, col. 1191, writes, surprisingly, that the reading "but rather one of their wise men" is "not supported by any manuscript evidence. As Dr. Atlas (cited by Schwarzschild, op. cit., and in conversation) has pointed out, the question of the proper reading must be decided on the basis of our understanding of the Rambam's total position. Thus Fox, op. cit., and Jose Fauer, מקור חיונו של המצוות לדעת  
מרב"ם, (1969), "ליח, א" mention the reading in the Bodleian manuscript, but prefer the more common version.
41. על ששה דברים נצטוה אדם הראשון. על ע"ז. ועל ברכת השם. ועל שפיכות  
דמים. ועל גילוי עריות ועל הדינים. אע"פ שכולן הן קבלה בידינו משה  
רבינו. והדעת נוטה להן. מכלל דברי תורה יראה שעל אלו נצטוה. הוסיף  
לנח אבר מן החי שנאמר אך בשר בנפשו דמו לא תאכלו. נמצאו שבע מצוות.
42. The ad loc. connects this view of the Rambam with the derivation of the commandments from Genesis 2: 16 at 2: 16, and with 2: 16, where the question of אבר מן החי is discussed in connection with the general prohibition of eating meat before Noah. Observing that the verse in question concerns Adam, the כסף  
אמכחא . concludes that this derivation is an

- 42a. וכיצד מצווין הן על הדינין. חייבין להושיב דיינין ושופטים בכל פלך. ופלך לדון בשש מצות אלו. ולהזהיר את העם. וכן נח שעבר על אחת משבע מצות אלו יהרג בסייף. ומפני זה נחתינו כל בעלי שנים הריגה. שהרי שנים גזל והם ראו וידעו ולא דנוהו. וכן נח נהרג בעד אחד ובדיין אחד בלא החראה ועל פי קרובין אבל לא בעדות אשה ולא חדון אשה בהם.
43. This formula is introduced by Raba to explain why, although, on his view, Noachides are commanded to suffer martyrdom rather than transgress one of the commandments, this is not included in the seven enumerated commandments. Maimonides, incidentally, decides (הל' מלכים פ"י ה"ב) against Raba.
44. במה דברים אמורים. בשנו באחת ממצות ועבר בלא כוונה . . . . אלא עלה על לבו שדבר זה מותר לו . . . הרי זה קרוב למזיד ונהרג. ולא תחשב זו להם שגגה מפני שהיה לו ללמוד ולא למד.
45. The terms "idolator", "Noachide", and "resident alien" are all used in this passage, with some loss of clarity. It would appear that "Noachide" in the first part of section 10 means "idolator", while in the second part it means "resident alien". See the Radbaz ad loc.
46. Op. cit.
47. Op. cit.
48. אין כל הדברים האלה אמורים אלא בזמן שגלו ישראל לבין העובדי כוכבים או שיד עכו"ם תקיפה על ישראל, אבל בזמן תקיפה עליהם אסור לנו להניח עובדי כוכבים בינינו. ואפילו יושב ישיבת עראי או עובר ממקום למקום בסחורה לא יעבור בארצנו אלא עד שיקבל עליו שבע מצות שנצטוו בני נח שנאמר לא ישבו בארץ, אפילו לפי שעה. ואם קבל עליו שבע מצות הרי זה גר תושב. ואין מקבלין גר תושב אלא בזמן שהיובל נוהג, אבל שלא בזמן היובל אין מקבלין אלא גר צדק בלבד.
49. Hermann Cohen, in his criticism of Spinoza, (cited by Schwarzschild, op. cit., p. 46) suggests that the reason for Rambam's theological condition on the acceptance of resident aliens is that the concept of resident alien, as we see from the passage in הל' עכו"ם, is a "state concept" (to use a term which I heard from Dr. Atlas in discussing this point). Only someone who gives allegiance to the fundamental idea of the state can be admitted to this partial citizenship.
50. ואין דברים הללו נכונים בעיני, שאם כן היה יעקב אבינו חייב להיות קרום וזוכה במיתחם, ואם פחד מהם למה כעס על בניו וארד אפם אחר כמה זמנים וענש אותם וחלקם והפיצם? הלא הם זכו ועשו מצוה ובסחו באלקים והצילם? ועל דעתי הדינין שמנו לבני נח שבשבע מצות שלהם אינם להושיב דיינין בכל פלך ופלך בלבד, אבל צוה אותם בדיני גנבה, ואונאה, ועושק, ושכר שכיר, ודיני השומרים, ואונס, ומפתה, ואבות נזיקין וחובל

בחבירו . . . וכיוצא בהן, בענין הדינין שנצטוו ישראל, ונהרגו עליהן אס  
גנב ועשק או אנס . . . וכיוצא בהן. ומכלל המצוה הזאת שיושיבו דיינין  
גם בכל עיר ועיר כישראל ואם לא עשו כן אינן נהרגין, שזו מצוה עשה בהם.  
The English translation used is that of Charles Chavel  
(N.Y., 1971).

51. The משנה ad loc. mentions the objection of the Ramban,  
but writes only that ולשון הגמרא יש בו פנים גם לרבינו ואין  
להאריך.

52. See קמא לחא:

אמר ר' אבהו אמר קרא: עמד וימודד ארץ, ראה ויתר גוים. ראה שבע  
מצות שקבלו עליהם בני נח; כיון שלא קיימו, עמד והחזיר ממונם לישראל.  
The biblical verse cited is Habbakuk 3:6.

53. Ed. I. Ralbag (Jerusalem, 1970), p. 175:

אבל ישראל בנזיל אס אינו מקיים שבע מצות מותר בגזילה, על צד שאין בו  
חלול השם, שהרי מעובדי אלילים הוא, אלא שאם הוא מקיים שבע מצות  
אסור, שכל בן נח שדאינוהו מקבל עליו שבע מצות, הוא מחסידי אומות  
העולם ובכלל בעלי דת, ויש לו חלק לעולם הבא.

54. For more concerning the views of the Meiri, see Katz,  
op. cit., pp. 114-128.

55. Trans. and ed. Alexander Altmann, in Three Jewish Philo-  
sophers (Philadelphia, 1960, reprinted New York, 1969),  
p. 95.

56. Ibid., p. 97.

57. Loc. cit.

58. Ibid., p. 100.

59. Ibid., p. 96, note 4.

60. דת טבעית, דת נימוסית, and דת אלקית, respectively.

61. Book I, Chapter 5.

62. Loc. cit.

63. Book I, Chapter 6.

64. Trans. Shlomo Pines (Chicago and London, 1963, reprinted  
1969), pp. 383-4; "Accordingly if you find a Law the  
whole end of which and the whole purpose of the chief  
thereof, who determined the actions required by it, are  
directed exclusively toward the ordering of the city and  
of its circumstances . . . and if in that Law attention  
is not at all directed toward speculative matters . . .  
you must know that that Law is a nomos . . . If, on the  
other hand, you find a Law all of whose ordinances are

to attention being paid, as was stated before, to the soundness of the circumstances pertaining to the body and also to the soundness of belief . . . you must know that this guidance comes from Him, may He be exalted, and that this Law is divine." The way in which Albo compares the divine with the conventional law is reminiscent also of Aquinas, S.T., I-II, q91a4.

65. Book of Principles, I,5.
66. I have in mind here the concept of source used by Hermann Cohen in the Religion der Vernunft (See especially, pp. 1-4), but I do not claim to be following Cohen's methodology in every detail.
67. See note 37 above.
68. Ibid., pp. 7, 12, and 36.
69. Thus the Rambam, הל' עכו"ם פי"א ה"ד ; the Rabad, however, ad loc., holds that Noachides are so forbidden.
70. ספרי וואו הברכה ל"ד י and במדבר רבה פ"כ א
71. במדבר רבה טז
72. Fox, op. cit., p. 7.
73. The insistence on a conception of revelation which puts a totally passive reason at the peak of religious life serves the interest of those who insist on a passive, acquiescent, attitude toward certain traditional authorities.
74. Guide, trans. Pines, pp. 24-5. See also the מלוח ההגיון 8:1.
75. Ibid., p. 361.
76. Loc. cit.
77. Guide, II,29.
78. The Rambam's stipulation is, in fact, that the seven commandments must be accepted on the basis of the revelation at Sinai, specifically, in order for one to attain the status of one of the pious of the nations. However, we must remember that for the Rambam Mosaic prophecy and Sinaitic revelation are not so much pieces of intellectual history as instances (the only ones) of an exalted level of human attainment.
79. Schwarzschild, op. cit., p. 44. Benamozegh, however, in



Israël et l'Humanité (Paris, 1914), cites with approval Marsile Ficin: "Il y a . . . une religion naturelle, patrimoine commun du genre humain (c'est ce que nous appelons la vraie religion catholique ou noachide) et tous les cultes ont quelque chose de bon" (p. 614).

80. This view implies no permanent disabilities for non-Jews. Someone who accepts the Noachide commandments, recognizing the sovereignty of the God proclaimed by Israel, has reached the same spiritual level as a pious Jew. I take this point to be the meaning of ה' מלכים ח:יא. See also Isaiah 56:6-7:  
 וּבְנֵי הַנֹּכְרִים עַל ה' לִשְׁרָתוֹ וְלֹאֲהַבָה אֶת שֵׁם ה' לֵהיוֹת לוֹ לְעֹבֲדִים,  
 כָּל שֹׁמֵר שְׁבַת מַחֲלֵל וּמַחֲזִיקִים בְּרִיתִי. וְהַבְּיָאוֹתִים אֵל הָר קוֹשֵׁי וּשְׁמֹחֲתִים  
 בְּבֵית חֲפְלָתִי עוֹלְחֵיהֶם וּבֹחֲיֵיהֶם לְרֹצוֹן עַל מִזְבְּחִי, כִּי בֵּיתִי בֵּית חֲפְלָה יִקְרָא  
 לְכָל הָעַמִּים.
81. Since אבר מן החי was explicitly mentioned in connection with Noah in the Torah, any enumeration of Noachide commandments would have to include it.
82. We may mention in this connection the idea that the souls of all Jews throughout the generations were present at Sinai. While this idea is usually thought of in connection with that of transmigration, still it represents an awareness of the problem of establishing the obligation of later generations to keep the Torah.
83. ר' חייא בר אבא א"ר יוחנן: נכרים שבחוצה לארץ לאו עובדי כוכבים הן.  
 אלא מנהג אבותיהן בידיהן.
84. Benamozegh, op. cit., p. 678, mentions an opinion of Rashi ( ע"ז ה ע"ב, ו"ה ואסור לב"ן ) which seems to imply that there once existed an organized Noachide religion, but this view is surely entirely speculative.
85. Compare Summa Theologica I q102a3 in this connection.
86. For the significance of the Torah's legislation concerning aliens for the development of the concept of humanity, see especially Cohen's Religion der Vernunft (2nd ed., 1929), pp. 142-5 et alibi.
87. קידושין ט ע"א: [חמורה עבודה כוכבים] שכל הכופר בה כמורה בכל החמורה כולה.
88. Benamozegh, op. cit., p. 671, attributes the particular strictness of the Rambam's codification of the Noachide law on idolatry to this situation. See also H. Cohen, Religion der Vernunft, p. 142.
89. The connection between property and person is skillfully drawn by Locke in the Second Treatise of Government,

Sections 18 and 25-51. We should note that the institution of property is independent of the particular system of ownership and distribution that may prevail in any given society.

90. חז"ל: פרקי אמונות ודעות . Urbach, in הל' מלכים פ"ט ה"ד (Jerusalem, 1971), p. 215, suggests that the statement of R. Ishmael in סנהדרין נ"ז א, that feticide is a punishable case of bloodshed (which is codified by the Rambam), may be explained in terms of the laws of other nations of the time which punished feticide with death. See, however, R. David Feldman, Birth Control in Jewish Law (New York and London, 1968, third printing, 1973), pp. 259-60.
91. In this connection the following passage is interesting. ירושלמי בבא מציעא פ"ד ה"ב: א"ר אחא, כתיב, כי מלאה הארץ חמס מפניהם. ומה היה חמס? הוה בר נש נפיק, סעין קופה מליאה חורמוסין, והיו מחכונין ונוסלין פחות משה פרוסה, דבר שאינו יוצא בדינין.
92. This idea is expressed somewhat differently by חספות to חולין צ"א ע"א, where Noachides are held responsible for נחירה, slaughtering animals which they require for food. (שחיטה, the Jewish method of slaughtering, is not, of course, required.)
93. Feldman, op. cit., pp. 21-105, passim, emphasizes that procreation is not viewed as the only justification for sexual intercourse. The view which I have suggested, which does not necessarily conflict with that of Feldman, may be found in the Rambam's סנהדרין ז, cited by Feldman, p. 92, and in סנהדרין נ"ח ע"א.
94. This is the view of R. Hidka in סנהדרין נ"ז ע"ב. See the article אנציקלופדיה תלמודית בן נח in notes 274 and 275 for the views of later authorities on both sides of this question.
95. See סנהדרין נ"ז ע"ב: בא על עריות ישראל נידון בדיני ישראל, בא על עריות בן נח נידון בדיני בן נח.

See also B. Cohen, op. cit., pp. 381-3.



## ADDENDA AND CORRIGENDA

- ad p. 11. There is a variant reading of דינין for דינין , which occurs in the first printing of the חוטמא , Venice, 1611. It is significant in view of the controversy between the Rambam and the Ramban on this commandment.
- ad p. 15. The contrast between the two groups of commandments is found in the ספרא as well as in יומא .
- ad p. 17. The Noachide commandments are mentioned also in the משנה ר' אליעזר , ed. Enelow (N.Y., 1934), p. 121: הפרש בין חסידי ישראל לחסידי אומות העולם. חסידי ישראל אינן נקראין חסידים עד שיעשו כל החורה, אבל חסידי אומות העולם, כיוון שהן עושין שבע מצוות שנצטוו בני נח עליהן, הן וכל דקדוקיהן, הן נקראים חסידים. בד"א, כשעושין אותן ואומרים מכה שצוה אחנו אבינו נח מפי הגבורה אנו עושין, ואם עשו כן, הרי הן יירשו העולם הבא כישראל, ואע"פ שאינן משמרים את השבתות והמועדות, שהרי לא נצטוו עליהן. אבל אם עשו שבע מצוות ואמרו, מפי פלוני שמענו, או מדעת עצמן, שכן הדעת מכרעת, או ששיחפו שם ע"ז, אם עשו כל החורה כולה, אין לוקחין שכרן אלא בעולם הזה.
- This passage has been mentioned as a source for the Rambam's view on the subject. Opinions are divided on the question of the date of this work. Enelow, in his introduction, holds that it incorporates tannaitic material and dates from no later than 400 C.E. Herr, on the other hand, in the article "Midrashim, Smaller," in the Encyclopedia Judaica (Vol. 16), suggests that it is from the eighth century.
- ad p. 29. Katz, in Exclusiveness and Tolerance, p. 174, note 6, mentions the attribution of the first identification of the Noachide commandments with natural law to Abravanel. Netanyahu (who is cited by Katz), argues, in Don Isaac Abravanel (Philadelphia, 1953, reprinted, 1968), pp. 156-7, that Abravanel follows Maimonides [sic] in claiming that natural law has no content, and that the law given to Noah was divine. Abravanel does, in fact say (in his פירוש לחורה, שמואל יטא) that the law given to Noah is neither natural nor conventional, but rather divine. However, his definition of "natural" is "dictated by the nature of man", which is not necessarily the concept with which we are operating.

ad note 4. The passage in ערוכין is:

אמר רבי יוחנן: אילמלא לא ניתנה חורה היינו למדין צניעות מחזור,  
ונזל מנמלה ועריות מיונה ודרך ארץ מחרנוול, שמפייס ואחר כך בועל.

ad note 24. The other biblical verses cited are Genesis 18:9, Leviticus 24:16, Exodus 20:3, Genesis 9:6, and Jeremiah 3:1.

ad note 27. The other biblical verses cited are Hosea 5:11, Leviticus 24:16, Exodus 22:27, Genesis 9:6, Jeremiah 3:1, Genesis 2:17, Genesis 9:4, 17:9, 21:4, 32:33, and 38:8. The JPS translation of the citation from Exodus 22:27 is "Do not revile God;" I have altered it so that the parallel with Genesis 2:16 is clear. The Targum, incidentally, דיינא לאחקילין.

ad note 53. This opinion of the Meiri is brought also by the  
בבא קמא ל"ח ע"א to שיסה מקובצת.

ad note 35. This view is that of the editors of the article; R. Menahem Azario of Fano held that there are thirty Noachide commandments.

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