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THE SEVEN
NOACHIC COMMANDMENTS:
A PHENOMENOLOGICAL - RHETORICAL
ANALYSIS

ALAN HENKIN

Thesis submitted in partial fulfillment
of the requirement for Ordination

Hebrew Union College-Jewish Institute of Religion

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TO SUSAN AND ARIELA

without whom the writing of this thesis would have been much easier, but my life, much impoverished. (You have taught me to value life's richness over academic ease.)

DIGEST

This thesis seeks both to analyze various conceptions of the seven Noachic commandments and to test a new method for the study of normative discourse. The method, the phenomenological-rhetorical method, begins with an examination of the rhetoric employed by a speaker within an argument and tries to move from that to a description of the ethos ascribed by the speaker to his audience. We found that the method yields mixed results, depending on the extent of our knowledge about the speaker, his intellectual milieu, and similar matters.

With regard to the tradition of the seven Noachic commandments, we discovered that there is no evidence for its existence in biblical and pre-tannaitic times, and that, judging from the documents available to us, it has as its terminus a quo the early to mid-second century C.E. It would appear that for the tannaim and amoraim living a fully human life required the revelation of general norms for human action. Accordingly, they felt a need to attribute at least some of the Noachic commandments to Adam, humanity's prototype. Rhetorically Judah Halevi used the concept of the seven Noachic commandments to highlight the reliability of rabbinic hermeneutics and halakhah and, thus, to counter both Karaism and other challenges to the authenticity of tradition. Maimonides utilized the concept as the criterion for the enfranchisement of non-Jews in the messianic Jewish state.

The biblical commentators add little that is new to the concept. Joseph Albo, however, understood it as an example of non-Mosaic divine

law, through which he attempted to assert the superiority of divine law in general and Mosaic law in particular over conventional law and natural law. Finally, Moses Mendelssohn adduced the seven Noachic commandments to prove Judaism's high regard for natural religion and its tolerance for non-Jews, since both natural religion and tolerance constituted central components of Mendelssohn's Enlightenment world-view.

We also saw that in their various conceptions of the seven Noachic commandments a major shift occurs from the premoderns to the moderns, a shift which recapitulates a greater shift in Jewish religious thought as a whole. For the most part, the accent fell for the premoderns, in one way or another, on the commandments' theogenic character, while the moderns tended to discount the commandments' immediate theogenesis in favor of their purely moral, i.e., rational character. We concluded by taking note of the difficulties inherent in comparing the tradition of the seven Noachic commandments to, much less equating it with, the doctrine of natural law, as it has evolved in Western philosophy and jurisprudence.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS i

DIGEST ii

Chapter

I. THE PHENOMENOLOGICAL-RHETORICAL METHOD 1

II. BIBLE AND PSEUDEPIGRAPHA 15

III. TANNAITIC, AMORAIC AND RELATED LITERATURE 29

IV. JUDAH HALEVI 44

V. MOSES MAIMONIDES 56

VI. BIBLICAL COMMENTATORS 73

VII. JOSEPH ALBO 83

VIII. MOSES MENDELSSOHN 95

IX. CONCLUSION 107

NOTES 117

BIBLIOGRAPHY 142

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CHAPTER I

THE PHENOMENOLOGICAL--RHETORICAL METHOD

Philosophers have long sought after a logic of general argumentation whose compelling power would be as irresistible as the logic of science and mathematics. Beginning with Descartes, a mathematician and philosopher whose personal quest for certainty focused on such clear and distinct ideas as would provide a self-evident starting point for subsequent reflection, and culminating with the logical positivists many of whom combined science and philosophy in their careers, philosophy's imitation of the exact sciences and mathematics constitutes a recurrent modern theme. Despite this centuries old endeavor no one has succeeded in building a philosophical model for fields like ethics, politics, etc., whose conclusions are as seemingly unassailable as those of science and mathematics.

In the field of ethics, for example, the hope that the good consisted in some objective property inherent in acts or beings, in much the same way as hardness inheres in wood as an objective property, was first dampened by David Hume. In his Treatise on Human Nature (1739) Hume decried the imperceptible shift that takes place in moral discourse from descriptive propositions to moral judgments, and demanded that some explanation be forthcoming for this subtle change. G. E. Moore's Principia Ethica (1903) lent new impetus to Hume's argument by showing the logical fallacy underlying the jump from a descriptive proposition, an "is," to a moral judgment, an "ought." Naming this jump the naturalistic fallacy, Moore held that goodness can be neither a natural nor a synthetic property

of things; rather it must be a simple, unanalyzable and indefinable quality and therefore not properly the subject of rigorous demonstration.

Proponents of the movement called logical positivism in the early 1930's were understandably puzzled by language such as Moore's, and were instead enthralled with the conclusions reached by science and mathematics, generally. The members of the Vienna Circle restricted truth and the methods for arriving at it to the primary data of science and mathematics: empirically verifiable and analytic propositions. As a part of their overall attack on metaphysics and normative ethics, they relegated ethics, esthetics and the like to the affective side of human life. Their ethics has been characterized as emotivist, equating goodness and rightness with attitudes of approval and commendation and denying them any claim to the status of knowledge or objective truth. Another twentieth-century blow to normative ethics was struck by the proponents of philosophical analysis, who preferred to attend to the language in which moral judgments and arguments were couched rather than to the substantive issues under consideration.

The effect of these challenges to normative ethics was to raise the discussion of good and bad, right and wrong, to the level of metaethics. At this lofty height of abstraction the meanings of words like "good" and "bad" and "right" and "wrong" were described, along with the logic governing their use in moral discourse. Moral arguments were scrutinized for consistency in use of words, for avoidance of logical fallacies, and for metaethical justification. Pushed aside during the mid-twentieth century, normative ethics has resurfaced importantly in philosophical literature only in the past ten years or so.

In response to the preoccupation with the language and logic of

ethics a new positivist position has been developed in the writings of Stephen Toulmin and Chaim Perelman. Toulmin, along with Henry Aiken, Marcus Singer, Kai Nielsen, John Rawls and others, belongs to the "good-reasons" approach to ethics, a position so called because of its interest in determining under what circumstances a reason for a moral judgment counts as a good reason. In An Examination of the Place of Reason in Ethics (1950) and The Uses of Argument (1958), Toulmin suggested that to try to apply the abstract and formal criteria relied upon in mathematical logic to fields of practical reasoning is misguided. In the first place, Toulmin observed that in any community certain principles accepted as defining "real goodness," "real rightness," and "real obligation" are operative and attention is paid to those arguments which appeal to these principles.[1] While conceding that in ethics a point is ultimately reached beyond which reason breaks down, good reasons may still be advanced to make a course of action worthy of pursuit and adoption.[2] More fundamentally, Toulmin contended that analytic criteria like conclusiveness, demonstrativeness, necessity, certainty, validity and justification are appropriate to analytic arguments like those of mathematics, but are beside the point of substantial arguments which must be judged by the standards germane to the field in which the arguments are put forth.[3] The validity of non-analytic, substantial arguments is not amenable to measurement by standards applicable to all fields of human knowledge; rather, such validity is ascertained only by reference to standards applicable within the argument's field.[4] The logic at work in, say, ethics is not a priori, timeless and universal, but is in fact, empirical and historical.[5] So Toulmin concluded his near-classic Uses of Argument with a summons to study arguments as they actually have been established

in a particular discipline and to regard them as historical facts, sometimes to be superseded, sometimes to be rebutted, and sometimes to be accepted.[6]

In a sense the Belgian philosopher, Chaim Perelman, the foremost advocate of the "new rhetoric," picks up where Toulmin leaves off: he, too, breaks with the traditional equation of reason with self-evidence and certitude, and expands the domain of reason to include persuasion. In other words, Perelman reformulates the problem of reason in ethics in terms of rhetoric, not formal logic. Perelman's new rhetoric differs from the old, basically Aristotelian rhetoric in the former's new understanding of reason. Aristotle separated rhetoric from logic on the basis of rhetoric's appeal to emotions and logic's appeal to reason. Aristotle, for example, classified rhetoric into three types: (a) forensic rhetoric (concerned with guilt or innocence over past acts); (b) deliberative rhetoric (concerned with expedient courses of future action); and (c) epidictic rhetoric (concerned with reinforcing adherence to an audience's already existing values); but none of these types depended upon an exclusive appeal to reason for its force. Armed with the recognition that what counts as reasonable, rational or logical in one field may not so count in another, the new rhetoricians have been careful to separate rigidly reason from intuition and emotion in an argument. Thus Perelman sees the epidictic genre, whose appeals he enlarges to encompass reason as well as emotion, as the central part of the art of persuasion.[7] Perelman and the new rhetoricians focus on the speaker's intention to persuade an audience and on the specific techniques the speaker employs to that end.

Like Toulmin, Perelman widens the domain of reason by admitting a

multiplicity of ways to be reasonable. But he sharpens Toulmin's thought by stating that not only is the validity of an argument relative to the specific field in which it appears, but it is also relative to the audience to which it is addressed. Arguments presuppose a contact of minds which minimally depends upon a common language and a shared set of beliefs, and which takes place in a psychic and social context. All arguments presuppose what Perelman calls commonplaces.

At this point Perelman's thought converges with the phenomenological sociology pioneered by Alfred Schutz. The intersubjective world of any group of people consists in part of a variety of typifications, of classes we construct to categorize the myriads of unique phenomena of our everyday world. Taken together, typifications make up the group's stock of knowledge at hand. Some communities view the world through the lens of sacred, authoritative texts which define reality; still others interpret their world as essentially mechanistic or as essentially organic. These root metaphors, world hypotheses and fundamental images, in turn, determine what sort of arguments, what sort of appeals, what sort of imagery an audience finds persuasive. Although an argument may not result in any logically necessary, universally objective truth, it still may enable the speaker to secure in the minds of his audience an adherence which commits the audience to acting and believing as if it were true. And if over time this novel conclusion is successfully defended against subsequent challenges, becoming integrated into a community's common-sense world of daily life and routinized in the community's institutions, then it takes on a degree of "taken-for-grantedness" which allows it to function as a datum for future arguments.

Up to this point I have referred to "the speaker" and "the audience"

because that is the vocabulary of rhetoric. It should be emphasized that the speaker may also be a writer or even a thinker whose intention is to persuade an audience. This audience does not necessarily embrace an objective group of people standing outside the speaker, but it is an ideal type, a mental construction of the speaker's own invention. The audience may be the so-called universal audience of the old rhetoric; it may be the community of philosophers; it may even be the speaker himself as he engages in interior deliberation. What matters is not simply what the community incorporates into its stock of knowledge at hand, but what the speaker conceives of as the community's stock of knowledge at hand, its facts, truths, values and presumptions accepted and agreed upon by all.

The application of this new rhetorical method to the analysis of any normative argument has as its goal the description of the ethos of the community in which the argument takes place. The first question the new rhetorician must ask is, what is the speaker's location in time and space? Beyond crude data of date and geography, this question entails additional aspects of language, of prior normative arguments on the topic at hand and of the biography of the speaker. Secondly, the new rhetorician investigates the historical setting of the speaker's community, its socio-economic status and the beliefs and attitudes current at the time of the speaker. Finally, the new rhetorician turns to the argument itself. He studies the techniques of the argument, its appeals and justification, its imagery and metaphors. He tries to correlate these with the audience, asking why the speaker imagines why these techniques and arguments would be persuasive to his audience. With all this information gleaned from the argument and from secondary discussions the new

rhetorician tries to reconstruct the ethos of the community envisioned by the speaker in the presentation of his argument.

For illustrative purposes we might consider Abba Eban's speech to the United Nations General Assembly shortly after the Six-Day War. We know that Eban was born in Capetown, South Africa, and was reared in England. He studied oriental languages and classics at Cambridge, becoming a research fellow and lecturer there in Arabic. Active in the Middle East during World War II, he played a pivotal role as the Jewish Agency's political information officer in London in the years immediately prior to the founding of the State of Israel. Since that time he has served in a number of governmental positions, including ambassador to the United States, chief delegate to the United Nations, member of the Knesset, minister of culture and education, and foreign minister in Levi Eshkol's government.

In his capacity as Eshkol's foreign minister Eban traveled to the United Nations during the Six-Day War. By 1967, the U.N. Security Council and General Assembly had begun to manifest decidedly pro-Arab sympathies; Israel was on the defensive. In his speech to the U.N. General Assembly on June 6, Eban first informed the world that Israel was winning the war. He read both the American and Israeli presses to gauge support for Israel's position. Ironically, while support for Israel was very strong in America partly because of his June 6 speech, we know that Eban himself was under fierce domestic pressure, mainly from Ha-Aretz, to resign.

Eban devoted the majority of his speech to an overview of the Middle East crisis from 1957 to the Six-Day War. Beneath the ample historical data ran a metaphor which could be roughly described as "good guys versus

bad guys." Eban painted an historical picture in which Israel was a blameless victim and the Arabs bore the burden of belligerency. In part he pressed his case by means of carefully chosen words: associated with Israel were such phrases as "violently assailed," "the prospective victim," "stoic patience." To characterize Israel's military actions he selected verbs with passive connotations, e.g., "deters," "resists," "withstands;" to depict Israel's situation immediately before the outbreak of war he resorted to passive constructions, e.g., "hemmed in," "affronted and beset," and "bombarded." Eban's language imputed to the Arabs cabal and genocide: "methodically prepared aggression," "organized murder . . . directed by a central hand," "liquidate Israel." As the speech continued, Eban made his audience feel privy to the gradual disclosure of the conspiracy which produced the blockade of the Straits of Tiran: "a blatant decision," "an outrage," "wanton act . . . of malice," "perverse joy . . . (in an) anarchic act." This central metaphor of "good guys versus bad guys" encapsulated Israel's definition of the situation and was designed to appeal to all communities' senses of fairness and compassion. Moreover, Eban emphasized Israel's industriousness and social progress achieved by dint of sacrifice and exertion, an encomium which conformed particularly well to the values fundamental to the capitalist world view.

Eban also made use of several other effective metaphors. One, for example, he borrowed from Nasser himself:

> The Assembly will note that the imagery of a hangman's rope or of a tightening noose occurs frequently in the macabre vocabulary of Nasserism. He sees himself perpetually presiding over a scaffold. In June 1967, in Israel's hour of solitude and danger, the metaphor of encirclement and strangulation was to come vividly to life.

The purpose of this lynching metaphor was two-fold: 1) to cast Israel in the role of victim, and 2) to intensify the sense of Arab villainy. In

another striking metaphor Eban likened the May 1967, removal of the U.N. Emergency Force to a "fire brigade which vanishes from the scene as soon as the first smoke and flames appear." In a single, figurative sentence he underscored the flammability and explosiveness of the Middle East and accused the U.N.E.F. of dereliction of duty. Still another instance of this metaphorical technique was employed when Eban rejected a return to the borders of the pre-Six-Day War period; that situation, he argued, can and ought never to be restored. "It is a fact of technology that it is easier to fly to the moon than to reconstruct a broken egg." A technologically sophisticated community on the verge of a lunar landing would be most likely to appreciate and comprehend this irony.

A fascinating example of labeling took place elsewhere in Eban's speech. Of all the events in the annals of military history, with which does he identify the Six-Day War? One is the Warsaw Ghetto uprising which Eban held up "as a triumphant assertion of human freedom . . . (a struggle) against tyranny and aggression." He also seized upon non-Jewish "just and righteous cause(s): . . . the defense of freedom at Valley Forge; . . . the expulsion of Hitler's bombers from British skies; . . . the protection of Stalingrad against the Nazi hordes." Aside from equating Israel's cause with the securing of liberty from the despots of totalitarianism and beyond deepening the image of victim and defender, implicit in this image was a call for those in the United States, England and Russia who still cherish freedom, along with likeminded people all over the world, to identify with Israel's plight.

Indeed, in several other places Eban attempted to elicit his audience's identification with Israel. He asked "every peace-loving state" how they would react if faced with Israel's predicament; he mentioned

Israel's friendships on all five continents and described the Straits of Tiran as "Israel's bridge towards the friendly states of Asia and Africa." He said he was encouraged by the worldwide "surge of public opinion" on Israel's behalf which he perceived "from Paris to Montevideo, from New York to Amsterdam;" finally, he said he was heartened that "progressive world opinion" was on Israel's side.

By now it should be apparent that Eban designed his address for an audience with a prejudice in favor of a wronged underdog, with a distrust of secret, Machiavellian machinations; an audience which values qualities of diligence and postponement of gratification in the cause of social progress, and which is technologically advanced. Moreover, by citing the above cities Eban tipped his hand: the audience he sought to peruade was primarily Western, especially American. After all, of all the languages he commands, he chose English, the lingua franca of the Western world and virtually the only one understood by Americans. In other words, although his speech was delivered to the United Nations, and, by extension, to all the world, in fact he aimed his message at the Western nations, a point confirmed in his Autobiography.[8] Eban himself was fully aware of the true nature of his audience, especially after Arthur Goldberg, the U.S. Ambassador to the United Nations, had informed him that the impact of his presentation on American public opinion would determine the course of American policy.[9] Furthermore, by rebuffing Kosygin's call for the attendance of the Big Powers' leaders, President Johnson had so orchestrated the U.N. debate that the showdown between Israel-Eban and Russia-Kosygin, a David and Goliath confrontation, would heighten Israel's image as innocent victim up against a murderous monster, and play upon "the chivalry of the American people."[10]

Ostensibly Eban's intention in his speech before the U.N. was to present Israel's position on the peace settlement. Another, probably paramount intention was to create in some Western communities and to strengthen in others a favorable disposition towards Israel. In light of the occasion of the speech one might easily assume that the speech was a piece of forensic or deliberative rhetoric. In fact, while it included those concerns, it was actually a piece of epidictic rhetoric whose purpose was to bring to consciousness the audience's own values and to reinforce its adherence to them with a view towards possible future action.

The preceding method of analysis which we have applied to Eban's speech exemplifies the kind of method we wish to employ in this thesis on the concept of the seven Noachic commandments, though the difference between Eban's political address and philosophical, halakhic, aggadic and mythic works, in which the seven Noachic commandments are taken up, gives rise to somewhat different results. For the purposes of this thesis we make the assumption that Jewish speakers utilize the seven Noachic commandments in ways meant to express or to teach at least a particular moral viewpoint. In other words, we regard the seven Noachic commandments as a moral and legal "fact" which ancient, medieval and modern Jewish thinkers use to help secure their audiences' assent or adherence to the point under discussion.

Theoretically, by analyzing the various ways in which Jewish speakers treat the seven Noachic commandments in different periods of Jewish history, we will be able to describe the intentions of the speakers in light of the Weltanschauungen they ascribe to and share with their audiences. We especially want to ask the following questions

of each speaker: What exactly are the seven Noachic commandments? How are they known? To what degree are they binding? What is their authority? What is their relationship to the taryag mitsvot? How do they affect the attainment of salvation? What function do they serve within their literary context? What might their impact be upon a reader contemporaneous with the speaker? By answering questions such as these we hope to arrive at comparisons and contrasts of different Jewish cultural and social settings. We are also open to the possibility that this phenomenological-rhetorical method may not do justice to the facts; that it may contain hidden assumptions that limit its usefulness. Should this prove to be the case, such a discovery itself would be of value.

Our interest in the seven Noachic commandments is prompted partly by the increasing attention paid to them over the last twenty years. For example, in the field of history Jacob Katz in his Exclusiveness and Tolerance (1961) observes that Jewish evaluations of Christendom have been determined by the degree to which Jews viewed Christians as faithful to the Noachic commandments.[11] The major conceptual breakthrough occurred, says Katz, in fourteenth-century Provence when Rabbi Menahem Ha-Me'iri formulated the notion of "peoples defined by the ways of religions" (umot hagedurot bedarkhai hadatot).[12] This category, reached philosophically not casuistically, roughly corresponds to that of the benai noah,[13] and helped smooth Jewish-Christian relations.

In the field of law Boaz Cohen devotes several sections of Jewish and Roman Law (1966) to the Noachic commandments. Cohen sees them as more or less comparable to the Roman doctrine of the jus gentium,[14] because both presuppose the existence of laws promulgated by natural reason and perceived by all people.[15] This comparison between the

Noachic commandments and the jus gentium is not original with Cohen; in 1640 John Selden advanced it in his De Jure Naturali et Gentium juxta Disciplinam Ebraeorum,[16] as did Nathan Isaacs in 1927.[17] According to Cohen, the Roman jus gentium was understood both as a collection of principles of law common to all humanity and as a system of rules regulating intercourse among strangers and Roman citizens.[18] He claims that the seven Noachic commandments are similar on both scores.[19]

In theology both Moshe Greenberg[20] and Raphael Loewe[21] have made use of the concept of the Noahide person in constructing Jewish typologies of human relatedness. Loewe, for example, imagines the four classes of people postulated by halakhah as concentric circles:

Circle A encompasses the priesthood of Aaronide genealogy; circle B embraces all Israel; circle C fences in all benai noah; and circle D subsumes the remainder of humanity.[22] With respect to circle C it is Loewe's contention that the seven Noachic commandments amount to a kind of social theory vis à vis a part of the non-Jewish world or, as he puts it, they constitute "a definite policy, imposed by God on the non-Jewish world, the terms of which prohibit idolatry."[23]

Finally, in the area of philosophy David Novak has most recently focused his attention on the concept of the seven Noachic commandments. In "A Foundation for Jewish Philosophy, Preliminary Comments" he utilizes the concept as a starting point for reflection on Judaism, as a legal Grenzbegriff.[24] In another article he employs the concept to support his opposition against active Jewish proselytization, which he brands as theologically unjustifiable since traditional Jewish thought does not

require conversion as the condition for salvation of non-Jews. Obedience to the seven Noachic commandments suffices for gentile salvation.[25]

Our interest in the seven Noachic commandments has also been aroused by a related interest in the natural law--natural rights--human rights tradition in Western thought. As we have seen, some people have alleged that the doctrine of the seven Noachic commandments may be some kind of jurisprudential parallel to the jus gentium and the jus naturale. That each is a legal corpus applicable universally serves as the basis for the allegation. By understanding the function which various Jewish thinkers have accorded the seven Noachic commandments throughout Jewish history we hope to learn just how "parallel" that parallel is.

CHAPTER II

BIBLE AND PSEUDEPIGRAPHA

Although the concept of the "seven Noachic commandments" dates to post-biblical times, the pericope containing God's address to Noah and his sons, which is allegedly its source, appears in Genesis 9:1-7. The opinion of biblical scholars is unanimous in attributing this section to the Priestly writer (P). Linguistic evidence partly accounts for this attribution. The chapter opens with the formula vayevarekh elohim . . . vayoʾmer, a trademark of P (cf. Gen. 1:28).[1] Indeed, the very reference to God as elohim also points to either P's or the Elohist's authorship (cf. Gen. 1:1ff).[2] Another stock phrase of P which turns up in Gen. 9 is peru urevu (cf. Gen. 1:22; 1:28; 8:17). The usage of the phrase meqim berit (Gen. 9:9), as opposed to karet berit, also characterizes P (cf. Gen. 6:18; 17:7; Ex. 6:4; Lev. 26:9). A final linguistic reason for associating Gen. 9 with P centers on the eternality of the covenant; P frequently places the word berit in a construct relation with ʿolam (cf. Gen. 17:7; 17:13; 17:19; Ex. 31:16; Lev. 24:8).

Still more compelling reasons for identifying P as the author of Gen. 9 are theological. P's chief theological concern consists in adumbrating the divine plan in history. The hallmark of this plan is the berit which P employs to divide history into four successive periods.[3] In the ancient Near East the berit formalized the relationship between two parties of unequal status, and aimed at securing a state of orderli-

ness and equilibrium between them.[4] But for P, who avoids using the word berit in a secular context and reserves it for salvation-history,[5] God bestows the berit unconditionally.[6] Although all humanity stands before God in a universal berit relationship,[7] the berit between God and Israel assumes paramount importance. Whether we select the Abrahamic berit[8] or the Sinaitic berit[9] as the climax of P's Heilsgeschichte, these covenants provide the means for reconciliation and atonement of sinful humanity with its God and the sanctification of Israel.[10] P's overall theological agenda, then, is to specify Yahweh's ordinances given for Israel's salvation and to legitimize them by locating them in the context of Heilsgeschichte.[11]

Each of the periods into which P arranges history is marked by a covenant (with the exception of the first period) sealed with a sign, blessing or promise, and an obligation. The first period, extending from creation to the Flood, lacks a specific berit with Adam, but it does contain a blessing for man to be procreative (Gen. 1:28) and an obligation to be herbivorous (Gen. 1:29), and is confirmed by Sabbath rest.[12] The second period lasts from Noah to Abraham, and now P explicitly mentions a berit ʿolam (Gen. 9:16). God's blessing to Noah and his sons parallels the blessing given to Adam (Gen. 1:28-30), and furthermore God pledges never to let the earth revert to chaos. Although Noah and his sons are permitted to eat animal flesh, they are also obligated to refrain from wanton bloodshed and murder. The sign for Noah's berit is the rainbow, probably an allusion to God's setting aside his bow of war. Throughout these first two periods the name by which P designates God is elohim.[13]

The third period stretches from Abraham to Moses, and when the berit

is effected between God and Abraham (Gen. 17), God promises Abraham to be with him and his descendants and to give Canaan to Israel as an inheritance. Abraham, in turn, is obligated to circumcise himself and to insure all his male descendants' circumcisions, now the sign of the berit. P makes God known to Abraham as el shaddai.[14]

The final berit is concluded during the Mosaic revelation. The promise God gives Israel is to live in the Tabernacles in their midst, and the obligation Israel assumes is obedience to the Torah, especially to the provisions for the sacrificial cult. The sign for this berit is the Sabbath (Ex. 31), and God discloses himself to Israel as Yahweh.[15] For P the creation account deals with all humanity, the Noachic covenant embraces all peoples, and the Abrahamic and Sinaitic covenants narrow and deepen the universal scope and content to Israel.[16]

In addition to salvation-history and periodization, P focuses on uninterrupted chains of transmission, e.g., life-spans, ages of fathers at children's births, genealogies.[17] Purity also preoccupies P, especially the purity of the nation through which God's purpose is manifested;[18] for this reason sin and its ritual expiation are treated as persistent themes. Moreover, P attempts to authorize the views and practices of the Jerusalem priests by tracing their origins back to Sinai.[19] Finally, P's world is decidedly theocentric; human beings are from a stylistic point of view poorly developed and pale before the central character, God.[20] All these considerations strongly suggest that P is a priest.

Dating P presents formidable difficulties. P's theological and ritual interests, the academic community concurs, fit best into a post-exilic, sixth-century date. At the same time, however, there is much evidence to hint at a pre-exilic and even pre-monarchic origin for P.[21]

The most likely explanation for this anomaly is that P does not emerge out of a single generation; rather, an ancient tradition of priestly lore was available in oral and written form to the exiled priests of the Jerusalem Temple, who infused this tradition with recent material.[22] Thus it would seem plausible that P's audience was composed of the elite group of Israelites, possibly those exiled to Babylonia and, even more precisely, the exiled priests among them, whose demoralization necessitated a theological understanding for the fall of Israel and whose hope for the future required an emphatic statement of covenantal law and ritual.[23]

Having outlined the commonly accepted theory of P's identity and that of his (their?) audience, we are prepared to deal with his Noachic material. The destruction of the world through flooding, that is, through the release of the primeval waters, supplies the backdrop for the Gen. 9:1-7 pericope. Animal and human lawlessness (hamas) epitomized by the violation of the restriction to herbivorousness (Gen. 6:11ff) causes God to annihilate all humanity, save Noah and his family. After the waters recede, God inaugurates a new relationship with humankind, one patterned after the Adamic relationship but tempered with an appreciation for human potential for evil. Chapter nine then continues:

9:1 GOD BLESSED NOAH AND HIS SONS, AND SAID TO THEM, "BE FERTILE AND INCREASE AND FILL THE EARTH."[24]

While it is clear that in this verse God reiterates what was said to Adam (Gen. 1:28), scholars disagree over the nature of the statement: some see it as a command to procreate[25] and some see it as a blessing of fertility.[26] In view of P's own testimony (vayevarekh) I am inclined to side with the latter opinion. It should be noted that, while neither

women nor animals are included in the blessing, neither are excluded from the covenant (Gen. 9:9-10).[27]

9:2 DREAD FEAR OF YOU SHALL POSSESS ALL THE ANIMALS OF THE EARTH AND ALL THE BIRDS OF THE SKY -- EVERY THING WITH WHICH THE GROUND IS ASTIR -- AND ALL THE FISHES OF THE SEA: THEY ARE PLACED IN YOUR HAND.

This line continues the renewal of the Adamic blessing, now in regard to Adam's dominion over the earth and its animal life.

9:3 EVERY CREATURE THAT IS ALIVE SHALL BE YOURS TO EAT; I GIVE THEM ALL TO YOU AS I DID WITH THE GRASSES OF THE FIELD.

In this line God cancels the Adamic prohibition against eating flesh. The vague definition of animal life (kol remeś asher hu' hay) tends to reinforce the permissiveness of the verse. Still, the context is that of a blessing which enlarges the blessing of Gen. 1:28-30 through the expansion of the scope of human food.[28]

9:4 ONLY THE FLESH WITH ITS LIFEBLOOD STILL IN IT SHALL YOU NOT EAT.

This verse stipulates that before the consumption of meat people must drain its blood. The biblical author expresses his equation of blood and life, implying that the sanctity of blood demands that it be returned to God before the consumption of flesh.[29] Although this prohibition is a fundamental principle of priestly law (Lev. 7:27; 17:10; and 17:14), P here broadens its scope from Israel's cultic officiants to all humanity.[30] According to one biblical critic, the language of this verse, beginning with the adversative conjunction akh, transforms the nature of the passage from a blessing into a law and may be read as a later interpolation.[31] Even so, verse 4 with its prohibition on blood consumption constitutes a parallel to the Adamic dietary restriction to seed-bearing plants and fruits (Gen. 1:29). Animal flesh is allowed but not if it is commingled with blood.

9:5 SO, TOO, WILL I REQUIRE AN ACCOUNTING FOR YOUR OWN LIFEBLOOD: I WILL ASK IT OF EVERY BEAST; AND OF MAN IN REGARD TO HIS FELLOWMAN WILL I ASK AN ACCOUNTING FOR HUMAN LIFE.

This verse depends on verse 4 in virtue of its catchword (ve-akh et dimkhem); aside from this, its connection to the preceding is tenuous enough to distinguish it as a probable gloss.[32] While this verse still has legal connotations, viz., the punishment for homicide committed by a person or an animal, it cannot be properly termed a commandment.

9:6a HE WHO SHEDS THE BLOOD OF A MAN,/BY MAN SHALL HIS BLOOD BE SHED.

This verse's perfect symmetry and assonances in the Hebrew suggest that it is more a proverb than a judicial formula.[33] Verse 6a might also make up a legal restriction on unlimited blood revenge in that it provides for the execution of only the murderer.[34] Though no imperative is expressed in this verse, implicit in it and in the preceding verse is a prohibition against bloodshed as well as a warning about the consequences ensuing upon a violation of the implicit prohibition.

9:6b FOR IN THE IMAGE OF GOD/MAN WAS CREATED.

This verse, in which the jarring reference to God in the third person marks it as the product of another hand,[35] justifies theologically the ban against homicide in 6a. Murder is forbidden apodictically and unconditionally because of life's sanctity which ultimately derives from God, for the P writer (cf. Gen. 1:27). Taken together with 9:6a, the implication of the verse is that human beings, God's representatives on earth, live under divine protection, but here God himself will not avenge a murder;[36] God has put the onus for such action on humanity itself, making humankind morally responsible as executors of God's will.[37]

9:7 BE FERTILE, THEN, AND INCREASE,/ ABOUND ON EARTH AND SUBDUE IT.[38]

Verse 7, another allusion to the Adamic blessing of Gen. 1:28-30, probably should be read as a continuation of the blessing in 9:1-3. This likelihood is strengthened by the probability that a later author(s) inserted 9:4-7.[39]

This pericope, considered as a whole, carries aetiological overtones: it accounts for nature's stability and order and for the ongoing blessing to procreate and increase despite human violence and lawlessness.[40] As if to underscore God's grace in the face of human barbarism, the covenant between Noah and his sons and God in 9:9-10 is unconditional; no requirement is laid on Noah or his sons.[41] Having unleashed human craving for flesh and now desiring to curb it, the author(s) of this pericope qualifies this privilege with a dietary taboo[42] and an implied moral prescription against murder. These two limitations reflect a reverence for life not grounded in life's intrinsic value but in the belief in God's lordship over all life.[43]

The Gen. 9:1-7 pericope, the biblical foundation for the seven Noachic commandments, is essentially a reiteration of the blessing given Adam. The renewal of the blessing is made necessary by the disruption and degeneration of creation that brought on the Flood in the first place.[44] Both this Noachic blessing and the original Adamic one contain a sexual commandment and dietary restriction, though the Noachic blessing also hints at a prohibition on human bloodshed. Still, this is a far cry from the explicit prohibition of murder of the Ten Commandments (Ex. 20:13; Dt. 5:17).

The absence of biographical information on P hampers the application of the phenomenological-rhetorical method to Gen. 9:1-7. That P very likely encompasses many writers over many generations utilizing ancient

traditions complicates the application still more. Furthermore, the possibility of multiple authors entails the possibility of multiple audiences. Nevertheless, as stated above, many scholars believe that they can accurately describe P's audience: the devastated Israelite community in exile in Babylonia. P's work has its goals the attempt to understand Israel's national disaster and to explicate the Sinaitic covenant, which will be implemented upon return to Palestine. Explaining that human lawlessness precipitated the Flood, the entire Noachic cycle[45] shows the exiled Israelite community that God does not act capriciously. In other words, to P's audience one function of the Noachic cycle might have been the demonstration of God's justice.

In the Gen. 9:1-7 pericope the crestfallen Israelite would learn that despite human sinfulness and God's wrathful response, the possibility for a gracious but exacting relation with God still exists. While the berit in 9:8-17 is unconditional, norms for human behavior are still laid down--by God. Thus, in this pericope the disconsolate Israelite might well have found reason to hope for an eventual end to his banishment as well as a reminder that attendant upon that hope is a stress on covenantal law. If P's overall intention is to increase the exilic community's adherence to tradition and law in order to prevent future punishment for breaches in covenantal law, the Noachic cycle in general and the 9:1-7 pericope in particular contribute to that end by exemplifying the sin-destruction-new covenant (blessing cum commandment) archetype.

Outside of the Noah cycle in the book of Genesis, the Bible makes no other mention of a covenant between God and Noah.[46] Historically the next major discussion of the Noachic covenant appears in the pseudepi-

graphic Book of Jubilees, which R. H. Charles likened to a targum on the Books of Genesis and Exodus with a pronounced midrashic tendency.[47] Because of a possible reference to a Maccabean high priest (Jub. 32:1) and because of allusions to the destruction of Samaria, Charles argued for a date of authorship around the time of John Hyrcanus' high priesthood (153-105 B.C.E.).[48] A recent textual analysis decided upon the year 167 B.C.E. as the terminus a quo and 75-50 B.C.E. as the terminus ad quem for Jubilees because of internal evidence of the author's knowledge of the Maccabean War and his distaste for the Hellenistic milieu under Jason, the High Priest.[49] The period from 163/1 to 140 B.C.E. was identified as the probable period of composition,[50] a slightly earlier dating than that of Charles.[51] The Book of Jubilees was originally written in Hebrew, and translated from Hebrew into Greek (ca. 200 C.E.) and Syriac (ca. 500 C.E.), from Greek into Latin (ca. 450 C.E.) and from Greek into Ethiopic (ca. 500 C.E.).[52]

Charles noticed that the author of Jubilees sought to defend Israel from the corruption he feared would result from close contact with the gentile world. The proof for Charles' view was: a) the glorification of the Torah as eternal and the depiction of the major pre-Sinaitic figures as exemplars of the Torah; b) the aggrandizement of Israel and the opposition to any intimacy with gentiles; and c) the deprecation of these gentiles, especially Israel's enemies.[53] These separatist emphases caused Charles to identify the author of Jubilees as a pharisee.[54] Since Charles' day, the discovery of the Dead Sea Scrolls and the light they shed on the Qumranic community, scholarly opinion has shifted in favor of a proto-Essene author, i.e., a mid-second-century Jew who shared the theological convictions and religious practices of the sect which eventu-

ally sequestered itself at Qumran.[55] Because of its ideological similarity to the beliefs of the Qumranic community, e.g., immortality of the soul, the calendar and the reign of Belial in this world, the original book probably served as one of that community's basic texts.[56]

Chanoch Albeck stressed the Torah's eternality as Jubilees' central motif:

> The fundamental view of the book is that the whole Torah was written down on the 'heavenly tablets' at the beginning of the world; that well before the revelation at Sinai its laws were known and observed by the patriarchs by means of oral and written traditions, from Enoch to his descendants; that these laws' duration is as eternal retrospectively as prospectively.[57]

As a targumic-midrashic retelling of the Masoretic, Septuagint, and Samaritan versions of Genesis and Exodus, the Book of Jubilees recapitulates and embellishes the Noachic cycle and the Gen. 9:1-7 pericope with important variations in the content and sequence of events:

Genesis	Jubilees
A. Flood	A. Flood
B. Receding of water	B. Receding of water
C. Noah's sacrifice (8:20-22)	C. Noah's sacrifice (6:1-3)
D. God's blessing of Noah and his sons, prohibiting eating blood and murder (9:1-7)	D. God's covenant with Noah and his blessing, prohibiting eating blood and murder
E. God's covenant with Noah and his family (9:8-13)	E. Moses' renewal of the prohibition on eating blood (6:11-14)
F. Bow set in clouds for a sign (9:14-17)	F. Bow set in clouds for a sign (6:15-16)
G. Noah's descendants (9:18-19)	G. Institution, history and observance of Shavuot (6:17-22)
	H. Feast of New Moons (6:23-28)
	I. Division of the year into 364 days (6:29-38)
H. Noah plants vineyard (9:20)	J. Noah plants vineyard and offers a sacrifice (7:1-5)
I. Noah becomes drunk and exposes himself (9:21-24)	K. Noah becomes drunk and exposes himself (7:6-9)

J. Cursing of Canaan, blessing of Shem and Japhet (9:25-28)

K. Genealogy (10)

L. Cursing of Canaan, blessing of Shem and Japhet (7:1-5)

M. Noah's descendants (7:13-19)

N. Noah teaches his sons the reasons for the Flood and admonishes them about several things, as Enoch had directed (7:20-39)

There are several differences between the two cycles worth emphasizing. First, in Jubilees only with Noah does God make a covenant with the conditions of abstinence from blood consumption and homicide. Secondly, a detailed delineation of Israel's ritual calendar is inserted into the Noachic cycle in the Book of Jubilees. Shavuot, as interpreted in Jubilees, celebrates the renewal of the Noachic covenant, and was observed by Noah and his sons. Thirdly, and most importantly with respect to the seven Noachic commandments, the author of Jubilees has appended to the cycle a relatively extensive pericope spelling out Noah's historical and religious instructions to his sons.

In 7:20 Noah addresses his progeny:

> And in the twenty-eighth jubilee Noah began to enjoin upon his sons' sons the ordinances and commandments, and all the judgment he knew, and exhorted his sons to observe righteousness, and to cover the shame of their flesh, and to bless their Creator, and honor father and mother, and love their neighbor, and guard their souls from fornication and uncleanliness and all iniquity.

Noah goes on to blame the Flood on sexual trespasses and on the blood spilled through human violence. Noah cautions his sons against these acts, and repeats and intensifies the prohibitions against blood consumption and homicide.[58]

In an article in which he attempts to mine the apocrypha and pseudepigrapha for the information they might yield on pre-Pharisaic halakhah, Louis Finkelstein has argued that the injunctions of 7:20

had the force of law during the Maccabean period. His thesis is that when the Jews held sovereign authority over second-century Palestine, they ruled a heterogenous population and needed some provisions to determine the status of non-Jewish citizens.[59] Consequently, Maccabean scholars promulgated these six laws (righteousness, decent public deportment, reverence for God, honoring parents, loving neighbors and refraining from sexual and other iniquities) to which Palestinian gentiles were expected to conform.[60] Unfortunately, aside from this single verse, Finkelstein offers no corroborating evidence, and so this thesis seems to be, at best, conjecture.[61]

More substantial is his contention that this verse, 7:20, bears in embryonic form the later rabbinic concept of the seven Noachic commandments.[62] That is, he makes the following associations: 1) observing righteousness is associated with the commandment to establish courts of law (dinim); 2) covering the shame of the flesh with the prohibition of idolatrous (Hellenistic) customs (ʿavodah zarah); 3) blessing the Creator with the prohibition against blasphemy (birkat hashem); 4) honoring mother and father with the prohibition against illicit sexual relations (gillui ʿarayot); 5) loving the neighbor and avoiding sin with the prohibitions against robbery (gezel) and murder (shefikut damim).[63] The seventh Noachic commandment, not to eat the flesh of living animal (ever min hahay), had not yet received popular or scholarly sanction by the time of the Book of Jubilees.[64]

To do Finkelstein justice, we must emphasize that he does not assert a one-to-one correspondence between Jubilees 7:20 and the later rabbinic concept; he claims only that the author of Jubilees quoted widely held and probably legally enforced injunctions which were thought

to date back to Noah and which were eventually incorporated into the rabbinic concept of the seven Noachic commandments.[65]

But even on this reading Finkelstein's thesis fails, for grave theological differences separate the rabbis and their concept from the author of Jubilees and his. In the first place, as Albeck has rightly pointed out, in the view of the author of Jubilees, Noah, along with all the other pre-Sinaitic figures, obeyed all the commandments of the Torah, and so a special revelation disclosing six or seven laws incumbent on Noah and descendants would be superfluous.[66] As Albeck puts it, the Noachic laws are an unknown concept to the author of Jubilees.[67] Secondly, whereas in the rabbinic theory God commanded the seven laws to Noah's sons (or to Adam), in Jubilees Noah "exhorts" his sons to observe these injunctions. To be sure, Noah is said to pass on what he received as commandments, but it is Enoch, not God, who issued them to Noah via Methuselah and Lamech (7:38). Because of the ontological distinction between human being and God's being, a considerable gulf in stringency differentiates a human exhortation from a divine command. The third difference between Jubilees' version of the Noachic commandments and the rabbis' has to do with the motive for their performance. For the rabbis the Noahide is enjoined to comply with the seven commandments for all the same reasons a Jew is enjoined to comply with the 613 commandments: to obey God, to merit individual salvation, etc. In Jubilees Noah urges his sons' compliance for the implicit reason of preventing a second destruction of all humanity: "For owing to these three things came the flood upon the earth, namely, owing to fornication . . . (uncleanness and all iniquity)." (7:21) Resonating in this passage is a negative prudentialism: "If you don't want the world to be destroyed again, don't engage in fornication, un-

cleanness and iniquity." For these three theological reasons Finkelstein's connection between Jub. 7:20 and the theory of the seven Noachic commandments seems incorrect.

Because so little is known about the composition of Jubilees' audience and author, evaluating this pericope's rhetorical affect is impossible. The fact that the Book played a prominent role in the separatist, pietistic sect at Qumran might suggest that this Noachic pericope with its attribution of the Flood to fornication, uncleanness and iniquity might furnish an additional incentive to the Qumranic member to abstain from such behavior. Moreover, since in 7:27-33 the author of Jubilees predicts that inevitably human bloodshed will necessitate another purgation of the world, a Qumranic volunteer might find warrant for his community's isolation.

CHAPTER III

TANNAITIC, AMORAIC AND RELATED LITERATURE

The locus classicus for the seven Noachic commandments appears in Tosefta ʿAvodah Zarah 8.4ff:

> The sons of Noah were commanded (nitstavu) about seven commandments (mitsvot): about (the administration of) laws (dinin), about idolatry (ʿavodah zarah), about blasphemy (qilelat hashem), about sexual trespass (gillui ʿarayot), and about bloodshed (shefikhut damim), and about robbery (gezel).

The passage goes on to define and qualify these commandments,[1] and only in paragraph 6 does it arrive at the seventh commandment, the prohibition against eating the flesh of a living animal (ever min habay). The Tosefta passage next lists several mid-second century tannaim, who propose alternatives to the seventh commandment. Rabbi Hananiah b. Gemaliel suggests that the seventh commandment be a prohibition against eating blood from a living animal. Rabbi Hidqa raises the possibility of a ban on emasculation. Rabbi Shimon wants to outlaw sorcery. Rabbi Yose wants to forbid everything theurgic stipulated in Deut. 18:10-11:

> There shall not be found among you anyone who makes his son or daughter pass through the fire, one that uses divination, a soothsayer, or an enchanter or a sorcerer, or a charmer, or one who consults a ghost or a familiar spirit or a necromancer. For all that do these things are an abomination unto the Lord, and because of these abominations the Lord drives them out before you.

Finally, Rabbi Eleazar submits that while the sons of Noah are permitted to sow diverse seeds together and to wear garments of mixed fabrics, they are forbidden from grafting trees of different kinds and from cross-breeding animals of different species.[2]

Several features of this passage deserve comment. In the first place, it is clear that by the time of the compilation of the Tosefta, between 200 C.E. and 450 C.E.,[3] the rabbis had formulated a mature tradition about seven Noachic commandments. It is equally clear that even as late as the mid-second century several tannaim still disagreed over the precise nature of the seventh commandment, a phenomenon indicative of the unsettled content of the Noachic commandments at that time.

Secondly, the action-guides given the sons of Noah are without doubt commandments. The hitpaʿel form of the root ts-v-h (nitsṭavu) and the use of noun mitsvot both prove the command-quality of the Noachic action-guides. But beyond the bare assertion that "the sons of Noah were commanded," no effort is spent to justify these commandments theologically: God is not explicitly identified as the commander, and no proof-texts are adduced as source or even warrant for the commandments. Finally, in light of the details spelling out circumstance and penalty for the commandments' violations,[4] the commandments are made to sound very much like enforced, positive law.

Several other rabbinic discussions of the seven Noachic commandments trace at least six of them to Gen. 2:16, "The Lord God commanded the man, saying, 'Of every tree of the garden you may eat freely.'" Perhaps the earliest version appears in Bereshit Rabbah 16:6 without any reference to the sons of Noah, and is there attributed to the late third- and early fourth-century Palestinian Amora, Rabbi Levi. "He (God) commanded him (Adam) (tsivahu) about six commandments (mitsvot)." Rabbi Levi extracts the prohibition against idolatry from the connection between vayetsav and Hosea 5:11: "Oppressed is Ephraim, crushed in his right, because he willingly walked after idols (tsav)." He interprets

the ban on blasphemy from the link between Yahweh and Lev. 24:16: "And he that basphemes the name of the Lord (Yahweh)." He sees the command to administer justice in the tie between Elohim and Ex. 22:27: "You shall not revile God (Elohim)." "The man" (ʿal haʾadam) refers to bloodshed, as in Gen. 9:6: "He who sheds the blood of a man (haʾadam)." Rabbi Levi construes leʾmor to forbid sexual trespass, as in Jer. 3:1: "Saying (leʾmor), if a man put his wife away." And, finally, robbery is prohibited on the basis of Gen. 2:16 itself without recourse to any other proof-text.

The paragraph in Bereshit Rabbah continues in the name of the rabbis (rabbanan) with a convoluted and ambiguous version of two and perhaps four of the seven commandments. Vayetsav Yahweh Elohim alludes to God's justice and mercy, and may therefore hint at the prohibition against idolatry; Elohim denotes God's divinity and implies a demand to revere him (prohibition against blasphemy). The ban on sexual trespass is explicitly connected with "and he shall cleave to his wife" (Gen. 2:24); akhol toʾkhel is taken to permit the consumption of only properly slaughtered food (ever min hahay). Judging from its many adaptations Rabbi Levi's exegesis in the first paragraph is the more important one and the one we shall focus on. It is replicated almost verbatim in Deuteronomy Rabbah 2:25.

In this archetypal version of Bereshit Rabbah the theology of the seven Noachic commandments is partly manifest and partly obscure. For one thing, Adam, not Noah, is the recipient of the commandments. Once again the commandments are unquestionably commandments, but their theogenic nature is made explicit through their hermeneutical derivation from Scripture. But the fact that Rabbi Levi resorts to hermeneutics

shows that the biblical text does not contain the commandments in a self-evident way. Finally, in this passage no mention is actually made of the seven commandments of the sons of Noah; indeed, no attempt is made to discover or prescribe a seventh. In this text at most we have shesh mitsvot adam hari>shon.

Versions of this exegesis appear also in the Pesiqta> Derav Kahana>, Shir Hashirim Rabbah and Seder ʿOlam Rabbah. The reason for placing these three works together has to do with their common theological interest: all three sources interpret the seven Noachic commandments as one stage on the way to a fuller revelation. In the Pesiqta> Derav Kahana> (12.1), a fifth-century Palestinian, homiletical midrash,[5] the late third- and early fourth-century Palestinian Amora, Rabbi Judah bar Rabbi Simon, begins his discourse with Proverbs 31:29, "Many daughters have done valiantly, but you excel them all," intending to extol Israel for its acceptance of the Torah. Rabbi Judah acknowledges that Adam was given six commandments, and he derives them in almost the same fashion as Rabbi Levi in Bereshit Rabbah. But he goes on to note that Noah was commanded (nitsṭavah) to abstain from eating the flesh of a living animal (ever min hahay; Gen. 9:4). Furthermore, Abraham received an eighth commandment (milah; Gen. 17:9), Isaac a ninth (shemonat yamim; Gen. 21:4), Jacob a tenth (gid hanasheh; Gen. 32:33), Judah an eleventh (yevamah; Gen. 38:8); and at Sinai God bestowed upon Israel the whole taryag mitsvot. In addition to their role as precursor of the superior Sinaitic revelation, the six Adamic commandments and the seven Noachic commandments enable the compiler of the Pesiqta> to deal with the problem of theodicy: when God punishes Adam's and Noah's descendants, he does so justly for their violation of the moral responsibilities he

imposed upon them.[6]

In the sixth-century exegetical midrash, Shir Hashirim Rabbah (1.2.5), the seven Noachic commandments serve as proof for God's graciousness. God is likened to a king who generously fills with wine the cups of all his guests, but who favors his son with the entire wine cellar. Analogously God is praised for distributing his commandments among all peoples, e.g., six to Adam, a seventh to Noah, an eighth to Abraham, a ninth to Isaac, a tenth to Jacob, an eleventh to Judah and the entire Torah to Israel, God's favorite. This exegesis is carried out exactly like those of Rabbi Levi and Rabbi Judah, the chief difference being that the latter two rabbis derive the command to administer law from Exodus 22:27 and the author of Shir Hashirim Rabbah derives it from Exodus 22:8.

In Chapter Five of Seder ʿOlam Rabbah, a fifth-century Palestinian, historical work, the author narrates Israel's journey through the wilderness. According to him, at Marah Israel received ten commandments, which included the seven Noachic commandments and Israel's commandments to administer law (dinin), to observe the Sabbath (shabbat) and to honor one's parents (kibbud av veʾem). The author's derivation of the Noachic commandments varies somewhat from those of the other sources: the prohibition against idolatry is drawn from elohim via Ex. 20:3 (not from vayetsav via Hos. 5:11); the commandment to administer law is obtained from vayetsav via Gen. 18:19 (not from elohim via Ex. 22:8); and the prohibition against eating the flesh of a living animal is deduced from akhol toʾkhel. Moreover, the seven commandments, though extracted from a biblical verse directed to Adam (Gen. 2:16), are associated exclusively with Noah, not Adam. But along with the editors of the Pesiqtaʾ Derav

Kahana' and Shir Hashirim Rabbah, the author of Seder ʿOlam Rabbah values the seven Noachic commandments, because they foreshadow the more sublime revelation given to the whole Jewish people.

A variation of this version occurs in b. Sanhedrin 56b, and is there ascribed to the mid-third-century Palestinian Amora, Rabbi Yohanan bar Napaha. Rabbi Yohanan does not try to set the seven Noachic commandments within the parameters of Heilsgeschichte; his only interest lies in exegesis. His textual derivation of the seven commandments parallels that of Seder ʿOlam Rabbah. In accordance with the author of Seder ʿOlam Rabbah, Rabbi Yohanan traces the commandment to administer law back to vayetsav of Gen. 2:16 by way of Gen. 18:19 ("For I ((the Lord)) have known him ((Abraham)), that he will command ((yetsaveh)) his children and his household after him . . ."). The later amoraim, however, correct this exegesis by insisting upon the derivation of the command to administer law from elohim via Exodus 22:7. See the following chart for a summary of these exegeses. We fail to see any theological significance in the exegetical differences among the various authors and books.

B. Sanhedrin 56bf reports a variant of the seven Noachic commandments in the name of the Tanna Debey Menasheh, who (which?), so far as we can tell, flourished sometime between the mid-second and mid-fourth centuries.[7] The Tanna Debey Menasheh counted among the seven Noachic commandments idolatry (ʿavodah zarah), sexual trespass (gillui ʿarayot), bloodshed (shefikhut damim), robbery (gezel), eating flesh from a living animal (ever min hahay), emasculation (serus) and forbidden mixtures (kila'yim). The Tanna, while also linking these seven to Scripture, ignores Gen. 2:16, and instead seeks a separate proof-text for each commandment. The prohibitions against idolatry and sexual trespass he

	B. SAN 56b	PESIQTA> DERAV KAHANA> 12.1	SEDER <OLAM RABBAH 5	SHIR HASHIRIM RABBAH 1.2.5	DEUT. RABBAH 2.25	BERESHIT RABBAH 16.6
IDOLATRY	Ex. 20:3 elohim	Hos. 5:11 vayetsav	Ex. 20:3 elohim	Hos. 5:11 vayetsav	Hos. 5:1 vayetsav	Hos. 5.11 vayetsav
BLASPHEMY	Lev. 24:16 yahweh	Lev. 24:16 yahweh	Lev. 24:16 yahweh	Lev. 24:16 yahweh	Lev. 24:16 yahweh	Lev. 24:16 yahweh
ADMINISTRATION OF LAW	Gen. 18:19 vayetsav	Ex. 22:27 elohim	Gen. 18:19 vayetsav	Ex. 22:8 elohim	Ex. 22:8 elohim	Ex. 22:27 elohim
BLOODSHED	Gen. 9:6 <al ha>adam	Gen. 9:6 <al ha>adam	Gen. 9:6 <al ha>adam	Gen. 9:6 <al ha>adam	Gen. 9:6 <al ha>adam	Gen. 9:6 <al ha>adam
SEXUAL TRESPASS	Jer. 3:1 le>mor	Jer. 3:1 le>mor	Jer. 3:1 le>mor	Jer. 3:1 le>mor	Jer. 3:1 le>mor	Jer. 3:1 le>mor
ROBBERY	*** mikol <ets hagan	Gen. 2:17 mikol <ets hagan	*** mikol <ets hagan	Gen. 3:11 mikol <ets hagan	*** mikol <ets hagan	*** mikol <ets hagan
EATING FLESH FROM A LIVING ANIMAL	*** akhol to>khel	Gen. 9:4 ***	*** akhol to>khel	Gen. 9:4 ****	*** ***	*** ***
ETC.		Abraham - milah Isaac - 8 days Jacob - gid hanasheh Judah - yevamah Sinai - taryag mitsvot	Israel at Marah (dinim, shabbat, kibbud av ve>em	Abraham - milah Isaac - 8 days Jacob - gid hanasheh Judah - yevamah Sinai - taryag mitsvot		

extracts from Gen. 6:11 ("The earth also was corrupt before God, for all flesh had corrupted its way upon the earth"), and the prohibition against forbidden mixtures, from Gen. 6:20 ("of fowls after their own kind"). But the other four prohibitions he derives from the Gen. 9:1-7 pericope: bloodshed from 9:6, robbery from 9:3, eating flesh from a living animal from 9:4 and emasculation from 9:7. In contrast, all six other versions equated the prohibition against bloodshed with God's biblical address to Noah (9:6) and only two, the Pesiqta' Derav Kahana' and Shir Hashirim Rabbah, identified the ban on eating flesh from a living animal with the Noachic pericope.

Finally, with respect to the passages of Gen. 9 cited in b. Sanhedrin 57b, Rav Judah bar Yehezkel, a late third-century Babylonian Amora, makes extensive use of Gen. 9:5-6 to delineate procedural law for Noahides. "And surely your blood I will require" proves the need for only one judge to try a Noahide. "At the hand of every living thing I will require it" shows the absence of a requirement for warning (hatra'ah) the Noahide. "At the hand of man" asserts the conclusiveness of only one person's testimony. "At the hand of man (ish)" specifies the testimony of a man, not a woman. "His brother" allows for the testimony of even a relative.

At this juncture some speculation on the chronology and significance of these texts is called for. First of all, because of its starkness, e.g., minimal hermeneutical development, absence of explicit reference to Adam or God, we would guess that the version of the seven Noachic commandments preserved in the Tosefta is oldest. Next in order would probably be the version recorded in Seder 'Olam Rabbah, because its version utilizes proof-texts, which, when repeated by R. Yohanan in

Sanhedrin 56bf, are corrected by the later amoraim. These corrections, e.g., deriving the prohibition on idolatry from vayetsav via Hos. 5:11 instead of from elohim via Ex. 20:3, appear consistently in all the midrashim thereafter.

It is curious that in connection with the seven commandments some texts mention only Adam; some discuss only Noah or Adam and Noah together; and still others speak of Adam, Noah, the patriarchs and all Israel. Perhaps the point to this ascription of revelation and commandments to Noah and Adam is that to the ancient rabbis action-guides which were heteronomous vis à vis the Adamic or Noachic person were seen as fundamental to becoming a full human being. To these rabbis it may have seemed that autonomous human being, Jewish or gentile, was insufficient for discerning true moral goodness, that only a divine revelation could vouchsafe morality, and that those outside such a revelation were somehow sub-human or pre-human.

An array of miscellaneous issues now present themselves for consideration. Perhaps in order to accentuate the uniqueness of the Jewish covenant with God, several aggadot raise the possibility of the annulment of the Noachic berit and the abrogation of the seven commandments. In Bereshit Rabbah 34:11 Rabbi Yudan opines that the end-time of Isaiah (51:6) will occasion the cancelation of the biblical covenant with Noah and his descendants. Leviticus Rabbah 13:2 claims that because of their inability to endure (shelo' yakhelu la'amod bahen) the commandments, the non-Israelite nations were relieved of them, and God then placed them on Israel. Similarly, in Hullin 92a-b Ulla theorizes that although the Noahides accepted thirty (not seven) commandments, they obey only three. (cf. yer. 'Avodah Zarah 1.1). Finally, in both 'Avodah Zarah 2b and b. Bava'

Qama' 38a several rabbis note that because the Noahides rejected the seven commandments they had previously accepted, God punished them. According to R. Joseph (ʿAvodah Zarah 2b), he exempted them from the commandments; according to R. Abahu (Bava' Qama' 38a), he declared them outside of Jewish civil law with respect to the damage done to cattle by cattle; according to R. Mattena (Bava' Qama' 38a), he simply withheld their reward.

The frequent use of the word "accepted" in the preceding paragraph is deliberate, for these aggadot state that the Noahides accepted upon themselves (qibbelu ʿaleyhem) the seven commandments. Saul Berman believes that he isolated two bases of authority for the seven Noachic commandments: revelation and consent.[8] The revelation tradition, as we have seen, monopolizes the major sources, while the consent tradition (b. Bava' Qama' 38a; yer. ʿAvodah Zarah 2.1; b. Hullin 92a-b; Horayot 8b; b. Sanhedrin 56b) is limited to a few, relatively minor passages. But the positing of a consent tradition is dubious on linguistic grounds. While it is true that the pi'el verb-form of the q-b-l can bear connotations of volition ("to choose to accept," "to agree to accept"; see, e.g., Ketubot 58a-b, Qiddushin 11a), it can also mean more broadly "to receive, e.g., an obligation." The classic example of the latter sense of qibbel occurs in the first few chapters of M. Avot: "Moses received (qibbel) Torah from Sinai, etc." (1.1), in which no question of consent arises. In the passages cited by Berman the evidence for consent is far from unequivocal.

Although the preponderance of textual material favors the revelation tradition, even if a minor consent position may have existed, another text militates quite conclusively, we believe, against it. According to H. G. Enelow, the Mishnat Rabbi Eliezer (also known as Midrash Agur and Midrash

Sheloshim Veshetayim Middot) dates to no later than the end of the fourth century and may even be tannaitic.[9] A contemporary scholar holds that the work was composed about the middle of the eighth century.[10] In any event, because of its importance in later discussions, the passage deserves to be translated in full:

> The difference between the righteous of Israel and the righteous of the nations of the world (is this): The righteous of Israel are not called righteous until they observe the whole Torah. But the righteous of the nations of the world, when they observe the seven commandments regarding which the sons of Noah were commanded (nitstavu)--them and all their details--they are called righteous. How does this apply? When they observe them and say, 'On the strength of the fact that our ancestor Noah commanded us directly from the Almighty, do we observe them.' If they do so, then they will inherit the world to come like Israel, even though they do not keep the Sabbaths and the festivals, since they were not commanded about them. But if they observed the seven commandments and said, 'From So-and-so we heard,' or on the basis of their own opinion (midaʿat ʿatsman) for so reason dictates (shekakh hadaʿat makhraʿat) or because they associate it with an idolatrous denomination (o sheshitfu shem ʿavodah zarah) (e.g., the political authority associated with an alien unit), if they observe the entire Torah, they receive their reward only in this world.11

In this passage belief in the revelatory and command nature of the Noachic commandments becomes crucial for their salvific import. In fact, obedience to them on the basis of consent precludes ultimate salvation.

A non-Jewish text from this tannaitic-amoraic period is also worthy of discussion, since it may allude to some of the seven Noachic commandments. The New Testament Book of the Acts of the Apostles, whose historical reliability biblical critics discount, probably dates to the tenth decade of the first century C.E.[12] In Chapter 15 Paul and Barnabas, troubled by the news that some Jewish-Christian missionaries have demanded circumcision before conversion, take issue with this practice at the Apostolic Council in Jerusalem. According to Paul's parallel account in Galatians 2, no resolution is achieved, but in Acts an amicable compromise

is struck by James: no quasi-Jewish commandments should be imposed on gentile-Christians, but they should be taught "to abstain from things polluting by contact with idols, from fornication, from anything that has been strangled and from blood." (Acts 15:20)

Because of Acts' generally theological and literary emphases its version of the Apostolic Council is considered untrustworthy and unhistorical.[13] Modern scholars stress for these laws' raison d'être a utilitarian purpose: the facilitation of Jewish-Christian and gentile-Christian relations so as to unite the fledgling Christian church.[14] The exact meaning of the four prohibitions, however, is debatable. One scholar believes them to be a repetition of the laws in Leviticus 17 and 18;[15] another describes them as chiefly dietary restrictions of food offensive to Jewish scruples.[16] But one New Testament critic writes:

> It is tempting and probably correct to see in Apostolic decree . . . a version of the Noachic commandments possibly abbreviated or in the form current in the first century.17

While this hypothesis is indeed intriguing, it is wrong to advance it with Davies' certainty. This passage contains no mention of Noah and makes no claim for these laws' theogenic, command status.

Having examined a variety of texts in which references or alleged references to the seven Noachic commandments have appeared, we are in a position to discuss possible dates for the origin of the concept. This date, it should be added, defies precise determination. We have already seen that Finkelstein's attempt to associate them with the Hasmonean period falters. In Alexander Guttmann's rejection of Graetz's contention that Gamaliel I (first half of the first century C.E.) may have first conceived of the seven Noachic commandments, Guttmann argues for ascribing them to Bet Hillel and Bet Shammai.[18] The very reason disproving

Gamaliel I as originator, viz., the fact that no name is cited for them in the Tosefta, supports the Bet Hillel-Bet Shammai attribution. The combined assent of both academies obviated the need for the citation of an authority. Still, Guttmann adduces no hard evidence in support of his thesis.

David Novak has recently stated:

> There is no convincing evidence that this doctrine (of the seven Noachic commandments) is earlier than the tannaitic period, specifically after the destruction of the Second Temple and the schism with Christianity.19

Novak arrives at this date by trying to demonstrate that the seven Noachic commandments, while totally unrelated to the yir'ay shamayim-sebomenoi of the Hellenistic period, do constitute the criteria for the ger toshav (cf. b. ʿAvodah Zarah 64b),[20] a concept which may have had political force in the pre-exilic period but was in desuetude by the Pharisaic period.[21] Unfortunately, his dating the seven Noachic commandments to sometime after the eighth decade C.E. comes as a non-sequitur to this otherwise insightful discussion. Because no cases are reported in which the seven Noachic commandments serve as the basis of real adjudication, more acceptable is Novak's position that they were always a theoretical construct.[22] "The Noachide laws are, therefore, moral rather than legally operative in any enforceable way."[23]

Ben Zion Wacholder has suggested orally that the seven Noachic commandments may extend back into Second Temple times.[24] In his Antiquities of the Jews (Book 12, Chapter 3) Josephus records that Antiochus III (b. ca. 242 B.C.E.) rewarded the Jews around the year 200 B.C.E. for their loyalty during his war against Ptolemy IV (Philopater) by establishing a pension for sacrifices in the Temple.[25] This, in turn, sparked the controversy reflected in M. Sheqalim 1.5 over whether or not to accept a

sacrifice offered by a non-Jew. In Wacholder's opinion this debate over a non-Jew's role in Jewish law gave rise to the theory of the seven Noachic commandments well before the destruction of the Second Temple. Again, Wacholder's theory is conjecture and, like the others, lacks hard evidence to connect overtly the seven Noachic commandments with this or any issue prior to the mid-second century C.E.

In my judgment Novak is right that no hard evidence for the existence of the seven Noachic commandments can be found earlier than the destruction of the Second Temple, and all efforts to push back beyond that date belong to the realm of speculation. In the first place, none of the rabbinic figures associated by name with the seven Noachic commandments lived prior to the second century, and, in the second place, none of the texts which explicitly take up the concept was written or compiled before that time. Consequently, the most that can be said with certainty is that the origin of the seven Noachic commandments has as its terminus ad quem the early to mid-second century C.E. The fact that the post-Bar Kokhba generation of tannaim--Rabbis Meir, Yose ben Ḥalafta, Shimon bar Yoḥai, Eleazar ben Shamua, Ḥidqa, Ḥananiah ben Gemaliel--is the first to debate the seven Noachic commandments in earnest tempts one to hypothesize that the horrors of the Bar Kokhba war and the Hadrianic persecutions that surrounded it provided the womb for the birth of the concept. This comports well with the several versions of the seventh commandment: prohibitions against eating flesh from a living animal, against drinking the blood of a living animal, against emasculation, magic and sorcery, all of which bespeak a period of great suffering, famine, brutality, and recourse to supernatural nostrums. But, as Wacholder observes, the great majority of Talmudic issues stems from this same period and these same rabbis.[26]

It is clear that the many problems engendered by the literature of

period--the sheer number of texts; the various and uncertain historical settings; the unknown authors, compilers and audiences--makes speculation on the rhetorical function of the seven Noachic commandments in the tannaitic-amoraic period very hazardous. Still, it would seem that for the rabbis of this period the concept of seven Noachic commandments was a moral one which permitted the rabbis to judge the gentile and his world. As a moral concept it presupposed a hierarchy of human beings with the idolatrous non-Noahide at the bottom and the Jew at the top. Somewhere in between stood the Noahide whose inheritance of a revelation with a normative content marked him as superior to the non-Noahide but inferior to the Jew blessed with the more complete revelation. What seemed to account for the Noahide's fuller humanity vis-à-vis the non-Noahide was not just that he met certain minimal moral standards, qualifying him as a ger toshav eligible for membership in Israel's moral (and political) community. The Noahide's fuller humanity also derived from his relationship to the true God, Israel's God, who graced humankind ab initio with a normative revelation (Adam) and saw fit to re-establish a standard of humaneness among all human beings with a second revelation (Noah).

CHAPTER IV

JUDAH HALEVI

Judah Halevi was born into a Spain contested by Moslems and Christians. Internecine warfare among the Moslem states in southern Spain resulted in the disintegration of the Caliphate of Andalusia at the beginning of the eleventh century. Seeking to exploit this political disorder, the Christian kings of northern Spain began from 1060 on to implement their policy of reconquista, the gradual reconquest of all Spain. The reconquista combined a crusading religious fanaticism with astute political realism. While the Christians ousted the Arab ruling classes[1] and allowed the peasants to remain,[2] the Jews, who were at first treated harshly by their Christian conquerors, were eventually employed as diplomats, administrators and advisors once their commercial and political value was recognized.

For example, Alfonso IV, King of Castile and Leon, waged a military campaign which was capped in 1085 by the capture of Toledo, a city previously held by the Moslems for 375 years. During his reign many Jews escaping from other Spanish states were welcomed by this comparatively tolerant monarch and appointed to positions of authority and command.[3] Although the Jews prospered during Alfonso's lifetime, after his death in 1109 their status began to slip.

Twice the Moslems succeeded in halting the Christian march south. In the 1080's the Almoravids, a confederation of Saharan Berbers, stormed into Spain under the leadership of Yusuf ibn Tashufin. In 1086 at Salaca

they stopped Alfonso's drive through Andalusia and subsequently swallowed up the small states of Andalusia, ending their relaxed, enlightened ambience.[4] Indulged by the Christian rulers and thus resented by the peasants for their ties with the authorities, the Jews' position deteriorated: anti-Jewish rioting erupted, conversions out of Judaism proliferated, widespread Jewish migrations ensued and religious skepticism and messianic expectations were rife. With the fall of Saragossa in 1118 the Almoravid empire began to crumble and the Christian reconquista effort gained momentum. In the 1140's another Berber confederation, the Almohades, launched a fierce counterattack against the Christian kings, checking their advance until the beginning of the thirteenth century.

The invasion of the Almoravids in the 1080's and that of the Almohades in the 1140's frame the life of Judah Halevi. About a decade before Alfonso IV's conquest of Toledo and his defeat at the hands of the Almoravids (ca. 1085) Judah Halevi was born into the upper crust of Spanish Jewry. Although Judah Halevi's birthplace, either Toledo or Tudela, has still not been conclusively determined,[5] Moslem influence dominated his childhood and Arabic was his mother tongue. But as a young boy he was sent to study at the southern centers of Jewish culture where he received the education befitting a Jew of the courtier class: Talmud, science, poetry, philosophy and language. Frequently crossing the borders between northern and southern Spain, between Christian and Moslem Spain, Judah Halevi straddled both cultures. He spent his early years wandering among such cities as Lucena, Seville, Cordoba and Granada; writing love poetry and panegyrics to the court Jews; and fraternizing with the Jewish and non-Jewish intelligentsia. Finally Judah Halevi settled in Toledo during the reign of the liberal Alfonso VII, who in 1126 had proclaimed himself ruler over the

whole of Spain, and earned his livelihood as a physician, perhaps for kings and nobles.[6]

Judah Halevi witnessed the destruction of many Jewish communities by the Christian conquerors and the creation of thousands of Jewish refugees by the Almoravids. Moreover, he grasped that between the Scylla of the Christian princes and the Charybdis of the Moslem ʿamirs the Jew was helpless.[7] At some point in his middle-age these observations exacted their toll. In his poetry he stopped flattering the court Jews and began to lament Jewish suffering and to protest against the Jewish condition in Spain.[8] Three major themes emerge from his poetry of this period: the lost ideal of the past, the hopelessness of the present, and the prospect for salvation in the future.[9] Judah Halevi moved to Cordoba at this time and there he composed in Judeo-Arabic his Sefer Hakuzari sometime between 1130 and 1140. After the completion of the Kuzari Judah Halevi made a pilgrimage to Palestine, arriving by ship in Alexandria on September 8, 1140.[10] After staying a few months in Alexandria, then ten months in Cairo, and then returning to Alexandria, Judah Halevi died in late summer of 1141, probably in Egypt where he was also likely buried.[11] Because of his pilgrimage Judah Halevi was spared the sight of the Almohades' invasion of Spain which razed the Jewish communities of Andalusia. Many Jewish survivors were compelled to renounce their religion, many fled to the north and many simply emigrated from Spain altogether.[12]

In his Kuzari Judah Halevi hit upon a literary form well suited to his skills as a writer.[13] Despite some youthful dabbling in philosophy he eschewed all such activities in his later years,[14] the Kuzari to the contrary notwithstanding. For as Leo Strauss reminds us, the Kuzari is not a book of philosophy if we limit that word's meaning as Judah Halevi's

contemporaries did, to Aristotelian philosophy.[15] That in the Kuzari no discussion of philosophy is carried on among equals and that the philosophical level of the discussion is lower than that of a genuine philosophical dialogue[16] militate against identifying the Kuzari as a book of philosophy in the modern sense of the word. Rather, the Kuzari resembles a stylized conversation among a philosopher, a Christian scholastic, a doctor of Islam, a scholar of Judaism (who never faces the first three directly) and a pagan king (who is dissatisfied with philosophy and paganism, and is desirous to know which acts please God).[17] To be sure, the conversation proceeds along philosophical and theological lines, but it also bears polemical[18] and apologetic[19] overtones. The book is like the kalam in that it tries to establish by argument the beliefs the true believer holds without argument, but it is unlike the kalam in that the book displays a prejudice against sweeping metaphysical theories in favor of simple faith.[20]

Scholars have been quick to point to Judah Halevi's anti-rationalist bias in the Kuzari. His medical training, which, among other things, taught him to appreciate empirical evidence,[21] and his readings in al-Ghazali, "from whom there is no doubt that he borrowed his (anti-rationalist) inspiration,"[22] have been cited to account for this attitude. It is true that Judah Halevi's rejection of rationalism is not fundamental: he admits that the existence and uniqueness of God are rational truths (IV.5) and that a rational and utilitarian ethic operates independently of revelation (II.48).[23] Still, both of these concessions are superseded: the former by revealed knowledge of God's relationship to the world, and the latter by revealed ethics and law.[24] Thus Judah Halevi made no attempt to equate Judaism with rational truth and, in fact, sought to ele-

vate his religion far above rational truth.[25]

Only God can initiate the God-human relationship, which is the essence of genuine religion, and human intellect can add nothing to it (I.4; I.13; I.79).[26] Reason is epistemologically adequate on the mathematical and scientific level of cognition (V.14), but on the theological level revelation alone ultimately furnishes adequate knowledge.[27]

Judah Halevi's philosophical position of non-rationalism has been categorized as a radical empiricism, for in his view "the classical representatives of religion, the prophets, felt themselves addressed, indeed overpowered, by a power above them."[28] The veracity of the Sinaitic revelation is established not by conformity of that revelation's contents to the truths of reason, but by the six hundred thousand Israelites who watched at first hand the giving of the Ten Commandments (I.83-89). The question of why God singled out Israel as the recipient of the Torah is answered by the doctrine of ha'inyan ha'elohi in the general sense of the divine nature or being, as well as a special religious faculty.[29] Called in Arabic al-amr al-ilāhī, the faculty was possessed first by Adam and was inherited by the chosen representative of each generation (II.47). Eventually it settled on Israel because they were deemed the most worthy of the Adamic line (I.27). In III.17 Judah Halevi claims that ha'inyan ha'elohi gave the Torah, arrayed Israel under four banners and rested upon Israel to be their God.[30] Union with ha'inyan ha'elohi is the highest human attainment and produces prophecy. For Judah Halevi prophecy, the immediate, intuitive knowledge of Yahweh which is inaccesible to the philosopher, is no natural phenomenon as it is in Aristotelian philosophy.[31] Judah Halevi posits two kinds of prophecy: 1) the lower-level ilhām (Arabic), which accounts for primary ideas in the human mind (V.12), for the guidance

of the Sanhedrin and for the composition of the Mishnah (I.91; III.39; III.41); and 2) the higher-level waḥī, the prophetic inspiration (nevuʾah; II.28; III.41), which is received by the prophet in a state of total mental passivity (I.87).[32] Ilhām may be said to be the source of Talmudic inspiration, open to all humanity, and found in the ḥasid, while waḥī may be said to be literal, the source of the Bible, and reserved for Israel.[33] Judah Halevi's extreme assertion of the supernaturalism of prophecy in Books I and II has the consequence of making all Jewish law inherently valuable.[34] Moreover, because the prophets of Israel, equipped with a hidden sense to see immaterial objects,[35] obtained their knowledge directly from God without the distorting intervention of human reason, these prophets are utterly reliable (IV.3ff).[36] Judah Halevi claims that the truth of prophecy, while not rationally demonstrable (I.13), is established by miracles proceeding directly from God or from God through Moses (I.9; I.11; I.25) and by the prophetic power of Moses to know hidden things and foretell events still to come (I.9; I.41).[37]

In addition to revealed law, Judah Halevi also acknowledges the existence of a legal corpus available to all humanity through reason. These are the rational nomoi (hanimusim haśikhliyim), which Judah Halevi through the character of the Jewish scholar sometimes condemns (I.81) and sometimes finds necessary (II.48; III.7; V.14).[38] Throughout the first chapter the philosopher himself identifies the rational nomoi with the religion of the philosophers (hadat hapilosofim; I.3), judging both to be non-obligatory.[39] The Jewish scholar, for his part, disparages the rational nomoi by associating them with speculative religion and superstitious people (I.81; I.79). As the scholar makes plain, the rational nomoi are without doubt of human origin (hathalatam min haʾadam; I.81).

In II.48, after the Jewish scholar has assuaged the King's doubts about Judaism,[40] the scholar speaks of the rational nomoi, making them synonymous with rational laws (haḥuqim haśikhliyim) and equating them with the injunctions of reverence for God in Deuteronomy 10:12 and Micah 6:8.

> These are the rational laws, being the basis (hatsʿot) and the preambles (haqdamot) for the divine law (latorah haʾelohit), preceding it in nature (betevaʿ) and in time (bizeman) and being indispensible (i efshar belaʿadeyhem) in the administration of every human society.

The scholar then paraphrases Plato's Republic 351C: "even a gang of robbers (qehal halisṭim) must have a kind of justice (hatsedeq) among them if their confederacy is to last."[42] The scholar goes on to observe that Israel's disregard for the rational and social laws (hatorot haśikhliyot vehaminhagiyot) and simultaneous obedience to sacrificial worship and other divine laws (beʿavodot beqorbanot vezulatam min hatorot haʾelohit hashimʿiyot) dissatisfied God. Divine law requires for its precondition the social and rational laws in order to become fully complete. Without observance of the fundamental rational and social laws the divine law cannot save anyone.

The scholar again broaches the rational nomoi in III.7. Although the social and rational laws (hamaʿaśiyim haminhagiyim vehaḥuqim haśikhliyim) are well known, their precise scope remains ill defined. For example, it is generally conceded that cohabitation with a relative is abominable, but the degree to which it should be limited so as to maximize the prohibition's utility lies beyond the reach of human reason. Then in III.11 the Jewish scholar enumerates divinely commanded social laws (hatorot haminhagiyot), e.g., prohibitions on murder, adultery, stealing, etc., and "ethical laws"[43] (hatorot hanafshiyot vehem hafilosofiyot), e.g., monotheism, blasphemy, God's justice.

It is clear that in both the II.48 and the III.7 formulations the rational nomoi are indeed rational to the extent that they issue from practical reason for the achievement of certain ends. But in II.48 they sound like a minimal moral code as essential to the preservation of a society as food and drink to the life of an individual. In III.7 they resemble the bare bones of a code which need a divine revelation for flesh and blood; they are but a framework for a code. Despite their admitted legitimacy, in both cases the degree of legitimacy is low and certainly inferior to that of a revealed code. After all, the philosopher, in his quest for truth, turns away from mundane concerns in order to devote himself to research and reflection. Neither fearing divine punishment nor coveting divine reward, the philosopher promulgates rational laws which lack absoluteness, which know exceptions and may be overridden (IV.19). No political society built on such shaky foundations can long endure. Only a divinely revealed code which binds its subjects absolutely can provide that firm foundation. That Israel possesses such a code explains its eternality vis à vis the perishability of the other nations of the world (II.32-34; III.9-10; IV.3 and IV.23). To summarize, Judah Halevi unquestionably recognized the existence and the utility of rational nomoi (hanimusim haśikhliyim, hatorot haśikhliyot, haḥuqim haśikhliyim) and of conventional behavior as well as conventional laws (hamaʿaśiyim haminhagiyim, hatorot haminhagiyot), but he assigned to them a minor rank in comparison with the revealed, divine legal code of Judaism.

Although some of the seven Noachic commandments overlap with the rational nomoi, e.g., sexual trespass (III.7), Judah Halevi implicitly excluded the seven Noachic commandments from the category of the rational

nomoi. In the first place, Noah is unmistakably viewed as a prophet (e.g., I.67), and is often placed in the chain of prophetic tradition from Adam to Moses (e.g., I.67; I.83; I.95). Most decisive in establishing Noah as a prophet and, more exactly, as the recipient of divine commandments is I.83:

> Up to this point they (Israel during the exodus) had only a few laws (lo' hayu lahem mitsvot ki im me'at), which they had inherited from Adam and Noah (morashah min hayehidim hem me'adam venoah).[44]

That the passage continues with a denial of Moses' abrogation of these laws elicits the following comment from Hirschfeld: "In contradistinction to the founders of the Christian and Mohammedan religions."[45]

The Jewish scholar makes outright reference to the seven Noachic commandments near the end of Book Three. In III.64 the King of the Khazars requests from the scholar a demonstration of Jewish tradition's veracity. In III.65 the scholar obliges the King by tracing the transmission of Jewish tradition from the cessation of prophecy during the Second Temple through the legendary men of the Great Assembly and to Rabbi Akiba. The scholar next picks up the genealogy of tradition in III.67 and carries it from Rabbi Meir through the compilation of the Talmud. Puzzled by the rabbis' occasionally nonsensical usage of Scriptural verses, the King proposes that they employed interpretive methods long since forgotten (III.68 and III.72). The Jewish scholar counters in III.73 that either the rabbis had recourse to inherited and consequently trustworthy hermeneutics, or they understood the biblical verses by means of the asmakhta', which the scholar characterizes as a hallmark of tradition (siman leqabalatam). The scholar illustrates the asmakhta' with Gen. 2:16, which he says signifies the seven Noachic commandments (siman lesheva' mitsvot shenitstavu benai noah). Interestingly enough,

in his explication of the seven Noachic commandments, the scholar follows the minority tradition of Rabbi Yohanan in Sanhedrin 56b and of the compiler of the Seder ʿOlam Rabbah, though he does not elaborate the exegesis with any proof-texts beyond Gen. 2:16. The scholar confesses:

> There is a wide distance (kamah rahoq) between these injunctions and the verse. The people, however, accepted these seven laws as tradition, connecting them with the verse as an aid to memory (somekhin otah bapasuq hazeh besiman shemeyqel ʿaleyhem zikhram).[46]

The scholar grants that some rabbinical exegetical techniques may have disappeared from Jewish tradition, but that fact notwithstanding, it is still incumbent upon us to conform to the rabbis' dicta, owing to the sages' wisdom, piety and zeal. By thus locating the seven Noachic commandments within the halakhic system Judah Halevi severs them from the rational nomoi--rational laws cum social laws discussed above.

Judah Halevi's use of the seven Noachic commandments is, to say the least, vexing. On the one hand, he claimed unequivocally that Noah is both a prophet and a recipient of commandments, but, on the other hand, he passed by the opportunity to assert forthrightly their theogenic character by means of the additional proof-texts. What is even more confounding is that he chose to ignore this opportunity in a book whose theme is the absolute reliability of a tradition that grows out of a revelatory experience!

Furthermore, by labeling Gen. 2:16 an asmakhtaʾ Judah Halevi's actual employment of the concept trivialized it. An asmakhtaʾ can either serve as a pentateuchal support (not authoritative proof) for a rabbinic enactment or as a mere mnemotechnical aid.[47] Judah Halevi applied the second, weaker definition of the asmakhtaʾ to the seven Noachic commandments and, at that, he got the mnemonic device wrong![48] As if to underscore his own treatment of the seven Noachic commandments, almost in the

same breath he had the scholar commend obedience even to seemingly inexplicable rabbinic ordinances.[49]

Why does Judah Halevi deliberately deemphasize a concept prima facie supportive of his overall theme in the Kuzari? In the first place, we have to bear in mind that one goal of the Kuzari is to glorify Israel and the Jewish religion over other peoples and religions. In Book One the King himself exposes the deficiencies of Christianity (I.6) and Islam (I.6; I.8; and I.10), while the Jewish scholar rejects philosophy, telling the King why it cannot satisfy him. In light of this pervasive stress on Jewish superiority, it is consistent of Judah Halevi to regard the Noachic commandments in terms of ha'inyan ha'elohi which the patriarchs of the human race may have possessed at one time, but has since passed on to Israel as its exclusive inheritance.

Outside of the first book, especially in Book Three, a third "revealed religion" comes under attack, viz., Karaism. In fact, in III.65 as the Jewish scholar adumbrates Jewish history from the Second Temple to Rabbi Akiba, he states--historically incorrectly--that Karaism arose during Pharisaic times. At least one scholar reads the subsequent conversation between the King and the Jewish scholar concerning the lineage of rabbinic tradition as a dissertation contra-Karaism:

> The proof for the truth of the Jewish faith (according to Judah Halevi) . . . is not to be found in any argument but in its uninterrupted living tradition and testimony, an aspect blurred over by the Karaites.[50]

Within the context of an anti-Karaite polemic Judah Halevi's use of the seven Noachic commandments in III.73 makes sense. The whole point to III.73 is the rabbis' unqualified dependability despite apparent evidence to the contrary. By designating Gen. 2:16 as a mere mnemonic asmakhta' rather than a conclusive gezerah shavah Judah Halevi upheld

the rabbis' authority to enact halakhah even without the explicit backing of Scripture.[51]

To give external support to this theory that the slight but telling reference to the seven Noachic commandments has an anti-Karaite thrust, we take note of a letter recently discovered in the Cairo Genizah. In this letter to his Egyptian friend, Abu Sa^{c}id Ḥalfon ben Nathan^{3}el ha-Levi al-Dimyati, Judah Halevi remarked that he first conceived of the Kuzari when a Karaite philosopher from Christian Spain asked him several questions, many of whose answers comprise a part of the Kuzari.[52] Though a Karaite may have provoked the Kuzari, the book is addressed to a Jewish audience, as is evident from the fact that Judah Halevi wrote the book in Judeo-Arabic, effectively limiting its readership to Spanish and North African Jewry. Shaken not only by the political turmoil of the period, Spanish Jewry, especially its intelligentsia (the court Jews inter alia), had also been accosted by the intellectual challenges posed by rationalistic philosophy and competing revealed religions. In the Kuzari's defense of Judaism and the Jewish people from these religious and intellectual sallies, the concept of the seven Noachic commandments, insofar as in Judah Halevi's hands it exemplifies the complete trustworthiness of rabbinic tradition, functions as one small arrow in Judah Halevi's quiver.

CHAPTER V

MOSES MAIMONIDES

Maimonides' life began in the same devastated Andalusian region of Spain that Judah Halevi left late in life. Born in 1135 to the illustrious family of a Cordoban dayyan, Maimonides, along with his family, was soon forced to travel continuously throughout Spain in order to avoid the compulsory conversion or exile demanded of the Jews by the Almohad invaders.[1] Still, Maimonides received a superb Jewish education, first from his father and then culminating in Fez with his studies under R. Judah ibn Shoshan in the early 1160's. By this time Maimonides had not only mastered Jewish tradition thoroughly enough to undertake a Judeo-Arabic commentary on the Mishnah, he had also commenced work in philosophy and medicine. Throughout this period Maimonides enjoyed friendly personal relations with many Moslems, which suggests that he did not consider them idolatrous.[2]

But when in 1165 his beloved teacher, Judah ibn Shoshan, was executed by the Almohads for allegedly lapsing back into the Jewish religion he was supposed to have renounced, Maimonides' family departed for Palestine which was then held by Christians. After arriving at Acco in late 1165 Maimonides first experienced life in a Christian, and, to him, idolatrous society.[3] After visiting a few Palestinian cities Maimonides' family made its way in 1166 to Egypt whose Jewish community had been in chaos since the death of Samuel Hanagid in 1159. Egypt itself was in turmoil: attacked by Crusaders in 1168, its vizier deposed

and replaced in 1169, and torn by the religious tension engendered by a conflict between a Sunnite vizier, Saladin (1138-1193), and the Shiite Fatimid Caliphate, it finally realized a measure of order when Saladin became viceroy in 1171.[4]

When Saladin began to found schools in Fostat in that same year, Maimonides quit Alexandria to settle in Fostat where better business opportunities also awaited his family. In 1169 Maimonides' brother David, a jeweler and the family financier, drowned, taking with him the family's fortune and leaving Maimonides penniless. So after a protracted illness Maimonides took up the practice of medicine to earn a livelihood. Shortly after this Saladin expanded his kingdom to include Syria, and in 1176 he transferred the capital from Damascus to Cairo, removing at the same time the hated Nagid Zuta, abolishing the nagidut altogether, and bringing to Cairo the Exilarch Judah b. Josiah b. Solomon. As Judah and Maimonides became friends and mutually supportive, Maimonides emerged as the spiritual leader for Jews throughout Saladin's empire.

Around this time (1180) Maimonides finished the compilation of his Mishneh Torah. About 1183 he married a woman close to Saladin's court and eventually served as personal physician to Saladin's vizier and most trusted advisor, al-Fadil. Consequently, when in 1187 Saladin recaptured Jerusalem from the Franks, Maimonides was in a position to influence Saladin to welcome Jews back into that city. By 1190 when he concluded the writing of the Moreh Nevukhim, Maimonides was both famous and powerful throughout the Jewish world. When Saladin died in 1193 his sultanate was divided among his heirs, and Egypt went to his son al-Aziz. After some bickering among his sons and some internal unrest in Egypt, Saladin's brother al-Adil I contrived by 1199 to make himself master of

Egypt and most of Syria. Al-Adil ruled over a peaceful and prosperous empire until shortly before his death in 1218. Thus, in a period of comparative social tranquility, Maimonides spent the last years of his life, corresponding with Samuel ibn Tibbon and the Jewish community of Provence concerning the translation of the Moreh Nevukhim, pursuing his medical practice, and leading Egyptian Jewry. Although increasing physical ailments marred these years, he continued writing medical treatises and Jewish responsa until his death in 1204.

Before turning to Maimonides' use of the seven Noachic commandments it is important first to discuss the nature of law in his thought and in the book in which this theme receives its fullest development, the Moreh Nevukhim. Maimonides composed his philosophical magnum opus in Judeo-Arabic and entitled it Dalalat al-Hairin. While he willingly cooperated with Samuel ibn Tibbon in its translation into Hebrew, he resisted a request to transcribe it into Arabic characters for fear that his implicit denial of Mohammed's claim to prophecy would endanger his life among Moslems.[5] Undoubtedly, then, Maimonides meant for this work to be read exclusively by Jews.

But the Moreh is aimed at a still narrower audience. In the "Epistle Dedicatory" Maimonides addresses himself to his student, Joseph ibn Aknin,[6] who, after having studied mathematics and logic, now desires instruction in divine matters.[7] People like Joseph, who are perfect in their religious beliefs and in their character and who have delved into philosophy, are understandably perplexed by the Torah's literal meaning.[8] To such people at the intellectual crossroads between authority and speculation[9] Maimonides wanted to offer a method for arriving at truth which takes into account their, like Joseph's, lack of background in

natural science and relies instead on biblical exegesis.[10]

Because of the book's primary exegetical emphasis Leo Strauss has argued, "The Guide is then under no circumstances a philosophic book."[11] Although Maimonides' interest lay chiefly in explicating certain terms and obscure parables in the Bible,[12] he admitted that his arrangement of topics is at times incoherent and disjointed.[13] In other words, the Moreh's explanation of scriptural esoterica is itself esoteric.[14] The book thus reveals truth to the learned and hides it from the vulgar.[15] Maimonides' primary audience, then, was the intellectual elite which was plagued by doubts prompted by philosophy and science but capable of overcoming them through private study of an arcane text.

Among the most recondite teachings in the Moreh is the nature of Mosaic prophecy.[16] In contrast, Maimonides' theory of ordinary prophecy is straightforward. Maimonides subscribed to an Avicennean kind of ontology which made of all reality "a continuum in which the flow of emanations from God through the hierarchy of Intelligences reaches down to the Active Intelligence as the immediate fountainhead of the activity of form in the sublunar world."[17] For Maimonides this flow of emanation produced, among other things, the phenomenon of prophecy (Moreh II.12 and 36; III.18).[18] Insofar as this flow, in fact, overflow of emanations from the Active Intellect operates through the natural properties of matter and intellectual qualities of human being, prophecy is a natural phenomenon (II.32).[19] Though natural, prophecy is selective, affecting only those whose imaginative and intellectual faculties have been trained and perfected.[20] Only then is the individual fit for union with the Active Intellect during which the individual's intellect is most fully realized.

According to Maimonides ordinary prophecy occurs involuntarily and unexpectedly in dreams, visions or trances, and is accompanied by feelings of terror and fear (II.45).[21] In ordinary prophecy the emanation of the Active Intellect first touches the rational faculty and spills over onto the imaginative faculty (II.45), which is represented in the Bible as an angel (II.6). This results in a combination of intellect and imagination or in what Alvin Reines has called "intellectualized fantasy."[22]

With respect to Noah, Maimonides argued that he did indeed receive a genuine prophecy through an angel, i.e., the imaginative faculty (II.41). That no angel is explicitly mentioned in the biblical text is explained by the prophet's assumption that such a reference would be superfluous in view of the widely accepted belief that all prophecy requires the mediation of angels (II.41). While it seems unlikely that Noah's prophecy occurred on either of the first two degrees of prophecy, it is impossible to specify beyond that at which level of prophecy Noah received his (II.45). Like all non-Mosaic prophecies Noah's prophecy did not contain a divine command directed to a religious community (II.39); rather, his prophetic revelation, like Abraham's, concerned the perfection and guidance of his private life and the promises for the rewards of their descendants (I.63).

Although in the Moreh no mention is made of the seven Noachic commandments, we may assume for the moment that they resemble another pre-Mosaic commandment, circumcision. According to Maimonides, when Abraham received the commandment to circumcise the males of his household, he carried it out without using the prefactory prophetic formula for a commandment, e.g., "God has sent me to you and commanded me to say to you, etc." (II.39). In other words, if the seven Noachic commandments are like circumcision

in their apprehension through revelation and subsequent announcement, they lack the public dissemination and the self-asserted command status of Mosaic law.

Although Moses' prophecy was historically unique, it too took place naturally, i.e., Moses' prophecy was obtained "within the metaphysical continuum of a universe in which divine grace abounds and is freely available to all according to degrees of receptivity."[23] Because Moses reached the pinnacle of human moral and intellectual perfection (II.32; III.51), his prophecy was apprehended in full consciousness and without the mediation of the imaginative faculty (II.45). Moses received his prophecy solely through unadulterated intellect (II.24; II.25; II.37) in a flash of intuitive insight (II.38; III.22).[24] In consequence of his prophecy Moses knew 1) the truths of physics and metaphysics (I."Intro."); 2) the proofs for God's existence (I.63); 3) the highest degree of theological knowledge (I.52; I.58); and 4) the highest knowledge attainable of God's attributes of action (I.52; I.54).[25]

By grasping abstractly the theology of divine actions by which God governs the world, Moses discovered that the ideal end of human government is to cause people, insofar as possible, to be like God, i.e., to act in ways similar to the ways God acts, e.g., being holy, merciful, gracious (I.54).[26] To the extent that the ideal human government promotes <u>imitatio dei</u>, Maimonides' political theory is essentially theological; but his political reflections start from an anthropological assumption. On the one hand, human survival depends on an orderly division of labor, but, on the other hand, the vast differences in individual temperaments and personalities make the achievement of social harmony problematic (II.40). Thus human society stands in need of a legislator who is able to devise

a legal system to neutralize the natural diversity found among individuals. According to Maimonides, who was greatly influenced by al-Farabi on these points,[27] two types of law (divine and human) and two types of legislators (prophetic and ordinary) exist in society, and of these, Torah and Moses are superior.

Their superiority stems from several sources. First, only the Torah is able to secure both physical and intellectual perfection (III.27). Purely human law, nomos, attempts to establish the well-being of the body politic; restricted to maintaining a well arranged polis untroubled by violence and crime, it is indifferent towards the intellectual welfare of its subjects (II.40). Though prior historically, nomos is inferior to Torah in dignity (III.27). The Torah, as divine law, focuses not only on the physical condition of the collective but also on its spiritual beliefs. The Torah provides us with information about God and angels, it desires to make us wise and insightful, and it instructs us in the acquisition of correct opinions (III.40). That "the Torah, although it is not natural, enters into what is natural" (II.40)[28] refers to God's providence over human life. By endowing Moses with the ability to discern the ideal law to unify and perfect people, God has given humanity a natural way to achieve the highest human perfection. To the extent that the Torah is a product of human intellect and imagination, its artificial and conventional character removes it from the forces of nature.[29]

The second reason for the Torah's superiority over nomos derives from their respective promulgators. As we indicated, the superiority of Moses' prophecy was due to the pristine quality of his intellectual apprehension. In transforming his intellectual grasp of universal providence into the Torah, Moses relied in part on his imaginative faculty,

as do all legislators.[30] Nevertheless, unlike other prophets whose prophecies, clouded by the imaginative faculty, took the shape not of law but of exhortation (II.39), Moses' prophecy was received as a full-blown law, which issued from his intellect in its total domination over the imaginative faculty. After all, no angel or dream intervened between Moses and the Active Intellect (II.45). Although Moses was the supreme prophet sui generis and his Torah was divine and perfect, any genuine prophet surpasses ordinary humans in legislative skill. While ordinary humans legislate on the strength of only one perfected faculty (imagination), the prophets join perfection of imagination with perfection of intellect (II.37). The legislator or ruler may be successful in implementing a legal system or enforcing obedience to someone else's law (II.40), but without revelation he will never lead his polis to full human perfection (II.40).

By now it should be clear that in Maimonides' view each of the divine commandments of the Torah has a useful end whether or not that end is known precisely by us humans (III.26; III.31). As Marvin Fox has phrased it, for Maimonides though the commandments are not rational, i.e., demonstrable by reason, they are reasonable, i.e., justifiable by good reasons (cf.III. 31).[31] Or, as Jose Faur puts it:

> On the one hand Maimonides maintains that none of the commandments are grounded in reason, and on the other hand he insists that all the commandments, including the ceremonial (ones), serve a rational purpose.32

Consequently, Maimonides devotes several chapters in Part III to an explication of the reasonableness of various commandments, and he does so in terms of the commandments' reconstructed meaning at the time of their biblical promulgation, not in terms of the meaning imputed to them by later talmudic rabbis.[33] It would be incorrect, however, to infer that

for Maimonides the utilitarian thrust of the commandments is exclusively anthropocentric, viz., the perfection of the physical and intellectual aspects of humans living in community (III.27). At bottom lies a theocentric motive for human perfection: communion with God through reverence and love (III.28).[34]

To summarize, although in the Moreh Maimonides does not address himself directly to the seven Noachic commandments, he still acknowledges that Noah was an authentic prophet albeit inferior to Moses. The prophecy Noah apprehended and articulated never assumed the form of a law dictated to a nation and was probably confined to private circulation within his family. Nevertheless, as a genuine prophecy the revelation received by Noah was informed with a divine dimension and for that reason the seven Noachic commandments, if they indeed constituted the contents of Noah's prophecy, supersede all purely human nomoi.

Maimonides deals with the seven Noachic commandments by name in the Mishneh Torah, a book whose relationship to the Moreh Leo Strauss has likened to that of praxis to theory: the Mishneh Torah is concerned with the practical, active, objective part of the law and with beliefs and opinions only insofar as they are implied in the commandments, while the Moreh takes up the subjective, conceptual, secretive side of the law and commandments in order to explain their reasons.[35] After examining all the primary reasons Maimonides himself advances for his compilation of the Mishneh Torah, Isadore Twersky has recently offered a synthetic version of Maimonides' motives for writing the code. Seeing the impossibility of memorizing the whole Talmud, Maimonides still wanted to make known this entire work without excising even its messianic halakhah. Moreover, Maimonides believed that rabbinic literature would remain de-

ficient until the appearance of an encyclopedic legal work which combined halakhah and aggadah, positive law and its metaphysical foundation. In addition to these intrinsic reasons, Twersky also suggests that Maimonides' interpretation of his historical situation, in which he beheld confusion and ignorance, also prompted the Mishneh Torah.[36] The Mishneh Torah, then, unlike the Moreh, is addressed to all Jews contemporaneous with and subsequent to Maimonides, whether they are Jews who are well educated philosophically and halakhically, or averagely educated in these disciplines, or ignorant of them but desiring to live their lives by Jewish law.

The seven Noachic commandments are first mentioned in the last section of the last book of the Mishneh Torah. Sefer Shoftim is manifestly one of the more messianic books of the Mishneh Torah in that all but one of its chapters ("Hilkhot Avel") discusses legal matters germane to the messianic kingdom. It is important to bear the following in mind:

> (For Maimonides) the Messianic age is distinguished from the present only in the change in the political status of the Jewish people . . . Maimonides' Messiah is a warlike liberator whose primary task is to break Israel's shackles and to restore the ancient political order.37

In other words, in Maimonides' view the messiah as warrior-king has two functions: the prosecution of war and the administration of justice.

Maimonides devotes the bulk of "Hilkhot Melakhim Umilhamoteyhem" to a legal exposition on kings, their duties and prerogatives. "Hilkhot Melakhim" follows a warfare paradigm:

1) Selection of the leaders and their responsibilities (Chapters One through Four)

2) Conduct of war
   a) where it is to be fought (Five)
   b) how to sue for peace (Six)
   c) how to besiege a city (Six and Seven)
   d) rules for post-battle plunder and rape (Seven)

3) Rules for military occupation and absorption of resident aliens (Seven through Ten)

4) Final victory: the messiah-king (Eleven through Twelve)

No doubt his own experience provided Maimonides with ample material for this military model.

In the first halakhah of the sixth chapter acceptance of the seven Noachic commandments is mentioned by Maimonides as a condition for peace. Prior to the declaration of either an optional war or a war for a religious cause Jews must make peace overtures to the enemy mation, overtures which demand the acceptance of the seven Noachic commandments. If the offer is accepted, then none of the citizens is slain, and they become tributaries. In the third halakhah the acceptance of the seven Noachic commandments is understood to imply a prohibition against deceit and false covenanting. The fourth halakhah contains the grisly provision that if during an optional was the inhabitants of a besieged nation spurn the seven Noachic commandments, then whether or not they agree to the other conditions for peace, war is made, the adult males are killed, and everything and everyone else are taken booty. When a gentile nation is at war with a Jewish nation, the seven Noachic commandments constitute the sine qua non for peace.

In the seventh and ninth halakhot of the eighth chapter the acceptance or rejection of the seven Noachic commandments determines the fate of captive women who refuse full conversion to Judaism after twelve months' captivity. If they accept the seven Noachic commandments, they are freed and become gerim toshavim with all the rights and privileges appertaining thereto (8.7). If they refuse them, then they are executed (8.9). Maimonides notes in the tenth halakhah that the commandments

transmitted by Moses to Israel belong exclusively to Jews by birth or conversion. But in no case is coercion to be employed in order to force non-Jews to adhere to Jewish law. The employment of coercion is, however, legitimate to secure adherence to the seven Noachic commandments and, moreover, the employment of coercion for this purpose is sanctioned even by God (vekhen tsivah mosheh rabbeynu mipi hagevurah lakuf et kol ba'ai ha'olam leqabbel mitsvot shenitsṭavu benai noaḥ).

The eleventh halakhah of this eighth chapter ranks as one of the most controversial and perplexing passages in all Maimonidean literature:

> A heathen who accepts the seven commandments and observes them scrupulously is a 'righteous heathen,' and will have a portion in the world to come, provided that he accepts them and performs them because the Holy One, blessed be He, commanded them in the Law and made known through Moses, our teacher, that the observance thereof had been enjoined upon the descendants of Noah even before the Law was given. But if his observance thereof is based upon a reasoned conclusion he is not deemed a resident alien, or one of the pious of the gentiles, or one of their wise men.[38]

We should notice that Maimonides unmistakably acknowledges the pre-Sinaitic and consequently pre-rabbinic origin of the seven Noachic commandments. We should notice also that he endorses the rabbinic principle of universal salvation for all the righteous people of the world. The controversy over this passage is sparked by Maimonides' contention that salvation through the observance of the seven Noachic commandments is contingent upon belief in their theogenesis.

A textual problem comes into play in this halakha's concluding sentence: is the last phrase to be read "velo' meḥakhmeyhem" or "ele' meḥakhmeyhem"? Steven Schwarzschild has given wide currency to the second alternative,[39] and even though many scholars concur with him, it is an emendation made on the basis of only one manuscript and a few secondary sources. In fact, the preponderance of manuscripts prefer "velo'

mehakhmeyhem" and this reading makes better sense. As Barry Kogan has argued, the wise man, more than the pious man, embodies the Maimonidean ideal,[40] and one of the criteria for wisdom is the acquisition of both moral and intellectual virtues, one of the latter being love for God.[41] Moreover, in light of the priority given in the Moreh to divine law over human law because of the former's concern with complete human perfection, Maimonides might well question the wisdom of any person who relegates an ostensibly divine legal system to merely human status. Drawing from Aristotle,[42] Maimonides believed that for human beings with defective intellects the rightness and wrongness of moral judgments depend upon God for their authority and sanction.[43] Since for Maimonides morals are neither intrinsically right and wrong nor rationally demonstrable, no person could be considered wise if he confuses matters of convention with matters open to rational demonstration.[44]

That Maimonides insists upon belief in God as the prerequisite for salvation is consistent with his remarks in a letter to Hasdai Halevy of Alexandria:

> Thus the wise men of truth, our rabbis (peace be upon them), said: The righteous of the nations of the world have a portion in the world to come, if they acquire that which is worth acquiring, knowledge of the Creator (may He be blessed), and they perfect their souls with good virtues. In this matter there is no doubt that everyone who perfects his soul in the fitness of the virtues and the fitness of wisdom with faith in the Creator (may He be blessed) will certainly be among those of the world to come.[45]

Maimonides goes on to claim that the patriarchs, Noah and Adam were able to attain to salvation without the 613 commandments because they perfected their moral and intellectual virtues.[46] We may infer from this letter that for Maimonides a non-Jew who has truly perfected his soul both in wisdom and in morality would certainly know the difference between divine and human legislations.

Attempts to attribute Maimonides' requirement of belief in the divinely sanctioned nature of the seven Noachic commandments to other texts have had mixed results. Joseph Karo in the Kesef Mishneh concedes, "It seems to me that Maimonides says this on the basis of his own independent reasoning (misevara' denafsheh),"[47] an opinion seconded by Moses Mendelssohn and Hermann Cohen.[48] Recently, Jacob Katz has suggested that the passage from the Mishnat Rabbi Eliezer cited in our third chapter served as Maimonides' authority.[49] Unfortunately, beyond this stark assertion Katz furnishes no proof. While it is certainly possible that Maimonides was acquainted with the Mishnat Rabbi Eliezer,[50] we must remember that the thrust of that passage was to determine the place of reward for those who observe the seven Noachic commandments: the world to come for those who accept their divine-command nature, and this world for those who accept their rational nature. Because this point is absent in Maimonides' halakhah, the connection between it and the Mishnat Rabbi Eliezer seems tenuous. Karo is probably right: Maimonides required belief in the revelation of the seven Noachic commandments on the strength of his own reasoning.

In the ninth chapter Maimonides defines legally the content of the seven Noachic commandments. His statement in 9.1 is of special interest to us, because Maimonides repeats the rabbinic tradition extending six of the seven commandments back to Adam. He elaborates on this:

> Although there is a tradition to this effect--a tradition (qabbalah) dating back to Moses, our teacher, and human reason approves of those precepts (vehada'at noṭah lahen)--it is evident from the totality of the words of Scripture (mikhelal divrey torah yera'eh) that he (Adam) was bidden (nitstavu) to observe these commandments.[51]

In other words, Maimonides states that although the seven Noachic commandments seem to be a Sinaitic doctrine Moses apprehended, and although they

also seem to be rationally obligatory, they are neither. Adam himself received them from God, and this is known not through any explicit biblical verse but from the Bible's overall tenor. From his own omission of any proof-texts it would appear correct that Maimonides did not regard the rabbis' derivation of six of the Noachic commandments from Gen. 2:16 as convincing, and Karo surmises that Maimonides must have viewed Gen. 2:16 as only a general support (asmakhta' de'alma'),[52] a phrase reminiscent of Judah Halevi. Maimonides then associates the prohibition against eating flesh from a living animal with Noah and Gen. 9:4. Without the citation of any more proof-texts he next connects circumcision and the morning prayer service with Abraham, tithes and the afternoon service with Isaac, the prohibition against gid hanasheh and the evening service with Jacob, other additional commandments (mitsvot yeterot) with Amram in Egypt, and the rest of the Torah with Moses.

In the Mishneh Torah, then, Maimonides unquestionably regards the seven Noachic commandments as divinely revealed and, like all other divinely revealed law, conventional rather than rational. The seven Noachic commandments are in his opinion incumbent on any non-Jew wishing to live in the Jewish polity of the messianic kingdom. This polity, ruled over by the wise, who train others in wisdom and virtue, would enfranchise the Noahide regardless of his belief in revelation. But only qua Noahide could either the philosophically motivated individual or the prudentially motivated individual take part in the messianic state whose precondition is the reconquest of the land of Israel by Jews led by the messiah-king. That is, only after acknowledging the truths of Judaism--either for prudential or philosophic reasons--may the non-Jew live in the perfect state; only after becoming quasi-Jewish, like the biblical ger toshav,

may the non-Jew dwell under Jewish sovereignty.

In Maimonides' eyes it is a Jewish duty to compel, on pain of death, gentile performance of the seven Noachic commandments. Still, while he makes gentile salvation contingent upon belief in their divinely revealed nature, he does not appear to approve of the use of force to elicit such a belief. Thus we may say that with respect to the physical perfection of the _polis_ and the individual, the Jewish ruler may legitimately resort to force over them; but with respect to the intellectual perfection attendant upon them, viz., belief in the Creator who issues commands through prophets, utilization of force is otiose. That Maimonides uses the seven Noachic commandments as the precondition for a peace settlement during a war obliged by the Torah confirms this point: the _sine qua non_ for a nation's participation in a Jewish polity is the achievement of a minimal threshold of moral and political perfection. It should be emphasized that because Maimonides links the seven Noachic commandments with future military campaigns and Jewish political sovereignty, the concept is for him not arcadian, i.e., harking back to the simple, rustic times of Noah and his sons, but quasi-utopian, i.e., looking forward to a reformed, reconstituted, though still flawed period in human history.

We have seen that for Maimonides six of the seven Noachic commandments were given to Adam (_adam hari'shon_), understanding that equivocal name to refer to the first human being (_Moreh_ I.14). While still in the Garden of Eden, while his intellect was still rationally perfect and he was oblivious to human convention and taste, Adam received the commandment not to eat from the tree of knowledge of good and evil (Gen. 2:16; _Moreh_ I.2), the commandment from which the talmudic rabbis derived six of the seven Noachic commandments.[53] Just as Adam was given this com-

mandment for the sake of his intellect, so, too, were non-Jews given the Noachic commandments to perfect their intellects in the Jewish state. The parallel is perfect: for the perfection of their physical and spiritual conditions Jews were given the Torah by God; for the perfection of their physical and spiritual conditions non-Jews were given the Noachic commandments. And just as the Torah can only be fully operative in a Jewish state in the land of Israel, so, too, are the Noachic commandments only operative in such a setting.

CHAPTER VI

BIBLICAL COMMENTATORS

Despite the different dates and provenances Rashi, Ibn Ezra, Ramban and Sforno take up the issue of the seven Noachic commandments in the same literary genre, namely, commentary on the biblical text. Interestingly enough, unlike the rabbis of the tannaitic and amoraic periods these mefarshim, whose commentaries are printed in a standard miqra'ot gedolot, do not trace the commandments back to Gen. 2:16. In fact, Rashi and Ramban are totally silent on this Gen. 2:16 verse, Sforno proposes a naturalistic explanation of mikol ʿets hagan, and Ibn Ezra, while acknowledging a negative commandment in the verse, mentions nothing regarding six or seven commandments incumbent on benai adam or benai noah or anyone besides adam hari'shon. The chief biblical pericope to elicit commentary on the seven Noachic commandments is Genesis 9:1-7.

Although Rashi's biblical commentary has been described as a compromise between literal and midrashic explanations,[1] peshaṭ exegesis is actually paramount, and midrashim are invoked to confirm the peshaṭ explanation. Deeply steeped in the academic methods of the eleventh century German yeshivot in Mainz and Worms, Rashi in his commentary based himself largely on the rabbinic sources that were closest to the literal meaning of the Bible or that solved problems in the text.[2] Rashi knew no Arabic,[3] and he was unaware of philosophical problems that had yet to make inroads into the Franco-German culture of his time.[4] The great medieval effort to reconcile the Bible with philosophy had not yet gripped

Ashkenazic Jewry.[5] Still, it would be mistaken to assume that Rashi directed his commentary to the barely literate novice in biblical studies. In tersely quoting midrashim in an abridged, altered, or augmented manner Rashi probably assumed the reader's familiarity with or at least awareness of the fuller versions.[6]

Rashi adds nothing new to the understanding of the Gen. 9:1-7 material. In his comment on verse three (kol remeś) he repeats the biblical and rabbinic belief that while Adam's diet was restricted to green herbs, Noah was permitted all kinds of food, including meat. In verse four, without referring directly to the sons of Noah, Rashi understands baśar benafsho to prohibit the eating of a limb cut from a living animal. He then construes benafsho damo to forbid the eating of animal flesh while blood is still in it. Verse five is interpreted as a prohibition against the killing of a person by another person or by an animal. In verse six Rashi, like the biblical text itself, provides the theological justification for verse five, namely, that man is the imago dei. Rashi asserts that although the first formulation of "be fruitful and multiply" (Gen. 9:1) was a blessing, its repetition here is an imperative (tsivui; notice: not mitsvah). Its location after the prohibition against murder is intended to liken the one who refrains from procreation to a murderer, writes Rashi, echoing b. Yevamot 63b. Since Rashi neither speaks explicitly about the sheva' mitsvot benai noah or even about benai noah, nor defines the recipients of these action-guides, nor identifies with precision the commandments that are contained in this passage, there is insufficient evidence to draw general conclusions about Rashi's view of the seven Noachic commandments.[7]

For the most part the twelfth-century Spaniard, Abraham ibn Ezra,

limits himself to philological observations in his commentary to Gen. 9:1-7. Ibn Ezra carried out his exegetical activities during the second part of his life when, troubled perhaps by the conversion of his only surviving son to Islam, he adopted the life of a traveling scholar.[8] He began his commentary on the Pentateuch in Rome probably in the 1140's and continued it over the next two decades of wanderings.[9] In this commentary Ibn Ezra tries to give to the reader the literal meaning of the text based on a rational approach and a careful consideration of linguistic structure.[10] Thus etymology and grammar are his special concerns, though his commentary also exhibits a profound insight into human nature.[11] While his comments are at times satirical, philosophical, moralistic, mathematical and astronomical,[12] he insists for the most part on adhering closely to the peshaṭ level of the text.[13]

In addition to his philological and literalistic comments, Ibn Ezra notes on verse five that dimkhem lenafshoteykhem may contain a commandment to the sons of Noah that they execute a murderer (hiʾ mitsvah livenai noaḥ vehuʾ hayashar laharog hahoreg). Thus Ibn Ezra acknowledges the possibility that this pericope may yield a commandment to the sons of Noah. Though ourside of our purview, verse eight (vayoʾmer elohim el noah veʾel banav) prompts an important comment from Ibn Ezra: "Through their father, but some say that all four were prophets." Ibn Ezra, therefore, seems to imply that in the Gen. 9:1-7 section at least one action-guide was revealed by a divine commander to at least one prophet.

The thirteenth century Spanish rabbi, Moses ben Naḥman (Ramban), personified the conjunction of the French tosafists and the Spanish kabbalists. Prominent in Jewish public life, e.g., as a patron of compromise during the Maimonidean controversy, as an advisor to King James I on Jewish com-

munal matters, as a participant in the Disputation of Barcelona, the Ramban probably became chief rabbi of Catalonia in 1264.[14] As a result of the events at Barcelona[15] he was forced to flee to Israel, arriving in Acco in 1267 and dying within a year or so. Ramban wrote his biblical commentary mostly in Spain and partly in Israel.[16] When in his commentary he thinks it important, he follows strict philological procedures; but he is also concerned with the sequence of passages and the deeper meaning of laws and narratives.[17] The Ramban, therefore, has frequent recourse to rabbinic literature, using liberally aggadic and halakhic materials, dwelling upon, analyzing, and evaluating rabbinic opinions.[18]

The focus of Ramban's commentary falls upon the nature of human being, as opposed to the nature of human reason alone.[19] He offers great psychological insight into the behavior of biblical personalities, even criticizing the patriarchs at times (e.g., comment to Gen. 12:11).[20] God's care and love for humanity make up another theme in his commentary.[21] The commandments were given for the good of humanity: to keep us from harmful things; to remove from us evil beliefs and habits; to teach us mercy and goodness.[22] Israel's loyalty to the Torah signifies the inseparable attachment between God and His people.[23] Besides being the word of God and the source of all knowledge,[24] the Torah also proffers to Israel much encouragement and solace.[25]

Ramban unquestionably regards Noah as a prophet (comment to Gen. 6:9), though Ramban's theory of prophecy differs from Maimonides' theory in that the former believes that ordinary, non-Mosaic prophets apprehended God directly, without the mediation of angels, albeit unclearly (comments to Gen. 17:1 and Gen. 18:1). While granting Noah's authenticity as a prophet Ramban denies such status to Noah's sons (comment to Gen. 9:8), though

he allows that they were tsadiqim (comment to Gen. 2:3). Ramban holds that the pre-Noachic prohibition against meat was based on the resemblance between those animals with living souls and those with rational souls, people (comment to Gen. 1:29). The permission given to Noah to eat animal flesh seems to be in recognition of the fact that he was the agent who rescued animal life and thus had responsibility and control over the animals' preservation (comment to Gen. 1:29).

In his comment to Gen. 9:4 Ramban takes Rashi to task for mistakenly deriving from this verse two prohibitions: one against the eating of flesh from a living animal and the other against the eating of blood from a living animal. After all, the minority opinion of R. Hannaniah b. Gemaliel regarding dam min hahay (Tosefta ʿAvodah Zarah 8:7; b. San. 59a) is not enumerated as one of the seven Noachic commandments. In an extended discussion of verse five Ramban argues for the equation of blood and life, and concludes that the shedding of life-blood (in contrast to blood on which life is not dependent, e.g., the blood of an arm or foot) necessitates the death penalty.

Perplexed by the phrase "miyad kol hayah edreshenu," Ramban wonders if this clause refers to a literal punishment of a non-moral animal or an absolute prohibition on the shedding of human blood or a universal interest in avenging a human murder. Finally, he speculates that animals are liable for punishment for killing people because such an act is contrary to their nature. At creation God permitted people the consumption of herbs and fruits only, and for animals he allowed the consumption of herbs only; that was their nature and convention (huʾ tivʿam uminhagam). God's permission to Noah to eat meat engendered a reconstitution in the nature and convention (vehuśam beṭevaʿo beminhag) of both people and animals

from herbivorousness to carnivorousness. Although an animal's killing of another animal is now natural, a human's killing of another human is not. Humans may slaughter animals for food (and not vice versa), but as Adam was admonished (kevar hizhir adam hari?shon), the shedding of human blood is still forbidden. Ramban then paraphrases this verse:

> I (God) have given you permission to shed the blood of every living thing except your own blood. This is forbidden to you and to all living things for it will not be their nature (shelo? yiheh lahem teva') to shed it.

It is curious first of all that in his allusion to Adamic law Ramban claims that God admonished (hizhir), not commanded (tsivah), Adam not to shed blood. It is also curious that in suggesting that after the flood the shedding of only human blood is contrary to the nature of animals and people, Ramban may be asserting a version of natural law--not necessarily natural law as accessible through reason per se, but natural law as a constituent element in the make-up of animals and people. Ramban does uphold the view that at least some of the commandments have a rational character, e.g., the prohibition against violence, which is a rational commandment (mitsvah muśkelet) knowable without prophecy (she?ayn lahem tsorekh lenavi? mazhir; comment to Gen. 6:12). Despite his belief in Noah's prophecy Ramban does not explicitly impute commandments, at least not the rabbinic seven Noachic commandments, to that prophecy. Ever min hahay is adduced hermeneutically from Gen. 9:4, and shefikhut damim enters nature after its post-deluvian reconstruction.

Ramban turns to the Noachic commandments for the last time in his comment to Gen. 34:13. After asking why Jacob's sons punished all the people of Shechem for the rape of Dinah, he answers by loosely quoting Maimonides' Mishneh Torah, "Hilkhot Melakhim" 9:14:

If he (a Noahide) sees a person transgressing one of the seven laws

> and does not bring him to trial for a capital crime, he who saw him is subject to the same death penalty. It was on account of this that the people of Shechem had incurred the death penalty because Shechem committed an act of robbery and they saw and knew of it, but they did not bring him to justice.[26]

Ramban dissents from this view, arguing that the Noachic commandment violated by the citizens of Shechem was dinim, a positive commandment whose transgression does not entail capital punishment. "It was not, however, the responsibility of Jacob and his sons (she'ayn hadavar masur leya'aqov uvanav) to mete out justice upon them."[27] But because of the Shechemites' wickedness the sons of Jacob sought murderous vengeance, and for this and other reasons Simeon and Levi provoked their father's wrath. With respect to the adjudication of the seven Noachic commandments in at least this one case, Ramban and Maimonides part ways: the former prefers Jewish non-involvement in gentile law, the latter prefers Jewish enforcement in the absence of gentile enforcement.

Perhaps the most interesting comments on the Gen. 9:1-7 pericope come from the sixteenth century Italian rabbi, Obadiah ben Jacob Sforno. Born in Cesena, Sforno later studied philosophy, mathematics, philology and medicine in Rome. After a period of Wanderlust he settled in Bologna where he helped organize the Jewish community and founded a school.[28] Sforno lived in "the halycon days of the Italian Renaissance, when Jewish-Christian relations were unusually harmonious."[29] For example, in Rome between 1498 and 1500 Sforno tutored the Christian humanist, Johannes Reuchlin, in Hebrew.

In full accord with his Zeitgeist, Sforno attempts to effect a synthesis between the humanist culture of the Italian Renaissance and traditional Judaism.[30] Drawing heavily from the Bible and rabbinic literature and using without citation the Targumim, Rashi, Ibn Ezra and Ramban,

Sforno tries in biblical commentary to demonstrate the linguistic and theological unity of the Torah.[31]

> While generally limiting himself to the literal exegesis of the biblical text and at times going beyond this to find an exposition in keeping with the contemporary scientific outlook (e.g., on Creation), he avoids mystical and kabbalistic interpretations.[32]

Sforno displays little interest in philology and offers no historical explanations. Occasionally he makes use of allegory, e.g., on the Red Heifer, and from time to time his medical background intrudes, e.g., comment to Gen. 43:27.[33] He seems to have written his commentary for the well educated student of the Bible, not for the neophyte.[34]

Sforno's interpretations manifest a profound Aristotelian influence. Although they disagree over creation and individual providence, Sforno largely follows Aristotle on the latter's theories of form and matter, the self-consciousness of God and the nature and objective of the human soul.[35] For Sforno rational thought, the highest function of human being, is authentically divine.[36] Faithful to Aristotle, Sforno holds that human beings have two chief perfections: moral and intellectual. For instance, in his comment to Gen. 6:9 Sforno understands Noah to be a tsadiq (perfect in morality) and a tamim (perfect in intellect).[37] The human soul consists of both rational and irrational components, and virtue is attained through the achievement of harmony between reason and desire.[38]

Humankind's summum bonum lies in self-realization, in actualizing one's potential intellect.[39] According to Sforno, the purpose of the Torah is the moral elevation of people so that human will can conform to God's will.[40] Although God invested his hopes in Israel only after despairing of spiritually improving the rest of humanity,[41] Sforno's Renaissance ideals evidently blunted any Jewish chauvinism on his part:

> He aimed at inculcating a love for mankind in general and not only for fellow Jews, the difference between them quantitative and not qualitative (Ex. 19:5), and his commentaries contain frequent references to humanistic ideas.42

Among his comments to the Gen. 9:1-7 pericope we get the first inkling of Sforno's humanistic emphasis in his comment to ve>akh et dimkhem lenafshoteykhem. God demands human lives for the murder of other human lives (not for the murder of animal lives), because human lives are more important to God (hashuvot etsli yoter). This point is reinforced in his comment to ki betselem elohim (Gen. 9:6): man's being the imago dei provides the theological justification for why God demands satisfaction for human bloodshed and not for animal bloodshed.

On ki betselem elohim ʿaśah Sforno writes the following:

> In the image of the separate substances which are called elohim. Some of them made the man (ha> adam), for indeed at the time that God (may he be blessed) said, 'Let us make man,' he caused the separate substances (collectively) or one of them (in particular) to bestow a rational capacity upon every substratum prepared for it, namely, every member of the human race (vehu> kol ehad mehamin ha> enoshi). And since man is in the divine image, which is in fact his human soul, through which he is both alive and intelligent, it is proper (ra>ui) that his blood and vital soul, which minister to this image, should be considered important (nehshavim), and required in return from those who destroy them (i.e., the blood and vital soul) evem more than the lives of other living beings.

Unlike the other commentators, all of whom concur that human life is more precious to God than animal life, Sforno actually identifies the locus of human preciousness: the rational capacity which constitutes our point of contact with God. Given our lofty rank in nature's hierarchy, it is only proper (ra>ui) that the taking of a human life be considered more heinous than the taking of animal life. Sforno, then, hints that the prohibition against bloodshed is open to rational calculation, and is a reasonable, if not rational, law. That he judges it to be reasonable may be inferred from words such as ra>ui and nehshavim and from the absence of any mention

of prophecy or commandment. Although in this passage Sforno does not employ the words ben noah or benai noah, other words like ha'adam and kol ehad mehamin ha'enoshi leave no doubt as to the universalistic thrust of this comment. So, while Sforno does not discuss the traditional seven Noachic commandments, he does explicate one reasonable action-guide (not to shed human blood) knowable by all human beings.

CHAPTER VII

JOSEPH ALBO

The approximate dates of the life of the Spanish philosopher and preacher, Joseph Albo, are 1360-1440,[1] the approximation made necessary by a paucity of biographical information on him. Albo seems first to enter the annals of history when he represented the Jews of Daroca in the Disputation at Tortosa and San Mateo from February 7, 1413, to November 13, 1414.[2] Antipope Benedict XIII initiated the Disputation on November 26, 1412, when he ordered the Jews of Gerona to engage in a disputation with his advocate, Hieronymus de Sancta Fide, his personal physician, a Jewish convert to Christianity, and the author of a Latin and Hebrew collection of strongly biased Christological midrashic homilies, Sefer Hapikurim (The Book of Demolition).[3] The Disputation appears to have had a strong impact on Albo, and it may explain some of the features of Albo's Sefer Haʿiqqarim,[4] which was composed over an eighteen-year period (1410-1428) that included the Disputation.[5]

Albo was familiar with the thought of Saadia, Judah Halevi, Maimonides and Gersonides.[6] He has been accused of plagiarizing from the works of Ḥasdai Crescas, who was Albo's teacher (ʿIqqarim, Book I, Chapt. 26) and the author of Or Adonai which Albo had read, and of Simeon ben Tsemaḥ Duran, whose Ohev Mishpaṭ was also probably known to him.[7] Besides Jewish philosophy, Albo had studied rabbinic literature, Islamic philosophy, e.g., Averroes, probably through Hebrew versions, and Christian scholasticism, especially Thomas Aquinas' Summa Theologica.[8] In addition to his

philosophic activity, evidence points to Albo's interest in homiletics.[9] This homiletical dimension to Albo's oeuvre would account for the ʿIqqarim's lengthy interpretations of biblical and rabbinic passages and for the eisegesis Albo introduces without regard for context.[10]

In Albo's ʿIqqarim a new method of Jewish philosophy finds its finest expression. "It seeks to link philosophy closely with tradition not only by quoting from the older religious literature" but also by adapting philosophy to life.[11] This new method emerged for two reasons. First, the Maimonidean controversy had made philosophy vital and generally familiar, no longer remote and recondite. Secondly, around 1400 the increase in persecutions and enforced disputations compelled Jews to defend their faith publicly.[12] No longer did metaphysics and theology monopolize the philosophical agenda, no longer did Judaism need a refuge from Aristotelian philosophy and science.[13] Philosophy was enlisted as an aid in the defense of Judaism against Christianity, and it took on a polemical edge. Moreover, to strengthen the fortitude of a Spanish Jewry whose spirit was being eroded by the disputations, philosophy was charged with a homiletical task.[14] ʿIqqarim embodies Albo's anxiety over "the wavering faith among his fellow Jews which stemmed from the discussions of religious dogmas."[15]

> (Albo) keenly felt the need to restore the morale of his people by offering them a reasoned presentation of Judaism and by showing that the basic teachings of the Jewish religion bore the essential character of 'divine law.'[16]

Thus the establishment and defense of Judaism's fundamental dogmas constitute Albo's chief literary motive.[17]

The reduction of Jewish teachings to a handful of principles did not, of course, originate with Albo. Before him Maimonides, Abba Mari, Crescas and Duran had searched for the essential formulas to encapsulate Judaism.[18] In fact, ʿIqqarim begins with a critique of Maimonides' and Crescas' efforts

to articulate Judaism's ʿiqqarim. The three ʿiqqarim Albo proposes--God's existence, divine revelation, and reward and punishment (I.4 and passim)--may have been borrowed from Averroes' Faṣl al-Maqal in which these same beliefs are spoken of "as examples of 'uṣul ('principles') of revealed law," and any denier of them is considered an unbeliever.[19] In addition to the three ʿiqqarim, Albo also offers eight derivative principles (shorashim) which necessarily follow from the three (I.13-15) and six dogmas (emunot) of somewhat lesser rank (I.23).

The raison d'être behind Albo's three ʿiqqarim lies in his desire to demonstrate the superiority of divine law over other kinds of law. The word Albo uses for "law" is dat, an ambiguous term which can be translated as "a single law in particular," "the category of conventional and divine laws in general," "religion" or "religious law."[20] "Albo envisages Judaism under the conception of a law, as a law of God regulating our lives in the matter of belief and conduct," and he places it in the same genus as conventional and natural systems of law.[21] "The term 'law' ('dat') applies to any system of directions embracing a large aggregate of men, whether it contains many commands or one."[22] Consequently, the translation of dat as "law" is closest to Albo's intended meaning.

Albo claims to have chosen law as his topic of discussion because he wants to furnish his co-religionists with knowledge of the principles of the laws to which they are subject ("Haqdamah"). Albo states that the failure of previous attempts to lay to rest the confusion over Jewish law and its fundamentals has prompted him to undertake this important task ("Haqdamah"). Moreover, Albo does not demand from his readers thorough and exhaustive philosophical erudition; lack of speculative ability is no cause to excommunicate or even to belittle a Jew (I.2; I.52), an atti-

tude which sharply distinguishes Albo from virtually all Jewish Aristotelians. More than any other figure we have so far studied, Albo seems self-consciously to address himself to the ordinary Jew who has no extensive Jewish and philosophical education, as well as to the philosophically knowledgeable Jew.

Albo assumes the existence of three kinds of law: natural, conventional and divine. With which kind the seven Noachic commandments are to be identified is an issue to which we shall return below. Albo first takes up natural law (dat ṭivʿit) in I.5. He notes that natural human frailty necessitates our being protected from the environment for the sake of our survival. This protection is achieved through a division of labor. Thus in nature people must band together to create a polity, though mere aggregation in and of itself does not produce a polity. Nevertheless, in the sense that in our natural state our survival depends upon a division of labor we are political by nature (haʾadam medini beṭevaʿ). To sustain sufficient order (siddur) for the preservation of minimal social life, some law is required to maintain justice in general, to suppress wrongdoing and to promote commerce. This law is the natural law. In other words, our bodily needs compel us to form associations whose survival depends upon a minimal legal order.

> This law is natural in the sense that it is something that man needs in respect of his nature, or, more precisely stated, this law is natural in that the natural needs of man's body produce situations for which such a law is required.23

But this barest, most primitive end (the preservation of the species) is not truly adequate to sustain political society,[24] and so natural law, being sub-political in its lack of government and judge,[25] stands in need of conventional law (dat nimusit) to reify its imperatives. The activity of a king, governor or judge in implementing the natural law finally se-

cures the survival of the community. Inasmuch as not all human beings are equally able to execute political functions, God has providentially set apart certain classes of people especially competent to govern: rulers and wise men (I.6). Though their law lacks the element of consent present in natural law,[26] the wise men promulgate conventional laws which appear to us sufficient for the attainment of human perfection (hashelemut ha>enoshi).

In the seventh chapter of Book I Albo gives a second general account of natural law in which he stresses natural law's universality and ignores the need for a person to establish it.[27] Moreover, in this exposition Albo reinforces the teleological thrust of the first account: natural law has as its purpose the creation of social order through the repression of wrongdoing, the promotion of the right, and the prevention of theft, robbery and murder. In this same chapter Albo begins to compare natural law, conventional law and divine law. By considering the time, nature and place of the people subject to it the legislator of conventional law is able to remove what is unbecoming and to champion what is becoming, according to conventional opinion.

Conventional law's superiority over natural law lies in its deliberate arrangement of social relations so as to improve society. The meliorative side of conventional law sharply differentiates it from merely preservative natural law. Divine law (dat elohit) reaches us through prophets like Adam and Noah, through regulation and law, and through special messengers like Moses. Only it can guide us to true spiritual happiness and immortality. The legislator of divine law is able to lay down the right political rules such that even in an evil social arrangement an individual can still achieve happiness, a point not lost on Albo's

sorely tried Diaspora audience.[28]

From the foregoing an obvious ranking of laws emerges: natural law, conventional law and divine law ascend in dignity and in importance.[29] The intention of natural law, namely, the ordering of human affairs to permit the formation of associations, is just but not noble, and it requires supplementation and completion by the others.[30] Conventional law exceeds natural law insofar as it attempts to eliminate the unbecoming and promote the becoming. Divine law, of course, is superior to them both because it can inform people as to what is truly good and evil and because it perfects human beliefs towards the achievement of salvation.[31]

Chapter eight of Book I contains an elaborate comparison of divine law and conventional law, a comparison drawn with reference to Psalm 19. Unlike divine law, conventional law cannot teach the knowledge requisite for immortality ("The law of the Lord is perfect, restoring the soul," i.e., to its rightful place in the eternal, divine plan). Unlike divine law, human conventional law is insufficient for distinguishing with certainty between the conventionally right and wrong ("The testimony of the Lord ((not society)) is sure, making wise the simple," i.e., regarding reliable knowledge about important matters beyond conventional knowledge). Conventional law does not govern its subject in such a way that he harbors no doubt whatsoever regarding its validity; divine law provides its subjects with just this certitude ("The precepts of the Lord are right, rejoicing the heart," i.e., bu furnishing it with unshakable convictions). Unlike divine law, conventional law supplies us only with general action-guides and not with precise definitions for particular acts ("The commandment of the Lord is pure, enlightening the eyes," i.e., with information on the way to go and the act to perform). Unlike the timeless divine law,

conventional law changes over the course of history ("The fear of the Lord is clean, enduring forever," i.e., immune to change in the way that conventional law is subject to it). Unlike divine law, conventional law cannot fairly mete out reward and punishment; it is not ultimately just ("The ordinances of the Lord are true, they are righteous altotether," i.e., in that they punish according to the offense and reward according to the merit, both in this world and the world to come). In Chapter eight, then, Albo argues in detail the contention put forth in Chapter seven, namely, the divine law surpasses the conventional law in dignity and in importance.

In all likelihood Albo borrowed not only the typology of laws but also to some extent the actual comparison among them from Thomas Aquinas (1225-1274). For Thomas the community of the universe is self-evidently governed by divine reason, and this governance implies the existence of a law which must itself be eternal because God's conception of things is eternal.[32] Having the eternal law as its origin and metaphysical foundation, natural law is the medium by which the eternal law imprints itself on human consciousness.[33] In other words, we actively participate in the eternal law through reason, and this participation is called natural law by which we discern right and wrong.[34] Human law concretizes the natural law, defining it, applying it, and enforcing it.[35] The only human law truly worthy of obedience is that derived from (or at least not opposed to) natural law.[36]

For Thomas divine law, whose legislation was made necessary by the Fall and the subsequent impossibility for universal discovery of the whole natural law,[37] seeks to facilitate the realization of our eternal happiness, to assuage doubt, to channel interior acts in the correct direction and to guarantee justice by punishing those acts and actors beyond

the reach of human punishment.[38] To ground these functions of divine law exegetically Thomas cites Psalm 19 in a manner similar to Albo's but somewhat abbreviated. This suggests the latter's direct reliance on the Angelic Doctor. Unlike Thomas, who ranks these laws (in order of ascending dignity) as human, natural, divine and eternal, Albo, entirely omitting the eternal law from his hierarchy, rates them as natural, conventional and divine. Moreover, Thomas' natural law, going far beyond Albo's rudimentary version, includes all virtuous human actions.[39]

For Albo natural law becomes known when human reason (sekhel) reflects on the body's needs and learns about the minimal conditions for human society, about submitting to God and about manifesting the general good in particular acts (III.7).[40] Although this level of knowledge is accessible to the cognition of human reason, what is pleasing and displeasing to God, what ultimately counts for salvation, cannot be fathomed by the human mind (III.7). Also, since the natural law's provisions are designed to regulate human relations only insofar as people are forced by nature to participate in society, individuals like the hermit and the feral child do not at all depend upon sekhel or natural law.[41]

Because of Albo's unusual definition of natural law, his ranking of divine law over it is stipulative. His version of natural law cannot properly be called rational (it is made urgent chiefly for reasons of the survival of the human body and not because it is intrinsically right and obligatory) or universal (without the machinery of a polity it is inapplicable to the hermit and the feral child) so that it should be more accurately labeled "quasi-natural law."[42] In part, the difference between Thomas' and Albo's evaluations of natural law stems from their respective anthropologies. For Thomas natural law is accessible to us because we are

largely rational, reason being our vehicle for participating in God's eternal law which governs the universe. For Albo the natural law is pre-rational and merely serves to prevent moral obstacles to establishing and maintaining a community. It is ironic that Thomas, the Christian saddled with the doctine of original sin, upholds such an optimistic model of human nature, while Albo, the Jew, committed to no such doctrine, conceives of human nature in pessimistic terms. Perhaps to Albo and his audience this pessimism seemed justified by the deteriorating position of the Jew in medieval Christian society after the High Middle Ages.

At the same time, the difference in their respective estimation of the natural law vis à vis divine law is partly political.[43] Both men need to posit a law to regulate personal life and to order communal life. Thomas, who represents a tradition that rejects the salvific efficacy of Mosaic law, still needs some principle to stabilize human community. This role he accords to natural law which is divine insofar as it shares in the eternal law. Although natural law shows us the proper kinds of behavior in society, it needs the supplementation of grace in order to lead to salvation.

For Albo the obvious choice for ordering community is divine law, which earns its adjective because it is ordered (tesudar) by God through prophets like Adam, Noah and Abraham or through messengers like Moses (I.7). To compensate for the deficiency of human reason, God has providentially allowed for revelation and prophecy (III.7). The purpose of prophecy, according to Albo, is to train us in the attainment of full human perfection, in our intention to do the will of God by performing good deeds (III.1-.5; III.8).[44] Prophecy, whether it takes place with or without the imagination, emanates from God's will (shefa' shofe'a

beratson elohi) and reaches the human intellect (III.8). For Albo, then, ultimate human salvation turns on revelation whose content is chiefly legal. Albo and Thomas concur that in the last analysis without some form of divine "intervention" the person in his natural state is unable to achieve final salvation.

While prophecy precedes the revelation of the Torah both in nature and in time, all pre-Sinaitic prophecies were "for the purpose of the Torah" (shoresh latorah min hashamayim; III.12).[45] Albo acknowledges the existence of several divine laws, which share a number of features in common. In the first place, all divine laws, e.g., the law of Adam (torat adam), the law of Noah (torat noaḥ), the law of Abraham (torat avraham) and the law of Moses (torat mosheh), embrace the three ʿiqqarim (I.4), and God conferred them all on humanity through prophets like Adam and Noah (ʿal yedai navi' kemo adam o noaḥ; I.7). Also, the content of all these divine laws, whose divinity is testable by their conformity to the three ʿiqqarim (I.18), is known empirically, not rationally, so as to obviate all doubt (I.17). Furthermore, although the different divine laws bear different contents, the fundamental principles remain the same (I.25). For example, while Mosaic and Noachic laws differ in particular matters (ʿinyanim peraṭiyim), they agree on general matters that derive from their Giver (ʿinyanim hakolelim asher mitsad hanoten; I.25). The variations among the laws are attributable to the geographical, temperamental, moral and dietary dissimilarities of the recipients. But while both the Noachic and Mosaic laws are temporally co-existent, identical in principle, and efficacious towards the attainment of human perfection, the Noachic law (torat benai noah) does not eventuate in "the same degree of happiness as that attained by Israel through the Torah" (ʿim shelo' haytah bamadregat

hahatslahah hamuseget leyiśra'el mitsad hatorah; (I.25).[46]

Albo, then, contends that the differences among the divine laws arise from the capacities of the recipients, according to which God tailors his revelation (III.13). For instance, to Adam God prohibited the consumption of meat, but to Noah he permitted it and forbade only the eating of meat from a living animal (III.14). This illustrates the mutability of all divine law, and hints at the possible mutability of even Mosaic law (III.14). Indeed, the last eight of the Ten Commandments could theoretically be changed (III.19). Sometimes the changes in divine laws are not altogether explicable by appealing to the differing circumstances of the recipients; not all the changes Moses made in the Noachic law possess exclusively conventional characteristics, e.g., parah adumah and zeri'at kil'ayim (III.19). Still, beneath all the variations among the divine laws the general principles (ha'iqqarim hakolelim) stay constant and fixed (III.19).

In sum, Albo uses the seven Noachic laws--not individually but as a legal corpus--as an exemplum of non-Mosaic and pre-Mosaic divine law. With it he is able to compare the several divine laws with one another and with the other categories of law. Because all divine law provides true opinions and knowledge of right actions, Noachic law clearly has a higher ranking in Albo's schema than natural or conventional law. Still, even among the divine laws Albo constructs a hierarchy in which Mosaic law supersedes Noachic law insofar as the former leads to a higher degree of happiness than the latter (I.25). The existence of a body of Noachic law helps Albo to assert the absolute supremacy of divine law in general and Mosaic law in particular. In addition, Albo's disparagement of the natural law esteemed by his Christian contemporaries appears to enhance still further the value of Mosaic law. It is noteworthy that whenever

Albo describes the Noachic law as an operative legal system obeyed by a group of people, he does so only in the past tense, only retrospectively towards Noah and his sons. We may cautiously infer from this that Albo's utilization of Noachic law is principally arcadian in character, i.e., Noahides observed these commandments eons ago. Perhaps Albo meant by this to imply that the Noachic law had fallen into desuetude in his own day, an implication which would have intensified his claim for the pre-eminence of the Torah among other divine laws. To a demoralized audience needful of good reasons to adhere to their religion and life-style in the face of growing Christian enmity and attacks on Judaism's theological integrity, Albo's message must have sounded reassuring.

CHAPTER VIII

MOSES MENDELSSOHN

The life and career of Moses Mendelssohn mark the beginning of the end to the Jewish Middle Ages and the dawning of modernity. Due in part to the influence of humanists like Erasmus (1466?-1536) and Locke (1632-1704) the growing tolerance for the Jew among European Christians had set in motion the gradual dissolution of medieval Jewish corporate life. Emphasized now were the individual, his humanity, which was identified with his capacity to think rationally, and his rights over against the collective.[1] Into this milieu Mendelssohn was born on September 6, 1729, in Dessau.

As a youth Mendelssohn, the son of a sofer and a descendant of Isserles, received a traditional Jewish education in the Talmud and its commentaries. But on his own he also studied Bible, Jewish philosophy and possibly even kabbalah.[2] As a boy Mendelssohn was educated under the aegis of David Fränkel, the chief rabbi in Dessau, and when in the summer of 1743 Fränkel left Dessau for Frankfort-an-der-Oder and then Berlin, the fourteen year-old Mendelssohn bid farewell to his parents and followed his teacher.

Although Berlin eventually became his permanent home, Jews were barred from living there unless the government had granted them the coveted right of domicile, which Mendelssohn in his own right obtained only in 1763 from King Frederick the Great. Because the right of domicile was generally given for economic reasons, Berlin Jewry had rigidly stratified itself into six classes which accentuated the importance of

wealth.[3] Jews' self-esteem came to be linked to wealth and affluence which in many cases cost Berlin Jewry its spiritual refinement.[4] Nevertheless, Mendelssohn was able to pursue his studies under the tutelage of men like Israel Samoscz, Abraham Kisch and A. S. Gumpertz in areas such as mathematics, modern and ancient European languages and Jewish and non-Jewish philosophy.

Through his reading of Locke's Essay Concerning Human Understanding (1689) Mendelssohn stepped into the world of modern philosophy.[5] Moreover, in the mid-1750's he applied himself to the Essais de Theodicée of Gottfried Leibniz (1646-1716) and the Vernünftige Gedanken and Ontologia of Christian Wolff (1679-1764). At the same time he made the acquaintance of Gotthold Ephraim Lessing, who proved to be Mendelssohn's lifelong friend.[6] The combined influence of Leibniz, Wolff and Lessing helped confirm Mendelssohn's belief in the truth of the rationalist philosophy of the Enlightenment.

Mendelssohn's literary career was launched in 1755 with the publication of the Philosophical Dialogues and Letters on the Emotions. The late 1750's and 1760's constituted a period of total immersion in philosophy and literary criticism, as well as prodigious production of essays, poetry, translations and sermons.[7] The German intellectual and academic communities heaped an array of honors upon this man who supported himself and his family throughout his entire life as a simple bookkeeper and later as a merchant. But the tranquility of Mendelssohn's world was shattered in 1769 when he became embroiled in what came to be called "the Lavater affair," to which we shall return below. From 1770 until his death Mendelssohn restricted his literary activity chiefly to Jewish concerns. He also worked towards the achievement of civil rights for the Jews, most notably

in the Cerf Berr episode in the early 1780's. Mendelssohn's last literary act was the authorship of a vindication of his friend Lessing from charges of Spinozism, the manuscript for which he delivered to the publishers just days before his death in 1786.

Intellectually Mendelssohn was a child of his age:

> His philosophy incorporates the dominant themes of Enlightenment philosophy: its emphasis on reason as the sole medium by which man acquires knowledge (and) fulfillment; its notion that man is endowed with eternally valid innate ideas of absolute goodness and truth; its belief that all men "are to be accounted by nature as equal" (Pufendorf); and its eudaemonistic orientation which sees the purpose of philosophy not in the discovery of truth but in the achievement of happiness by the individual and society through the perfection of man.[8]

Mendelssohn articulated these themes in their most representative form in Jerusalem, or on Religious Power and Judaism (1783), in which he set forth the thoughts, arguments and notes on Judaism that he had accumulated since the Lavater controversy.

The immediate occasion for the writing of Jerusalem was the appearance in 1782 of a pamphlet reputedly by the apostate Josef von Sonnenfels, but actually by August Friedrich Cranz.[9] Cranz "accused Mendelssohn of having undermined the authority of traditional Jewish religion by arguing for the abolition of the herem."[10] In Jerusalem Mendelssohn affirms the existence of three kinds of truths. In the first place, there are necessary, eternal truths like those of mathematics and logic, which originate in God's mind and cannot be changed even by God.[11] Secondly, there are contingent, eternal truths like those of physics and psychology, which stem from God's will and can be theoretically changed even as God's will can change.[12] Mendelssohn in fact subsumes under this category "the laws of nature according to which this universe, matter as well as spirit, is governed."[13] Both these categories of truths are independent of time and

thus deserve the label eternal.[14] The third category includes termporal, historical truths like those which precisely report historical events or those which accurately describe principles that receive acceptance at particular moments in time.[15]

God has providentially built into every human being faculties which are competent to understand corresponding kinds of truth. Thus, necessary, eternal truths are knowable a priori through pure reason; contingent, eternal truths are knowable a posteriori through rational reflection on observed phenomena; historical truths are knowable through historical evidence, credible witnesses, and other forms of corroboration.[16] Insofar as God has created the human psyche with the capacity to reason and to observe, He is a teacher of both kinds of eternal truth; insofar as God guarantees the veracity of at least some historical events such as the revelation at Sinai, He is also a teacher of historical truths.[17] By exercising our minds, human beings are autonomously able to apprehend eternal truths; but God is indispensible in establishing the final validity of historical truths.[18]

According to Mendelssohn, salvation or human happiness depends upon the comprehension of eternal truths; for this, unaided human reason is adequate.[19] In describing salvation as eternal happiness Mendelssohn formulates an essentially philosophical, not theological, conception.[20] Mendelssohn believed that the self-sufficiency of human reason for salvation was the only soterial theory consistent with God's moral character. To make salvation contingent upon a revelation given only to one people would imply the existence of a God indifferent to the eternal happiness of the majority of humanity.[21] Not only does Mendelssohn extend salvation universally by nations, but in conceiving of human reason as a

natural faculty of all individuals he offers salvation to the mass of humanity, not just to the intellectual elite.[22] According to Mendelssohn, these principles of the natural human ability to attain salvation and of the universality of salvation are basic tenets (Begriffe) of Judaism.[23]

In light of Mendelssohn's theory of salvation the Sinaitic theophany and the commandments of the revealed Mosaic law would appear superfluous. Also, because the occurrence of revelation at Sinai belongs to the category of historical truth and was tested by Israel at Sinai, no peculiarly religious truth of salvific import, i.e., eternal truth, could have been disclosed only there.[24] What was revealed at Sinai were commandments and ordinances (Gebote und Verordnungen) but not immutable religious truths (keine ewigen Religionswahrheiten).[25] This view gives rise to Mendelssohn's famous distinction between a revealed religion (einer geoffenbarten Religion), which Judaism is not, and a divine legistation (göttliche Gesetzgebung), which Judaism is.[26] "Supernatural legislation (übernatürliche Gesetzgebung) has been mistaken for a supernatural revelation of religion (übernatürliche Religionsoffenbarung)."[27]

Even though God taught no eternal truths per se at Sinai, rational truths are still so inextricably intertwined with Jewish law as to form an indivisible whole.[28] Jews are expected to retain and to adhere to Jewish law for several reasons. First, Jewish law remains in force to unify a community of monotheists in their struggle against idolatry and superstition. Second, since God has not yet abrogated it, Jewish law is still binding on Israel. And finally, the existence of a body of Jewish law poses a test of Christian tolerance.[29] With respect to idolatry and superstition it should be noted that Mendelssohn conceives of patriarchal

religion as pure and free from all idolatrous detritus, in essence, as natural religion.[30] But the purity of the abstract religious truths was inevitably tainted by superstition and idolatry and by the discrepancy between pristine conceptual truths and behavior inconsistent with them.[31] To correct this defect Moses gave Israel a ceremonial law to harmonize theory and praxis.[32]

Having adumbrated Mendelssohn's views on revelation, religious law and salvation, let us now turn to his first major reference to the seven Noachic commandments, which occurred during his dispute with Johann Casper Lavater (1741-1801), a pastor in Zurich. Lavater, who as a young man had first met Mendelssohn in Berlin in 1763, subsequently became enthralled by an apology for Christianity written by a Swiss professor of philosophy, Charles Bonnet (1720-1793). During the summer of 1769 Lavater translated into German a part of Bonnet's La Paligénésie philosophique, prefacing the work with a dedicatory epistle to Mendelssohn. In the epistle Lavater challenged him either to refute Bonnet's arguments regarding the truth of Christianity or to abandon Judaism and convert. Mendelssohn received an unbound copy of the translation on September 4, 1769, and the book together with its letter to Mendelssohn was published later that fall.

After deciding against an outright refutation of Bonnet's positions Mendelssohn chose, instead, to explain why his religion did not compel him to engage in any religious polemics. In his "Letter to Lavater," which Mendelssohn posted in December, 1769, and published in 1770, he described Judaism as "free from conversionist zeal."[33] He also noted that "his loyalty to Judaism . . . was the consequence of a decision based on the studies, inquiries, and the deliberations of his youth."[34]

Mendelssohn then confesses his reasons for not entering into a reli-

gious disputation. He contends that the only beliefs worthy of attack and refutation are those which have a deleterious affect on human happiness and morality. Fundamental views and convictions, however, should not be questioned, even if wrong prima facie, so long as they do not subvert natural religion or natural law.[35] Another reason Mendelssohn offers for his reluctance to rebut Bonnet's arguments is the harmful consequences such a reply might have on the socio-political status of German Jewry. "I am a member of an oppressed people which must appeal to the benevolence of the government for protection and shelter."[36] So as not to jeopardize his people's relations with the authorities and with the non-Jewish society around them, Mendelssohn refuses to castigate the religion of the host population.[37]

Prior to the foregoing reasons, however, Mendelssohn provides another, perhaps more fundamental motive for abstaining from the dispute. "According to the principles (den Grundsätzen) of my religion, I am mot expected to try to convert (zu bekehren) anyone not born into my faith."[38] In the first place, Jewish law is binding (verbindlich) only on Jews, the proof for which is Deuteronomy 33:4: "Moses commanded us a law, an inheritance of the congregation of Jacob." Furthermore, "all other nations were enjoined by God to observe the law of nature (das Gesetz der Natur) and the religion of the patriarchs (die Religion der Patriarchen)."[39] Mendelssohn footnotes this sentence with the following:

> The seven principal commandments of the Noahides, which roughly comprise the essential rules of natural law, (are): 1) refraining from idolatry, 2) from blasphemy, 3) from bloodshed, 4) incest, and 5) foreign property (robbery, theft). Further (is) 6) the administration of justice. These were supposed to have been made known to Adam, and finally (is) 7) the prohibition, made known to Noah, against the eating from living animals.[40]

Mendelssohn next identifies the law of nature and the religion of the patri-

archs with the religion of nature and of reason (Religion der Natur und der Vernunft), and claims that those who live in accord with this religion are counted among the righteous of the other nations and merit eternal bliss (der ewigen Seligkeit).[41] With respect to the righteous of the other nations Mendelssohn remarks in another footnote that Maimonides required not only observance of this natural law (Gesetz der Natur), but also belief in its promulgation by God.[42] "This addition, however, has no authority in the Talmud."[43] Mendelssohn then quotes Maimonides' letter to Hasdai Halevi regarding the doctrine of universal salvation of the righteous, and cites further on this point Mannasseh ben Israel, Judah Halevi and Rabbi Jacob Hirschel (Jacob Emden).[44]

Finally, Mendelssohn tries to demonstrate Judaism's unconcern with proselytizing by paraphrasing the rabbinic admonition to the potential convert. The rabbi is (a) to stress to the potential convert the seriousness of the decision, (b) to point out that as a non-Jew he need only fulfill the Noachic commandments but as a Jew he will have to comply with the whole of the written and oral law, and (c) to alert the potential convert to the oppression and degradation that await him as a Jew.[45] "As you can see, the religion of my fathers does not ask to be propagated."[46]

It is clear that in publishing this letter in German Mendelssohn betrayed his desire to reach a large and mostly non-Jewish audience. Mendelssohn used synonymously phrases like "natural religion," "natural law," "the religion of the patriarchs," "the religion of reason," and "the seven Noachic commandments." In so doing he presented the seven Noachic commandments as proof for Judaism's high regard for natural religion and for its tolerance of non-Jews. The existence of such a concept within the larger corpus of Jewish law attested for Mendelssohn to Judaism's recognition of

the universal salvation of those whose lives are directed by reason. In other words, the seven Noachic commandments testified to Judaism's compatibility with the values espoused in his Enlightenment milieu. In his "Letter to Lavater" Mendelssohn envisioned an audience committed to the Weltanschauung of the Enlightenment, one which would be favorably disposed to his appeal for tolerance and to his assertion of universal salvation through natural law.

The exchange between Mendelssohn and Lavater, however, sparked a larger controversy that swirled about Mendelssohn until 1771. He became the object of philosophical rebuke and personal calumny, and he fell victim to a nervous disorder which deflected him from his study of philosophy. The personal upshot of his crisis was a fuller appreciation of his loyalty to Judaism, his identity as a Jew and the chasm separating himself and his enlightened contemporaries.[47] Thereafter Mendelssohn pursued his study of Judaism with renewed vigor.

During this phase of his activity, some four years after he received Lavater's challenge, Mendelssohn wrote a letter to Jacob Emden (1697-1776), in which he made reference again to the seven Noachic commandments. Mendelssohn revered Emden as a guardian of Jewish tradition and cited him in the "Letter to Lavater" as an authority on the question of universal salvation for the righteous. As early as his Phaedon (1767), through the character of the pagan Socrates, Mendelssohn had advanced the doctrine of immortality for the righteous without revelation.[48] In his letter to Emden Mendelssohn returned to this theme and dissented from Maimonides' denial of salvation to disbelievers in the theogenesis of the seven Noachic commandments:

> As for the question concerning which I have enquired several times, and upon which my teacher and master has now made some observations,

thereby impelling me to bring it up again, it relates to what Maimonides wrote in the eighth chapter of 'Hilkhot Melakhim': The righteous gentiles need to accept upon themselves the seven (Noachic) commandments and to observe them because the Holy One, blessed be He, commanded them through the Torah and informed us through Moses our teacher that the Noahides were commanded concerning them in ancient times.

The Kesef Mishneh (Joseph Karo) wrote that Maimonides made this statement on the basis of his own reasoning and that he was correct. To me his words are harder than a flinty rock. Should all the inhabitants of the earth except ourselves be doomed to perdition unless they believe in the Torah, which was given as an inheritance to the congregation of Jacob alone; expecially as it (the concept of the seven Noachic commandments) is something not even expressly written down in the Torah but is transmitted only through the tradition of the chosen people or exegetically derived by its sages from the words of the Torah, from the verse, 'And the Lord God commanded . . .' (Gen. 2:16), concerning which Maimonides himself wrote in Chapter Nine that they (the seven Noachic commandments) are tradition, that we possess them from our rabbis and teachers, and from the general sense of the Torah it appears that they were commanded about them?

Even if the sages exegetically derived them by means of one of the thirteen hermeneutical rules, these rules themselves were accepted only by Israel and not by the rest of the peoples who fall into the category of benai noah. According to Rabbi Judah who said that Adam was only commanded about idolatry, the other six commandments were not mentioned at all in the Torah, much less commanded to the benai noah after that. We only possess them as a tradition from our ancestors.

What, then, shall the nations do who are not recipients of the light of the Torah and who received no tradition except from untrustworthy and unreliable ancestors? Does God, then, treat his creatures in the way of a tyrant, annihilating them and blotting out their names (by denying them a share in the world to come), though they committed no injustice? Is this called 'correct reasoning'?

I mentioned to my teacher and master at that time (of my previous letter) that it seemed that Maimonides arrived at this opinion from what he decreed passim in his books: that there is no good and bad, only conventions, and that they (conventional moral judgments) have no root or principle at all in rational concepts. If this is the case, then there is nothing to rely on for (determining) justice and injustice, good or bad, the becoming and the unbecoming, the inclination of opinion and the deliberation of wisdom. (One) needs (to receive such knowledge) from authoritative tradition, from a trustworthy person who received it from a trustworthy person and so on back to the origin of tradition. It seems that in the opinion of Maimonides even knowledge which is called conventional is not widely known among peoples except through Jewish tradition: At first there was a tradition from Adam and the sons of Noah, and the source of the tradition was forgotten by their descendants; the matter remained with them as a convention but they no longer knew its origin.

> Now (even) though these matters have been accepted by the intellect and are probably true, I have written my teacher and master, the lamp of Israel, for according to the method of Maimonides, may his memory be for a blessing, knowing the good and the bad without rational concepts is very strange. I need clear and correct arguments about the good and the bad, the just and the unjust, the becoming and the unbecoming, and their existence from the rational conception in truth . . .[49]

Obviously what disturbed Mendelssohn was that Maimonides excluded from salvation non-Jews who do not accept the revelatory character of the seven Noachic commandments. The insularity implicit in Maimonides' exclusion contradicted Mendelssohn's "portrayal of Judaism as a religion that distinguished between the revealed laws binding upon Jews and 'the law of nature' valid for all men."[50] At stake was Mendelssohn's lifetime enterprise, namely, the delineation of the harmony between classical Judaism and Enlightenment opinion. In his attempt to refute Maimonides' stipulation Mendelssohn appealed extra-halakhically to God's justice: in order to withhold salvation from non-Jews who do not affirm the theogenesis of the seven Noachic commandments, God would have to judge them on the basis of the Torah and its exegetical development within Judaism, to which non-Jews have little or no access. This would be tantamount to impugning God's fairness in his relations with humankind. In addition, Mendelssohn seems to fear that Maimonides' rejection of the self-sufficiency of human reason, if representative of Judaism as a whole, would clash irremediably with Mendelssohn's Enlightenment anthropology:

> Mendelssohn . . . based his tolerance (for non-Jews) not on a common belief in revelation, but on the common humanity of all those led by reason to live in accordance with the Law of Nature which, the philosophy of Rationalism taught, was both good in essence and innate in every human being.[51]

Thus Mendelssohn's objection to Maimonides' ruling stems from two sides of his universalism: God's utterly just treatment of all people and the

ability to reason shared by all human beings qua human.

Emden replied to Mendelssohn's letter quickly. In a letter dated November, 1773, Emden, although agreeing with Mendelssohn about the rational character of moral law, sustained Maimonides' ruling on the strength of a welter of Talmudic and halakhic references and independent arguments.[52] Mendelssohn's reaction to Emden's riposte in favor of Maimonides is unknown, though he was, according to Altmann, likely unaffected by it:

> The ideal Judaism to which Mendelssohn aspired possessed a kind of Platonic reality for him, and there were more occasions still in store for him to defend this vision.[53]

It is significant, however, that in Jerusalem, composed a decade after his Briefwechsel with Emden, Mendelssohn refrained from any mention of the concept of the seven Noachic commandments even in a passage where its inclusion would seem perfectly appropriate:

> According to the tenets of Judaism, all inhabitants of the earth have a claim to salvation, and the means to attain it are as widespread as mankind itself, as liberally dispensed as the means of satisfying one's hunger and other natural needs.[54]

Altmann is correct that Mendelssohn's conception of Judaism remained essentially unchanged by Emden's rejoinder, but he appears to have abandoned the equation of the seven Noachic commandments with natural law and natural religion--at least for the purpose of publication.

CHAPTER IX

CONCLUSION

Throughout history Jewish thinkers have read into the concept of the seven Noachic commandments a myriad of connotations, and in philosophical and other kinds of discourses the concept has served a variety of purposes. Once the concept had fully crystallized in post-talmudic and medieval times, we find a major shift in the concept's import and use from the premoderns to the moderns. The premoderns (Judah Halevi, Maimonides, the mefarshim and Joseph Albo), each in his own way, tend to emphasize the explicit theogenesis of the seven Noachic commandments, while the moderns discount the immediately supernatural origin of the concept and stress, instead, its purely moral, i.e., rational side. This change typifies a larger move in Jewish religious thought since the eighteenth century: the rejection of a single source (divine command) for law and ethics, and the insistence upon the primacy and independence of ethics from religion.[1]

According to Judah Halevi, Noah experienced genuine prophecy, i.e., connection with the supernatural ha'inyan ha'elohi, and received commandments, although Judah Halevi never forthrightly identified the contents of Noah's commandments with the traditional seven Noachic commandments. But even if the notion of seven Noachic commandments was for him a rabbinic invention and the Gen. 2:16 passage, a mere mnemonic asmakhta', it still derived from a reliable tradition which was ultimately guaranteed by the Sinaitic revelation. Maimonides concurred with

Judah Halevi on the authenticity of Noah's prophecy, but for Maimonides Noah's prophecy, like all prophecy, resulted from Noah's intellectual and imaginative perfection which prepared him for receiving the overflow of the Active Intellect. Maimonides also stipulated that in order to earn salvation the Noahide must not only observe the seven Noachic commandments, but believe in their divine source. Moreover, in contending that six of the seven Noachic commandments were evident from the overall tenor of the biblical text, Maimonides further strengthened his claim for their non-rational, divine origin.

Similarly, the mefarshim, taken as a whole, upheld Noah's status as a prophet, though they wavered over the prophethood of his sons. For the most part they, too, assented to the view that the seven Noachic commandments were legislated by God and conveyed through prophecy. Finally, Joseph Albo--perhaps more deliberately and more self-consciously than any other figure studied--construed the seven Noachic commandments as divine law, akin in that regard to Mosaic law. Originating in God and communicated through the prophet Noah, the seven Noachic commandments were, according to Albo, sharply set off from natural law and conventional law. For these premoderns, then, the accent fell on the revealed, supernatural character of the seven Noachic commandments, though many of them, e.g., Maimonides, Ramban and Sforno, also acknowledged the commandments' reasonableness.

The meaning ascribed by the premoderns to the Noachic commandments and to their theogenesis is also visible rhetorically. For Judah Halevi the seven Noachic commandments illustrated rabbinic methods and their trustworthiness. For Maimonides they served mostly as theoretical laws, which the philosopher-jurist needed to know in order to enforce them in

the reconstituted Jewish state ushered in by the messiah. For Albo they exemplified the superiority of all divine law over the other kinds of law, and within the category of divine law, the supremacy of Mosaic law.

Although Mendelssohn was the only modern figure actually surveyed in the foregoing chapters, we might take this opportunity now to enroll in the list of moderns the radical reformer, Samuel Holdheim (1806-1860), and the neo-Kantian philosopher, Hermann Cohen (1842-1918). According to Holdheim, Israel's mission consisted not in converting the world to Judaism and thereby destroying nations' unique characteristics; neither did Israel's raison d'être lie in the imposition of Mosaic law upon the world's peoples. Rather, Israel's messianic task was to teach to the nations of the world the seven Noachic commandments, "to make the pure knowledge of God and the pure law of the morality of Judaism the common possession of humanity."[2] Holdheim modified the traditional version of the commandments so that "what the ancient sages called the seven Noachic duties in their universal application, we now call the Jewish idea of God and the Jewish ethical Weltanschauung."[3]

For Cohen, God's covenant with Noah represented God's relation with all humanity and with nature itself.[4] With the exception of the prohibitions against idolatry and blasphemy, neither of which compelled belief in the Jewish God,[5] the seven Noachic commandments bore a purely moral character (lediglich sittlichen Charakters).[6]

> The concept of the Noahide is the foundation for natural law (begründet das Naturrecht) not only as an expression of the objective law but also as a determination of the subject of the law.7

For Cohen, the seven Noachic commandments, as the criteria for the ger toshav, provide the natural basis for non-Jewish participation in a

Jewish state.[8] Moreover, by not commanding belief in the Jewish God the concept of the seven Noachic commandments epitomized the truly theocratic state, one in which the state and morality, not the state and religion, were united.[9] Beyond foreshadowing natural law the seven Noachic commandments also stood for freedom of conscience and for tolerance.[10]

Conceptually, then, the three modern discussants of the seven Noachic commandments, Mendelssohn, Holdheim and Cohen, attenuate the importance historically attributed to the concept's superhuman origin and accentuate, instead, its moral and rational side. Mendelssohn prized its eudamonistic potency, Holdheim esteemed its pedagogical role in Israel's mission, and Cohen valued it as a political and moral paradigm for natural law. Within the context of Mendelssohn's arguments the seven Noachic commandments signified Judaism's recognition of the salvific efficacy of natural law and natural religion, and, by extension, then, they counted as evidence of Judaism's concurrence with the rationalistic world-view of the Enlightenment. Rhetorically, for Holdheim they provided the pure (i.e., free from empirical elements and a priori) theology and ethics which Jews could proudly teach other peoples in keeping with Israel's mission and without fear of being charged with chauvinism. Again, for Cohen's argument they functioned as a natural means for enfranchising non-Jewish monotheists into a Jewish state and the Jewish religion, and as a model for the natural law of the theocratic state.

Oddly enough, the three men who take up the seven Noachic commandments with specific reference to natural law arrived at contradictory conclusions. Albo sharply differentiated the seven Noachic commandments qua divine law from natural law, while Mendelssohn and Cohen identified the two. Throughout its long history the theory known as natural law has

undergone so many changes that it is frequently difficult to speak of it in generalities.

In the opinion of the medieval natural lawyers the epistemological basis for natural law was human reason whose adequacy as a medium for perceiving natural law depended not on the faculty's inherent power but on God, the creator, who arraged both nature and the human psyche such that through the exercise of reason knowledge of right and wrong was available to us through nature. Through creation itself God, the ultimate promulgator of all law, had given us access to norms for action, virtue and society. For the medievals natural law furnished a foundation for a naturalistic ethics which was regarded as distinct, though not separate, from revealed ethics and which required supplement by grace to secure for the individual eternal blessedness.[11] In modern times the epistemology behind natural law theory has devolved upon autonomous human reason divorced from God and his revelation-in-creation. According to modern theories, the self-evident character of natural law makes it subject to the canons of logic and the workings of reason, not to God's will or human experience as such.[12]

Moses Mendelssohn seemed to subscribe to the medieval epistemology for natural law. In Jerusalem he implied that natural law derived from our relation with divinely created nature, that natural law was thus an expression of divine will (Äusserungen des göttlichen Willens), and that religion sanctioned but neither contradicted nor compounded the obligations imposed by natural reason.[13] To the extent that faith in God, providence and future life was for Mendelssohn the sine qua non for neighborly love (Menschenliebe), as well as for the functioning of the state,[14] he retained the medieval marriage of theology and natural law. Thus, insofar

as God commanded natural law through natural reason, Mendelssohn perpetuated the medieval conjunction of revelation-in-creation and natural law. In the last analysis, however, ungraced reason is, according to Mendelssohn, self-sufficient for the attainment of eternal happiness, which constitutes a decidely modern twist.[15]

To the meta-legal question, is law an act of will (the command of God, a king, a legislator) or an act of intellect (the obligation known intrinsically from a rational proposition)? natural law theory answers in favor of the intellect.[16] Throughout its many transmutations natural law's most constant feature has been the quest for an absolute standard of justice, for a perfect law by which all law can be tested.[17] Classical rabbinic Judaism shares neither this idealistic presumption of a rift between the legal "ought" and "is" nor the faith in the power of human reason to know with certainty the legal "ought." For the rabbis the Torah embodies the highest legal "ought" as well as the legal "is," and the competence of human reason to determine the good and the right is fully realized only insofar as reason is preoccupied with the elucidation and application of Torah.

The seven Noachic commandments highlight the rabbinic interest in tracing all law back to God's word ensconced in the Torah, e.g., the Gen. 9:1-7 pericope or the Gen. 2:16 verse. To the extent that the seven Noachic commandments appear in premodern rabbinic thought to be promulgated by God through revelation and through human interpretation of that revelation, they do not presuppose the same purely rational foundation as natural law. Furthermore, nowhere in Jewish literature is the view expressed that the seven Noachic commandments should be the measure of Mosaic law. To be sure, the two laws coincide in some areas,

but no one argues that when or if the two clash, we should decide for the Noachic law. Noachic law does not, then, stand as an ideal law for judging the taryag mitsvot.

Nevertheless, the seven Noachic commandments do perform this critical task, comparable to that of natural law, vis-à-vis other laws. For Albo, for example, insofar as they are divine and ipso facto superior to other laws in dignity, the seven Noachic commandments may indeed be employed to evaluate natural and conventional law. Even in their talmudic formulation the seven Noachic commandments may be invoked to assess non-Jewish law in order to ascertain whether their non-Jewish subjects qualify as benai noah. Indeed, the very category of ben noah is a normative one, emcompassing in principle all humanity but in fact only that fraction of humankind that obeys the seven commandments. Therefore, vis-à-vis human positive law, but not vis-à-vis Mosaic law, the seven Noachic commandments possess potentially the same critical edge as natural law.

The evidence, then, is mixed with respect to the correspondence between Noachic law in Jewish thought and natural law in Western philosophy and legal theory. Perhaps the ambiguity arises over two components of natural law theory: its universality and its rationality. All the personalities reviewed in this thesis would wish for the eventual inclusion of all non-Jews in the category of ben noah, but the moderns and the premoderns part ways over the rationality of the seven Noachic commandments, i.e., whether their intrinsic rightness can be known apart from revelation and demonstrable by reason. Thus, the concept of seven Noachic commandments tells us something about the dangers of distorting Jewish concepts to fit the Procrustean bed of European philosophical vocabulary.

The fact that some of the preceding insights resulted from our use of the phenomenological-rhetorical method in this thesis and some did not, is indicative of the usefulness of the method. It will be recalled that the phenomenological-rhetorical method required that we study closely the rhetoric of an argument. By attending to the language, the metaphors, the appeals and other techniques a speaker utilizes in an argument, we hoped to describe phenomenologically the speaker's intentions, his view of his audience and its milieu, and his conception of the issue at hand. Armed with such insights, culled from several speakers, we would then be able to compare and contrast the world views of various audiences or at least the world views imputed to them by the speakers.

The phenomenological-rhetorical method, however, has proved useful only in some cases with several common features, notably, those of Maimonides and Mendelssohn. In the first place, a small library of biographical literature could be assembled on either Maimonides or Mendelssohn. Moreover, historians of different stripes have furnished us with a wealth of information on their audiences, their political and social settings, their intellectual and cultural environments. Finally, both Maimonides and Mendelssohn have bequeathed to us voluminous writings in languages and literary genres about which a great deal is known.

On the other hand, the method failed to produce significant findings or insights in the chapters on the biblical and tannaitic and amoraic literatures. In these cases adequate biographical information on the authors is lacking, and often the author's identity is entirely anonymous. Secondly, learning about the composition of the audiences is complicated not only by a paucity of data on them as well as the possibility of multiple audiences, but also by the simple fact that all too

often we cannot specify with confidence who the audiences were. Furthermore, without mastery of the language of the audience, of the language's nuances and the symbolic dimensions of its vocabulary, as well as the meaning of its current genres, analyzing the rhetoric of the text and the phenomenology of its author's perception of his audience is nonsensical.

We must conclude, therefore, that the phenomenological-rhetorical method works best on topics and figures which historians, philosophers, sociologists, or art and literary critics have already studied in depth. At most, it seems that our method may fill in the lacunae in other interpretations, it may yield original insights on small matters, it may "fine-tune" other theories. But as a prerequisite our method needs a sturdy foundation laid by other disciplines before it can begin to build.

This prerequisite betrays a maximum-information bias: it presumes that the figure under consideration lived during a time and in a society, about which much data have been accumulated, and wrote in languages and literatures, which are immediately accessible to the scholar; in short, that the figure is very nearly modern. This is not suggesting that this method is inapplicable to personalities prior to the sixteenth or seventeenth century. In order to use this method on ancient and medieval figures, however, the scholar must collect an enormous amount of background research into the languages, literatures and history of the period under discussion, and even then the results are tenuous because of the relative scarcity of extant data.

That the passage of time lessens the effectiveness of our method leads to the next point about it: it is most useful as a tool for micro-research. When a student wants to pursue a single figure or topic in

depth, gathering as much information as can be gleaned from the primary and secondary sources, the phenomenological-rhetorical method will serve him well. When, however, a student chooses to engage in macro-study, e.g., a history of an idea, for which depth is necessarily sacrificed for breadth, the utility of the method will be less consistent. To the extent that this thesis has taught us the circumstances to which this phenomenological-rhetorical method is most suited, this thesis has made an immense contribution to an understanding of the method.

NOTES TO CHAPTER I

THE PHENOMENOLOGICAL - RHETORICAL METHOD

[1]Stephen E. Toulmin, An Examination of the Place of Reason in Ethics (Cambridge: Cambridge University Press, 1970), p. 140.

[2]Ibid.

[3]Stephen E. Toulmin, The Uses of Argument (Cambridge: Cambridge University Press, 1969), p. 234.

[4]Ibid., p. 255.

[5]Ibid., p. 256.

[6]Ibid., p. 257.

[7]Chaim Perelman and L. Olbrechts-Tyteca, The New Rhetoric, trans. John Wilkinson and Purcell Weaver (Notre Dame: University of Notre Dame Press, 1971), pp. 49-51.

[8]Abba Eban, An Autobiography (New York: Random House, 1977), p. 431.

[9]Ibid., p. 429.

[10]Ibid.

[11]Jacob Katz, Exclusiveness and Tolerance (New York: Schocken Books, 1973), p. 3.

[12]Ibid., pp. 114-128. The phrase umot hagedurot bedarkhai hadatot, which Katz translates as "nations restricted by the ways of religion," was used by Ha-Me'iri to exclude Christians and Moslems from the category of idolaters. In coining this term Ha-Me'iri conferred upon Christianity a degree of legitimacy heretofore withheld by halakhists.

[13]Ibid., p. 121.

[14]Boaz Cohen, Jewish and Roman Law, Vol. I (New York: Jewish Theological Seminary of America, 1966), pp. 26-7, 271, 281.

[15]Ibid., pp. 26-27.

[16]See Isaac Herzog, "John Selden and Jewish Law," Journal for Comparative Legislation 13 (1958): 239-245, and Shabtai Rosenne, "The Influence of Judaism on the Development of International Law," Netherlands International Law Review 5 (1958): 128-130.

[17]Nathan Isaacs, "The Influence of Judaism on Western Law," The Legacy of Israel, eds. Edwyn Bevan and Charles Singer (London: Oxford University Press, 1927), pp. 377-406.

[18]Cohen, p. 380.

[19]Ibid., p. 136.

[20]Moshe Greenberg, "Mankind, Israel, and the Nations in the Hebraic Heritage," No Man is Alien, Essays on the Unity of Mankind, ed. J. Robert Nelson (Leiden: E. J. Brill, 1971), pp. 15-40.

[21]Raphael Loewe, "Potentialities and Limitations in the Halakhah," Studies in Rationalism, Judaism, and Universalism in Honor of Leon Roth, ed. Raphael Loewe (London: Routledge and Kegan Paul, 1966), pp. 115-150.

[22]Ibid., p. 122.

[23]Ibid., p. 136.

[24]David Novak, "A Foundation for Jewish Philosophy, Preliminary Comments," Journal of Reform Judaism 23:3 (Summer 1979): 84-90.

[25]David Novak, "Should Jews Proselytize?" Sh'ma Vol. 9, No. 179 (19 Oct., 1979), pp. 153-155.

NOTES TO CHAPTER II

BIBLE AND PSEUDEPIGRAPHA

[1]E. A. Speiser (intro., trans., anno.), Genesis, The Anchor Bible (Garden City: Doubleday and Company, Inc., 1964), p. 58.

[2]Ibid., p. xxiv.

[3]Bernhard W. Anderson, Understanding the Old Testament (Englewood Cliffs: Prentice-Hall, Inc., 1975), p. 426.

[4]Gerhard von Rad, Old Testament Theology, trans. D. M. G. Stalker, Vol. I (New York: Harper and Row, Publishers, 1962), pp. 129-130.

[5]Walther Eichrodt, The Theology of the Old Testament, trans. J. A. Baker (Philadelphia: The Westminster Press, 1975), p. 86.

[6]von Rad, p. 134

[7]Eichrodt, p. 58.

[8]Ibid., p. 56.

[9]von Rad, pp. 134-5; Anderson, pp. 434-5.

[10]Frank Moore Cross, Canaanite Myth and Hebrew Epic: Essays in the History of the Religion of Israel (Cambridge: Harvard University Press, 1973), p. 306.

[11]von Rad, p. 78.

[12]Anderson, p. 433.

[13]Ibid.

[14]Ibid.

[15]Ibid., pp. 432-3.

[16]Ibid., p. 431.

[17]Speiser, p. xxiv.

[18]Ibid., p. xxv.

[19]Anderson, p. 423.

[20]Speiser, p. xxv. Compare, e.g., P's creation myth in Gen. 1:ff with J's version in Gen. 2:4b-24.

[21]Ibid., p. xxvi.

[22]Anderson, p. 423.

[23]John Bright, A History of Israel (Philadelphia: The Westminster Press, 1972), pp. 349-50.

[24]The translation quoted is Speiser's p. 57.

[25]Gerhard von Rad, Genesis, A Commentary, trans. John H. Marks (Philadelphia: The Westminster Press, 1973), p. 131; and Yehezkel Kaufman, The Religion of Israel, trans. and abridged by Moshe Greenberg (New York: Schocken Books, 1972), p. 166.

[26]John Skinner, A Critical Exegetical Commentary on Genesis, The International Critical Commentary (New York: Charles Scribner's Sons, 1917), p. 169; and Sean McEvenue, The Narrative Style of the Priestly Writer, Analecta Biblica: 50 (Rome: Biblical Institute Press, 1971), p. 67.

[27]Skinner, p. 169.

[28]McEvenue, p. 68.

[29]Skinner, p. 170.

[30]von Rad, Genesis, p. 132.

[31]McEvenue, pp. 68-9.

[32]Ibid., p. 69.

[33]Ibid., p. 70 fn. 710.

[34]von Rad, Genesis, p. 132.

[35]McEvenue, p. 70.

[36]von Rad, Old Testament Theology, p. 157.

[37]von Rad, Genesis, pp. 132-3.

[38]Speiser reads uredu, along with the LXX, instead of urevu, in order to maintain the parallel with Gen. 1:28. See p. 57.

[39]McEvenue, p. 67.

[40]von Rad, Genesis, p. 134.

[41]A. Cuthbert Simpson (intro. and anno.), The Book of Genesis, The Interpreter's Bible, Vol. I (New York: Abingdon, 1952), pp. 549-550.

[42]Herbert Chanan Brichto, "On Slaughter and Sacrifice, Blood and Atonement," Hebrew Union College Annual Vol. 57 (1976), p. 42.

[43]Ibid., p. 49.

[44]von Rad, Genesis, pp. 130-1.

[45]P's Noachic cycle consists of: 6:9-22; 7:6; 7:11; 7:13-16a; 7:17a; 7:18-21; 7:24-8:2a; 8:3b-5; 8:13a; 8:14-19; 9:1-17; and 10:28-29.

[46]von Rad, Genesis, p. 133.

[47]R. H. Charles (ed.), "The Book of Jubilees," The Apocrypha and Pseudepigrapha of the Old Testament in English, Vol. II (Oxford University Press, 1964), p. 1.

[48]Ibid., pp. 6-7.

[49]James C. Vanderkam, Textual and Historical Studies in the Book of Jubilees (Missoula: Scholars Press for Harvard Semitic Museum, 1977), pp. 207-217.

[50]Vanderkam, p. 283.

[51]In the opinion of Ben Zion Wacholder the date of the Book of Jubilees is prior to Antiochus IV's persecution of Judaism, because the Book seems to be unaffected by the events that shook Judea in the 160's. See his Temple Scroll (Unpublished manuscript, Cincinnati, Ohio 1978-79), p. 115. If Wacholder's pre-Hasmonean dating proves correct, then the work would also be pre-sectarian, an implication with significant consequences for the identification of Jubilees' audience.

[52]Vanderkam, pp. 1-18.

[53]Charles, p. 8.

[54]Ibid., p. 1.

[55]Vanderkam, p. 283.

[56]Yehoshua Grintz, "Jubilees, Book of," Encyclopaedia Judaica 10 (1972): 325.

[57]Chanoch Albeck, "Das Buch Jubiläen und die Halacha," 47ster Bericht der Hochschule für die Wissenschaft des Judentums, 47 (1930): 4. (My translation)

[58]According to John Kampen (conversation on Dec. 12, 1979), the tracing of the Torah back to patriarchal and pre-patriarchal figures is typical of pseudepigraphic literature. The attempt to establish a phenomenon's oldness may derive from the Hellenistic view that antiquity equals superiority.

[59]Louis Finkelstein, "Some Examples of the Maccabean Halaka," Journal of Biblical Literature 49 (1930): 24-25.

[60]Ibid., p. 25.

[61]It should be noted that in the Book of Jubilees the role of gentiles within a Jewish polity or legal system is nowhere broached. For example, the prohibition against eating flesh with the blood still in it (Jub. 6:4-14) appears to be directed at Israelites, not to non-Jewish residents of Palestine or to all humanity. See Wacholder, p. 97.

[62]Finkelstein, p. 23; See also Louis Finkelstein, "The Book of Jubilees and the Rabbinic Halaka," Harvard Theological Review 16:1 (January 1923): 61.

[63]Finkelstein, "Examples," pp. 21-24.

[64]Ibid., p. 24.

[65]Ibid., p. 23.

[66]Albeck, pp. 34 and 59 fn. 231.

[67]Ibid., p. 59 fn. 231.

NOTES TO CHAPTER III

TANNAITIC, AMORAIC AND RELATED LITERATURE

[1]The passage continues: "How do we know about laws? Just as Israel is commanded to establish courts in their cities. About idolatry and about blasphemy how do we know? . . . About sexual trespass how do we know? Every forbidden relation for which a Jewish court can condemn capitally, the sons of Noah have been commanded about--according to R. Meir. The sages say: Many forbidden relations for which a Jewish court cannot condemn capitally, the sons of Noah are still commanded about; these are the relations which the nations judge according to their own laws and they differ only over the betrothed maiden. How do we know about bloodshed? If a gentile kills a gentile or a gentile kills a Jew, he is culpable. If a Jew kills a gentile, he is exempt from punishment. About robbery? If a man steals property, including a handsome woman and similar things--if a gentile steals it from a gentile or a gentile steals it from a Jew, it is prohibited. If a Jew steals it from a gentile, it is permitted."

[2]Following Moshe Shemuel Zuckermandel (ed.), Tosefta (Jerusalem: Hotsaat Bamberger et Wahrmann, 1937), pp. 473-4.

[3]Jacob Neusner, The Tosefta--Tohorot (New York: Ktav Publishing House, Inc., 1977), p. x.

[4]See note 1.

[5]William G. Braude and Israel J. Kapstein (trans. and ed.), Pesikta de-Rab Kahana (Philadelphia: The Jewish Publication Society of America, 1975), p. xlvi.

[6]Ibid., pp. xviii-xix.

[7]See Aharon Heiman, Sefer Toldot Tannaim Veamoraim, Heleq Shelishi (Jerusalem: Hotsaat Qeriyah Neemanah, 1964), p. 869. In b. Yoma? 77b R. Shimon b. Gemaliel (mid-second century) is quoted by the Tanna. Then in b. Shabbat 52a Rav Yosef (mid-fourth century) and in b. Sanhedrin 56b Rava (also mid-fourth century) quote the Tanna.

[8]Saul Berman, "Noahide Laws," Encyclopaedia Judaica 12 (1972): 1191.

[9]H. G. Enelow (ed., intro., and anno.), Mishnat Rabbi Eliezer (New York: The Bloch Publishing Company, 1933), pp. 59-60.

[10]Moshe David Herr, "Midrashim, Smaller," Encyclopaedia Judaica 16 (1972): 1515.

[11]Enelow, p. 121.

[12]Michael Cook, Oral Conversation, Cincinnati, Ohio, May 11, 1979.

[13]Martin Dibelius, Studies in the Acts of the Apostles, ed. Heinrich Greeven, trans. Mary Ling (London: SCM Press, Ltd., 1956), p. 97.

[14]Ibid.; Ernst Haenchen, The Acts of the Apostles, A Commentary, trans. Bernard Noble et al (Philadelphia: The Westminster Press, 1971), p. 471.; and G. H. C. Macgregor (ed. and anno.), The Acts of the Apostles, The Interpreter's Bible, Vol. XI (New York: Abingdon, 1954), p. 204.

[15]Haenchen, p. 469.

[16]Macgregor, pp. 203-4.

[17]W. D. Davies, Paul and Rabbinic Judaism (New York: Harper and Row, Publishers, 1948), p. 118.

[18]Alexander Guttmann, Rabbinic Judaism in the Making (Detroit: Wayne State University Press, 1970), p. 181.

[19]David Novak, "The Origin of the Noahide Laws," Perspective on Jews and Judaism, Essays in Honor of Wolfe Kelman, ed. Arthur A. Chiel (New York: The Rabbinic Assembly, 1978), p. 309.

[20]Ibid.

[21]Ibid., pp. 304-5.

[22]Ibid., pp. 309-310.

[23]Ibid., p. 310.

[24]Ben Zion Wacholder, Oral Conversation, Cincinnati, Ohio, May 3, 1979.

[25]Flavius Josephus, "The Antiquities of the Jews," Josephus--Complete Works, trans. William Whiston (Grand Rapids: Kregel Publications, 1960), p. 251f.

[26]Ben Zion Wacholder, Oral Conversation, Cincinnati, Ohio, May 3, 1979.

NOTES TO CHAPTER IV

JUDAH HALEVI

[1]Yitzhak Baer, A History of the Jews in Christian Spain, trans. Louis Schoffman, Vol. I (Philadelphia: The Jewish Publication Society of America, 1961), pp. 47-8.

[2]Henry Slonimsky (ed. and intro.), Judah Halevi, The Kuzari, trans. Hartwig Hirschfeld (New York: Schocken Books, Inc., 1964), p. 18.

[3]Baer, p. 50.

[4]Ibid., p. 60.

[5]Encyclopedia Hebraica, "Judah Halevi," Encyclopaedia Judaica, 10 (1972): 355.

[6]Ibid., p. 356; and David Druck, Yehuda Halevy, His Life and Works, trans. M. Z. R. Frank (New York: Bloch Publishing company, 1941), p. 47.

[7]Isaak Heinemann, "Introduction to Jehuda Halevi: Kuzari", Three Jewish Philosophers (New York: Atheneum, 1973), pp. 9-10.

[8]Baer, p. 73.

[9]Slonimsky, p. 21.

[10]Shelomo Dov Goitein, "The Biography of Judah Halevi in Light of the Cairo Genizah Documents," Proceedings of the American Academy for Jewish Research 28 (1959): 51.

[11]Encyclopedia Hebraica, p. 358.

[12]Baer, pp. 76-77.

[13]Heinemann, p. 12.

[14]Leo Strauss, "The Law of Reason in the Kuzari," Proceedings of the American Academy for Jewish Research 13 (1943): 64.

[15]Ibid., p. 50.

[16]Ibid., p. 56-7.

[17]Ibid., p. 55.

[18]Baer, p. 392 fn. 61.

[19]Baer, p. 74.

[20]Strauss, pp. 51-52.

[21]Heinemann, p. 11.

[22]Isaac Husik, A History of Medieval Jewish Philosophy, (New York: Atheneum, 1973), pp. 152-3.

[23]Julius Guttmann, Philosophies of Judaism, into. R. J. Zwi Werblowsky, trans. David W. Silverman (New York: Schocken books, 1973), p. 138-9.

[24]Guttmann, pp. 138-9.

[25]Ibid., p. 137.

[26]Ibid., p. 140.

[27]Husik, pp. 150-152.

[28]Heinemann, p. 20. It should be noted that, while Judah Halevi seems in Book One and in IV.16 to hold that truth is known through sense perception, in IV.3 he appears to contradict himself. There he argues that the senses cannot perceive the essence of things; only reason is capable of that. See Aryeh Leo Motzkin, "On Yehudah Halevi's Kuzari as a Platonic Dialogue," Iyyun Vol. 28, Nos. 2-3 (April-July 1978), pp. 216-217.

[29]Israel Efros, Studies in Medieval Jewish Philosophy (New York and London: Columbia University Press, 1974), p. 144. The nature and the function of ha^ʿinyan ha^ʾelohi are extraordinarily difficult problems, and have a long-standing history in Jewish philosophy. In this text we do not try to solve them, but rather we wish to note our awareness of the problems. We have combined several different interpretations.

[30]Ibid., p. 145.

[31]Husik, p. 165.

[32]Efros, p. 149.

[33]Ibid., p. 150.

[34]Husik, p. 167. But see in IV.3 where Judah Halevi seems to retreat on prophecy's supernaturalism.

[35]Ibid., p. 166.

[36]Ibid., p. 158.

[37]Harry Austryn Wolfson, "The Veracity of Scripture from Philo to Spinoza," Religious Philosophy (Cambridge: The Belknap Press of Harvard University, 1961), p. 220.

[38]Strauss, p. 72. The relationship between Judah Halevi and the protagonist of the Kuzari, hehaver, is complicated. Just as in the Platonic dialogues, which the Kuzari strongly resembles, we cannot identify Plato with the literary Socrates, so, too, we must be cautious in equating Judah Halevi with the haver. See Motzkin, pp. 209-216.

[39]Strauss, pp. 66-72.

[40]Ibid., pp. 72-73.

[41]Hirschfeld's translation, p. 111.

[42]Ibid.

[43]Ibid., p. 144.

[44]Ibid., p. 59. Notice that Judah Halevi does not specify the contents of these laws.

[45]Ibid., p. 302 fn. 15.

[46]Ibid., p. 194.

[47]Arnost Zvi Ehrman, "Asmakhta," Encyclopaedia Judaica 3 (1972): 751.

[48]According to Judah Halevi, the rabbis derived the commandment to administer law from vayetsav and the prohibition against idolatry from elohim in Gen. 2:16. While this is faithful to R. Yohanan's exegesis in b. Sanhedrin 56b, it does not incorporate the corrections of the later amoraim which are consistently repeated in subsequent texts (Pesiqta> Derav Kahana>, Shir Hashirim Rabbah, Bereshit Rabbah), viz., dinim from elohim and <avodah zarah from vayetsav. In other words, Judah Halevi got the standard mnemonic device wrong.

[49]About accepting rabbinic exegeses no longer understood by us, Judah Halevi writes, "Considering the well-known wisdom, piety, zeal and number of the Sages which excludes a common plan, it is our duty to follow them. If we feel any doubt, it is not due to their words, but to our own intelligence." Hirschfeld's translation, p. 194.

[50]Goitein, p. 46.

[51]It is tempting to argue further that for Judah Halevi the existence of the seven Noachic commandments attests to the reliability of Jewish tradition even when it antedates Sinai. Unfortunately, it is not at all certain that in Judah Halevi's opinion Noah or his sons received seven commandments. It seems equally likely, based on III.73, that Judah Halevi believed them to be rabbinic creations.

[52]Goitein, pp. 46-47.

NOTES TO CHAPTER V

MOSES MAIMONIDES

[1]The question of whether or not Maimonides and his family actually converted to Islam at this time remains unsettled. For example, while Zeitlin answers affirmatively, Friedlander thinks not. See Solomon Zeitlin, Maimonides, A Biography (New York: Bloch Publishing Company, 1935), pp. 2-3, and M. Friedlander (trans. and ed.), Moses Maimonides, The Guide for the Perplexed (New Dover Publications, Inc., 1956), pp. xvii-xviii. For a recent review of this problem, see Rose Lewis, "Maimonides and the Muslims," Midstream 25:9 (November 1979): 16-17.

[2]Zeitlin, p. 13.

[3]See, e.g., Mishneh Torah, " Hilkhot ʿAvodah Zarah" 9.4.

[4]Zeitlin, pp. 41-42.

[5]Ibid., p. 180.

[6]Or Joseph ibn Sham'un. See Louis I. Rabinowitz, "Maimonides, Moses," Encyclopaedia Judaica 11 (1972): 757. In addition to being Maimonides' enthusiastic disciple, Joseph was at the time of the writing of the Moreh a rosh yeshivah and talmudic jurist. In other words, he was a philosophical jurist with the responsibility for training others.

[7]Shlomo Pines (trans. and ed.), Moses Maimonides, The Guide for the Perplexed (Chicago and London: The University of Chicago Press, 1963), pp. 3-4.

[8]Leo Strauss, "How to Read The Guide for the Perplexed," in Ibid.. p. xvii; cf. Ibid., p. 10.

[9]Strauss, p. xix.

[10]Pines, "Intro.," p. 4.

[11]Leo Strauss, "The Literary Character of the Guide for the Perplexed," Essays on Maimonides, ed. Salo Baron (New York: Columbia University Press, 1941), p. 44.

[12]Pines, "Intro.," pp. 5-6.

[13]Ibid.

[14]Strauss, "Literary Character," p. 53.

[15]Ibid., p. 71.

[16]Alvin J. Reines, "Maimonides' Concept of Mosaic Prophecy," Hebrew Union College Annual 40-41 (1969-1970): 325.

[17]Alexander Altmann, "Maimonides and Thomas Aquinas: Natural or Divine Prophecy," Association for Jewish Studies Review III (1978): 7.

[18]Ibid., p. 8.

[19]Ibid.

[20]Ibid., p. 11.

[21]Reines, p. 328.

[22]Ibid., p. 333.

[23]Altmann, pp. 15-16.

[24]Reines, pp. 338-341.

[25]Ibid., pp. 344-347.

[26]Reines, p. 355, argues on the basis of I.54 that the ideal end of human government is to replicate the end of divine government: the promotion of human welfare. But in III.13 Maimonides denies several times that the universe exists for the sake of humanity.

[27]Pines, lxxxvi-xc.

[28]Pines' translation, p. 382.

[29]Altmann, pp. 17-18, and Reines, p. 359.

[30]Reines, pp. 353-355.

[31]Marvin Fox, "Maimonides and Aquinas on Natural Law," Dine Israel III (1972): xxvi.

[32]Jose Faur, "The Basis for the Authority of the Divine Commandments," Tarbiz 38:1 (1968); the quote comes from the English summary, p. iv.

[33]Jacob Levinger, "The Oral Law in Maimonides' Thought," Tarbiz 37:3 (March 1968): 282-293.

[34]Jonah Ben-Sasson, "A Study of the Doctrine of Taʿame Ha-Mitzwot in Maimonides' Guide," Tarbiz 29:3 (April 1960); the point comes from the English summary, p. vii.

[35]Leo Strauss, "Literary Character," pp. 38, 78-79.

[36]I. Twersky, "The Mishneh Torah of Maimonides," Proceedings of the Israel Academy of Science and Humanities V (1971-76): 293-294.

[37]Ralph Lerner, "Moses Maimonides," History of Political Philosophy, eds.

Leo Strauss and Joseph Crospey (Chicago: Rand McNally College Publishing Co., 1972), p. 217.

[38]Abraham M. Hershman (trans.), The Code of Maimonides Book Fourteen: The Book of Judges (New Haven: Yale University Press, 1949), p. 230. We made an important change in Hershman's translation: "or one of . . ." instead of his "but one of . . ." in the last sentence.

[39]Steven S. Schwarzschild, "Do Noachites Have to Believe in Revelation?" Jewish Quarterly Review 52 (1961-1962): 301-304.

[40]Barry Kogan, "Maimonides' Conception of the Human Ideal," unpublished paper delivered before the Association for Jewish Studies, Boston, December 1979.

[41]Ibid., pp. 11-12.

[42]Aristotle, Nichomachean Ethics I, 1094b, 14-23.

[43]Steven S. Schwarzschild, " Do Noachites Have to Believe in Revelation?" Jewish Quarterly Review 53 (1962-1963): 40-45.

[44]Fox, p. xix.

[45]Moses Maimonides, Qobetz Teshubot Harambam, ed. A. Lichtenberg, (Westmead: Gregg International Publishers, Ltd., 1969), pp. 23b-24a.

[46]Ibid., p. 24a.

[47]Kesef Mishneh to Mishneh Torah, "Hilkhot Melakhim" 8.11.

[48]Schwarzschild, Jewish Quarterly Review 52: 304.

[49]Jacob Katz, Exclusiveness and Tolerance (New York: Schocken Books, 1973), p. 175 fn. 5.

[50]H. G. Enelow (ed. and anno.), Mishnat Rabbi Eliezer (New York: Bloch Publishing Company, 1933), p. 23.

[51]Hershman's translation, p. 231.

[52]Kesef Mishneh to Mishneh Torah, "Hilkhot Melakhim" 9.1.

[53]After the act of disobedience which resulted in his deprivation of intellectual perfection Adam became mired in judgments on convention which from the human side defy certitude (Moreh I.2). Consequently, even if Adam, not Noah, was the chief recipient of the seven Noachic commandments (which is the case in the Mishneh Torah if not in the Moreh), they are still without doubt divine commandments apprehended through the Active Intellect's overflow onto the perfected Adamic intellect, i.e., through prophecy.

NOTES TO CHAPTER VI

BIBLICAL COMMENTATORS

[1]Avraham Grossman, "Rashi," Encyclopaedia Judaica 13 (1972): 1560.

[2]Ibid.

[3]Menahem Zevi Kaddari, "Rashi," Encyclopaedia Judaica 13 (1972): 1562.

[4]Jona Fraenkel, "Rashi," Encyclopaedia Judaica 13 (1972): 1563.

[5]Ibid.

[6]Grossman, "Rashi," Encyclopaedia Judaica 13 (1972): 1560; Fraenkel, 1562.

[7]Rashi certainly knew of the concept, as is proven by his comments to b. San. 56aff. It should be pointed out that there, too, he limits himself to explicating the text, so that it is still difficult to speak intelligently of his use of the concept. Rashi's silence on this issue could indicate that the seven Noachic commandments had no great significance for him. Equally plausible is the possibility that his silence results from an assumption that his readers were already well acquainted with the seven Noachic commandments.

[8]Simha Assaf, et al., "Ibn Ezra, Abraham," Encyclopaedia Judaica 9 (1972): 1089.

[9]Tovia Preschel, "Ibn Ezra, Abraham," Encyclopaedia Judaica 8 (1972): 1166.

[10]M. Arthur Oles (ed., intro.), A Translation of the Commentary of Abraham Ibn Ezra on Genesis (unpublished D.H.L. thesis, Hebrew Union College, Cincinnati, Ohio, 1958) pp. 3-4.

[11]Preschel "Ibn Ezra, Abraham," Encyclopaedia Judaica 8 (1972): 1167.

[12]Ibid.

[13]Oles, A Translation of the Commentary of Abraham Ibn Ezra on Genesis, pp. 5-6.

[14]Joseph Kaplan, "Nachmanides," Encyclopaedia Judaica 12 (1972): 774-5.

[15]In the final outcome of the Disputation Ramban, his own testimony notwithstanding, may well have lost to Paul Christian. See Martin Cohen, "Reflections on the Text and Context of the Disputation of Barcelona," Hebrew Union College Annual 35 (1964): 157-192.

[16]Tovia Preschel, "Nachmanides," Encyclopaedia Judaica 12 (1972): 777

[17]Ibid.

[18]Ibid.

[19]Jacob Neusner, "Introduction to Nachmanides," Understanding Rabbinic Judaism, ed. Jacob Neusner (New York: Ktav Publishing House, Inc., and the Anti-Defamation League of B'nai B'rith, 1974), p. 213.

[20]Preschel, "Nachmanides," Encyclopaedia Judaica 12 (1972): 777.

[21]Neusner, "Introduction to Nachmanides," p. 214.

[22]Preschel, "Nachmanides," Encyclopaedia Judaica 12 (1972): 777.

[23]Neusner, "Introduction to Nachmanides," p. 214.

[24]Preschel, "Nachmanides," Encyclopaedia Judaica 12 (1972): 777.

[25]Ibid.; Neusner "Introduction to Nachmanides," p. 214.

[26]Following Charles B. Chavel (trans. and anno.), Ramban Commentary on the Torah Vol. I Genesis (New York: Shilo Publishing House, Inc., 1971), p. 417.

[27]Following Chavel, p. 419.

[28]Avraham Grossman, "Sforno, Obadiah ben Jacob," Encyclopaedia Judaica 14 (1972): 1210

[29]Samuel Stahl (ed. and anno.), A Translation of Sforno's Commentary on the Book of Deuteronomy (unpublished D.H.L. Thesis, Hebrew Union College, Cincinnati, Ohio, 1975), p. 1.

[30]Ibid., p. 6.

[31]Ibid., p. 1.

[32]Grossman, "Sforno" Encyclopaedia Judaica 14 (1972): 1210.

[33]Ibid.

[34]Stahl, A Translation of Sforno's Commentary on the Book of Deuteronomy p. 13.

[35]Ibid., p. 2.

[36]Ibid., p. 36.

[37]Ibid.

[38]Ibid., p. 37.

[39]Ibid., p. 38.

[40]Ibid., p. 2.

[41]Ibid.

[42]Grossman, "Sforno," Encyclopaedia Judaica 14 (1972): 1210.

NOTES TO CHAPTER VII

JOSEPH ALBO

[1]Alexander Altmann, "Albo, Joseph," Encyclopaedia Judaica 2 (1972): 535.

[2]Isaac Husik (ed., anno., trans.), Joseph Albo, Sefer Ha-Ikkarim Vol. I (Philadelphia: The Jewish Publication Society of America, 1929-1930), p. xvi.

[3]Ibid., pp. xv-xvi. See Yitzhak Baer, A History of the Jews in Christian Spain, Vol. II, trans. Louis Schoffman (Philadelphia: Jewish Publication Society of America, 1966), p. 171.

[4]Ibid., p. xvii. See Book III, Chapter 13, and Book IV, Chapter 42.

[5]Z. Diesendruck, "Book Review of Albo's Sefer Ha-Ikkarim ed. by Isaac Husik," The Journal of Philosophy 28:19 (10 September 1931): 528.

[6]Husik, p. xviii.

[7]Altmann, p. 535.

[8]Ibid.

[9]Husik, p. xviii fn. 2. Albo delivered a sermon on the occasion of the circumcision of Abraham Benveniste II at Soria in 1433.

[10]Ibid., pp. xviii-xix.

[11]Diesendruck, 527.

[12]Ibid.

[13]Isaac Husik, A History of Mediaeval Jewish Philosophy (New York: Atheneum, 1973), p. 406.

[14]Diesendruck, 527.

[15]Altmann, p. 535.

[16]Ibid.

[17]Husik, History, p. 407.

[18]Diesendruck, 528.

[19]Altmann, p. 536.

[20]Jacob Klatzkin, Otsar Hamunahim Hapilosofiyim VeAntologiah Pilosofit Kerekh 1 (New York: Philipp Feldheim, Inc., 1968), pp. 148-9.

[21]Husik, Ikkarim, p. 2 fn. 1.

[22]Husik, History, p. 411.

[23]Ralph Lerner, "Natural Law in Albo's Book of Roots," Ancients and Moderns, Essays on the Tradition of Political Philosophy in Honor of Leo Strauss, ed. Joseph Crospey (New York: Basic Books, Inc., 1964), p. 134.

[24]Ibid., p. 135.

[25]Ibid.

[26]Ibid., p. 136.

[27]Ibid.

[28]Erwin I. J. Rosenthal, "Torah and Nomos in Medieval Jewish Philosophy," Studies in Rationalism, Judaism and Universalism in Honor of Leon Roth, ed. Raphael Loewe (London: Routledge and Kegan Paul, 1966), p. 228.

[29]Lerner, p. 137.

[30]Ibid., pp. 137-8.

[31]Ibid., p. 138.

[32]Thomas Aquinas, Summa Theologica I-II, Question 91, Answer 1.

[33]Dino Bigongiari (ed. and intro.), The Political Ideas of St. Thomas Aquinas (New York: Hafner Publishing Company, 1953), p. xxi.

[34]Thomas Aquinas, Summa Theologica I-II, Question 91, Answer 2.

[35]Thomas Aquinas, Summa Theologica I-II, Question 91, Answer 3.

[36]Bigongiari, p. xxiii.

[37]Frederick Copelston, A History of Philosophy, Vol. II: Medieval Philosophy (Westminster: The Newman Press, 1950), p. 409.

[38]Thomas Aquinas, Summa Theologica I-II, Question 91, Answer 3.

[39]Lerner, p. 143.

[40]Ibid., pp. 139-140.

[41]Ibid., p. 142.

[42]Ibid.

[43]The next two paragraphs in the text follow in part Marvin Fox, "Maimonides and Aquinas on Natural Law," Dine Israel, ed. Aaron Kirschenbaum and Ze'ev Falk, Vol. III (1972), pp. xxxv-xxxvi. While in the article itself Fox contrasts Maimonides and Thomas on natural law, he actually misformulates the issue, since Maimonides never addresses himself to natural law. I have adapted Fox's discussion in terms of Thomas and Albo, a comparison more appropos in view of Albo's forthright concern with natural law.

[44]Husik, History, p. 421.

[45]Husik, Ikkarim, p. 111.

[46]Ibid., p. 198.

NOTES TO CHAPTER VIII

MOSES MENDELSSOHN

[1]Lecture by Barry Kogan, Cincinnati, Ohio, October 25, 1978.

[2]Alexander Altmann, Moses Mendelssohn, A Biographical Study (University: University of Alabama Press, 1973), pp. 10-12.

[3]Ibid., pp. 16-20.

[4]Ibid., p. 20.

[5]Ibid., p. 27.

[6]Ibid., pp. 27-29.

[7]Ibid., pp. 67-68.

[8]Alfred Jospe and Leni Yahil, "Mendelssohn, Moses," Encyclopaedia Judaica 11 (1972): 1329.

[9]Altmann, p. 510ff.

[10]Jospe and Yahil, 1335.

[11]Moses Mendelssohn, Jerusalem (Berlin: Welt-Verlag, 1919), pp. 68-70 (German); and Moses Mendelssohn, Jerusalem and Other Jewish Writings, trans. and ed. Alfred Jospe (New York: Schocken Books, 1969), pp. 61-62 (English).

[12]Ibid., pp. 69-70 (German) and pp. 61-62 (English).

[13]Ibid., p. 62 (English).

[14]Ibid., p. 70 (German) and p. 61 (English).

[15]Ibid., p. 70 (German) and pp. 61-62 (English).

[16]Ibid,, pp. 70-73 (German) and pp. 62-65 (English).

[17]Lecture by Barry Kogan, Cincinnati, Ohio, November 1, 1978.

[18]Mendelssohn, Jerusalem, p. 73 (German) and p. 65 (English).

[19]Ibid., p. 73 (German) and p. 65 (English).

[20]Altmann, p. 218.

[21]Mendelssohn, Jerusalem, p. 73 (German) and p. 65 (English).

[22]Lecture by Barry Kogan, Cincinnati, Ohio, November 1, 1978.

[23]Mendelssohn, Jerusalem, p. 75 (German) and p. 66 (English).

[24]Ibid., pp. 78-80 (German) and pp. 69-70 (English).

[25]Ibid., p. 79 (German) and p. 70 (English).

[26]Ibid., p. 69 (German) and p. 61 (English).

[27]Ibid., p. 70 (German) and p. 61 (English).

[28]Ibid., p. 80 (German) and p. 70-71 (English).

[29]Moses Mendelssohn, "On Judaism and Christianity," Jerusalem (English), pp. 123-125; and Lecture by Barry Kogan, Cincinnati, Ohio, November 1, 1978.

[30]Mendelssohn, Jerusalem, p. 102 (German) and p. 89 (English).

[31]Ibid., p. 103 (German) and p. 90 (English).

[32]Ibid., p. 103 (German) and p. 90 (English).

[33]Altmann, p. 216.

[34]Jospe and Yahil, 1332. Cf. Moses Mendelssohn, "Letter to Lavater," Jerusalem (English), pp. 113-115.

[35]Mendelssohn, "Letter," pp. 118-119.

[36]Ibid., p. 119.

[37]Ibid., pp. 119-120.

[38]Moses Mendelssohn, "Schreiben an den Herrn Diaconus Lavater," Moses Mendelssohn Gesammelte Schriften Jubiläumsausgabe, ed. I. Elbogen et al., Band 7 (Berlin: Akademie-Verlag, 1930), p. 10 (German); and "Letter," p. 116 (English).

[39]Ibid., p. 11 (German) and pp. 116-117 (English).

[40]"Schreiben," p. 11.

[41]Moses Mendelssohn, "Schreiben," p. 11 (German) and "Letter," p. 117 (English).

[42]Ibid., p. 11 (German) and p. 117 (English). Mendelssohn is wrong in attributing a reference to natural law to Maimonides. In the relevant passage (Mishneh Torah, "Hilkhot Melakhim" 8.11) Maimonides uses no such phrase.

[43]Mendelssohn, "Schreiben," p. 11.

[44]Ibid.

[45]Mendelssohn, "Schreiben," pp. 11-12 (German) and "Letter," p. 117 (English). "Paradoxically enough, from Mendelssohn's controversy with Lavater one almost receives the impression that what Mendelssohn valued above all in Judaism was not its objective truth, but its desire to keep that truth to itself. He stated that religious tolerance was one of the basic characteristics of Judaism, and that this constituted its moral superiority over Christianity." Jacob Katz, Exclusiveness and Tolerance (New York: Schocken Books, 1973), p. 172. Mendelssohn is, by the way, mistaken in maintaining that in his initial admonition to the potential convert the Jew must state that as a non-Jew the potential convert can merit salvation through obedience to the seven Noachic commandments. See b. Yev. 47a-b; Shulhan Arukh, Yoreh Deah, "Hilkhot Gerim" 268.2; and Mishneh Torah, Sefer Qedushah "Issurey Biah" 13.14.

[46]Mendelssohn, "Letter," p. 117.

[47]Jospe and Yahil, 1333.

[48]Altmann, p. 218.

[49]Moses Mendelssohn, "An Jacob Emden," Moses Mendelssohn Gesammelte Schriften Jubiläumsausgabe, ed. I. Elbogen et al. Band 16 (Berlin: Akademie-Verlag, 1929), pp. 178-179. My translation utilizing Altmann's partial translations, pp. 217-218 and p. 295.

[50]Altmann, p. 294.

[51]Katz, p. 175.

[52]Jacob Emden, "Von Jacob Emden," Moses Mendelssohn Gesammelte Schriften Jubiläumsausgabe, ed. I. Elbogen et al. Band 16 (Berlin: Akademie-Verlag, 1929), pp. 179-183.

[53]Altmann, p. 295.

[54]Mendelssohn, Jerusalem, p. 75 (German) and p. 66 (English).

NOTES TO CHAPTER IX

CONCLUSION

[1]Marvin Fox, "Law and Ethics in Modern Jewish Philosophy, the Case of Moses Mendelssohn," Proceedings of the American Academy for Jewish Research 43 (1976): 1-2.

[2]Samuel Holdheim, "This is Our Task," Neue Sammlung jüdischer Predigten, Vol. I (Berlin: n.p., 1852-5), pp. 190ff, as cited in W. Gunther Plaut (ed., anno., trans.), The Rise of Reform Judaism (New York: The World Union for Progressive Judaism, 1963), p. 138.

[3]Ibid., p. 139.

[4]Hermann Cohen, Religion der Vernunft aus den Quellen des Judentums (Frankfurt am Main: J. Kauffmann Verlag, 1929), pp. 135-136 (German); and Hermann Cohen, Religion of Reason out of the Sources of Judaism, trans. and intro. Simon Kaplan (New York: Frederick Ungar Publishing Company, 1972), pp. 116-117 (English).

[5]Ibid., p. 142 (German) and p. 123 (English).

[6]Ibid., p. 142 (German) and p. 122 (English).

[7]Ibid., p. 142 (German) and p. 123 (English).

[8]Ibid., p. 142 (German) and p. 123 (English).

[9]Ibid., p. 142 (German) and p. 123 (English).

[10]Ibid., pp. 143-144 (German) and pp. 123-124 (English).

[11]A. P. d'Entreves, Natural Law: An Introduction to Legal Philosophy (London: Hutchinson University Library, 1972), pp. 37-50.

[12]Ibid., pp. 51-64.

[13]Moses Mendelssohn, Jerusalem (Berlin: Welt-Verlag, 1919), pp. 35-36 (German); and Moses Mendelssohn, Jerusalem and Other Jewish Writings, trans. and ed. Alfred Jospe (New York: Schocken Books, 1969), pp. 33-34 (English).

[14]Ibid., pp. 40-41 (German) and pp. 37-38 (English).

[14]At this point we may, along with Marvin Fox (pp. 7-8), ask of Mendelssohn, exactly how the seven Noachic commandments constitute a Jewish counterpart to rational moral law? How is, say, ever min hahay rationally demon-

strable, and how does it lead to eternal happiness? How does human happiness result from prohibiting on pain of death homosexual relations or sexual relations with one's sister (gillui ʿarayot)?

[16] d'Entreves, pp. 65-78.

[17] Ibid., pp. 93-107.

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